CHAPTER 40—SOIL INFORMATION ASSISTANCE FOR COMMUNITY PLANNING AND RESOURCE DEVELOPMENT

Sec.

3271. Availability of soil surveys under soil survey program.
3272. Cooperative assistance to State and other public agencies; types of assistance; private engineering services.
3273. Contributions of State or other public agencies toward cost of soil surveys.
3274. Authorization of appropriations.

§3271. Availability of soil surveys under soil survey program

In recognition of the increasing need for soil surveys by the States and other public agencies in connection with community planning and resource development for protecting and improving the quality of the environment, meeting recreational needs, conserving land and water resources, providing for multiple uses of such resources, and controlling and reducing pollution from sediment and other pollutants in areas of rapidly changing uses, including farmlands being shifted to other uses, resulting from rapid expansions in the uses of land for industry, housing, transportation, recreation, and related services, it is the sense of Congress that the soil survey program of the United States Department of Agriculture should be conducted so as to make available soil surveys to meet such needs of the States and other public agencies in connection with community planning and resource development.

(Pub. L. 89–560, §1, Sept. 7, 1966, 80 Stat. 706.)

§3272. Cooperative assistance to State and other public agencies; types of assistance; private engineering services

In order to provide soil surveys to assist States, their political subdivisions, soil and water conservation districts, towns, cities, planning boards and commissions, community development districts, and other public agencies in community planning and resource development for the protection and improvement of the quality of the environment, recreational development, the conservation of land and water resources, the development of multiple uses of such resources, and the control and prevention of pollution from sediment and other pollutants in areas of rapidly changing uses, including farm and nonfarm areas, the Secretary of Agriculture shall, upon the request of a State or other public agency, provide by means of such cooperative arrangements with the State or other public agency as he may deem advisable, the following assistance with respect to such areas and purposes:

(1) the making of studies and reports necessary for the classification and interpretation of kinds of soil;

(2) an intensification of the use and benefits of the National Cooperative Soil Survey;

(3) the furnishing of technical and other assistance needed for use of soil surveys; and

(4) consultation with other Federal agencies participating or assisting in the planning and development of such areas in order to assure the coordination of the work under this chapter with the related work of such other agencies.

The provision by the Secretary of such assistance shall not interfere with the furnishing of engineering services by private engineering firms or consultants for on-site sampling and testing of sites or for design and construction of specific engineering works.

(Pub. L. 89–560, §2, Sept. 7, 1966, 80 Stat. 706.)

§3273. Contributions of State or other public agencies toward cost of soil surveys

It is further the sense of the Congress that the Secretary shall make a reasonable effort to assure that the contributions of any State or other public agency under any cooperative agreement which may be entered into between the Secretary and such State or other public agency with respect to a soil survey shall be a substantial portion of the cost of such soil survey.

(Pub. L. 89–560, §3, Sept. 7, 1966, 80 Stat. 706.)

§3274. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this chapter, such sums to remain available until expended.

(Pub. L. 89–560, §4, Sept. 7, 1966, 80 Stat. 706.)

CHAPTER 41—DEMONSTRATION CITIES AND METROPOLITAN DEVELOPMENT PROGRAM

SUBCHAPTER I—COMPREHENSIVE CITY DEMONSTRATION PROGRAMS

Sec.
3301 to 3313. Omitted.

SUBCHAPTER II—PLANNED AREAWIDE DEVELOPMENT

3331. Congressional findings and declaration of purpose.
3332. Cooperation between Federal agencies.
3333. Metropolitan expediters.
3334. Coordination of Federal aids with local governments.
3335. Grants to assist in planned areawide development.
3336. Amount of grant.
3337. Consultations and certifications.
3338. Definitions.
3339. Limitation on amount of grant.

SUBCHAPTER III—URBAN INFORMATION AND TECHNICAL ASSISTANCE SERVICES

3351 to 3356. Omitted.

SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

3371. Assistance for housing in Alaska.
3372, 3373. Repealed.
3374. Acquisition of property at or near military bases which have been ordered to be closed and certain property owned by members of the Armed Forces, Department of Defense and United States Coast Guard civilian employees, and surviving spouses.

SUBCHAPTER I—COMPREHENSIVE CITY DEMONSTRATION PROGRAMS

§§3301 to 3313. Omitted

EDITORIAL NOTES

CODIFICATION

Sections were omitted pursuant to section 5316 of this title, which terminated authority to make grants or loans under this subchapter after Jan. 1, 1975.

Section 3301, Pub. L. 89–754, title I, §101, Nov. 3, 1966, 80 Stat. 1255, set out Congressional findings and

declaration of purpose for this subchapter.

Section 3302, Pub. L. 89–754, title I, §102, Nov. 3, 1966, 80 Stat. 1255, set out basic authority of Secretary of Housing and Urban Development under this subchapter.

Section 3303, Pub. L. 89–754, title I, §103, Nov. 3, 1966, 80 Stat. 1256; Pub. L. 93–503, title I, §105, Nov. 26, 1974, 88 Stat. 1572, related to demonstration programs.

Section 3304, Pub. L. 89–754, title I, §104, Nov. 3, 1966, 80 Stat. 1257, related to financial assistance for planning and developing programs under this subchapter.

Section 3305, Pub. L. 89–754, title I, §105, Nov. 3, 1966, 80 Stat. 1257, related to financial assistance for approved programs under this subchapter.

Section 3306, Pub. L. 89–754, title I, §106, Nov. 3, 1966, 80 Stat. 1258, related to technical assistance under this subchapter.

Section 3307, Pub. L. 89–754, title I, §107, Nov. 3, 1966, 80 Stat. 1259; Pub. L. 91–646, title II, §220(a)(9), Jan. 2, 1971, 84 Stat. 1903, related to relocation requirements and payments.

Section 3308, Pub. L. 89–754, title I, §108, Nov. 3, 1966, 80 Stat. 1259, related to continued availability of Federal grant-in-aid program funds.

Section 3309, Pub. L. 89–754, title I, §109, Nov. 3, 1966, 80 Stat. 1259, related to consultations by the Secretary with other Federal departments and agencies administering Federal grant-in-aid programs.

Section 3310, Pub. L. 89–754, title I, §110, Nov. 3, 1966, 80 Stat. 1259, related to labor standards.

Section 3311, Pub. L. 89–754, title I, §111, Nov. 3, 1966, 80 Stat. 1260; Pub. L. 90–448, title XVII, §1701, Aug. 1, 1968, 82 Stat. 602; Pub. L. 91–152, title III, §301, Dec. 24, 1969, 83 Stat. 391; Pub. L. 91–609, title III, §301, Dec. 31, 1970, 84 Stat. 1780; Pub. L. 92–335, §2, July 1, 1972, 86 Stat. 405; Pub. L. 93–117, §6, Oct. 2, 1973, 87 Stat. 422; Pub. L. 93–383, title I, §116(d), Aug. 22, 1974, 88 Stat. 652, authorized appropriations.

Section 3312, Pub. L. 89–754, title I, §112, Nov. 3, 1966, 80 Stat. 1260, provided definitions of "Federal grant-in-aid program", "city demonstration agency", "city", and "local agencies".

Section 3313, Pub. L. 89–754, title I, §114, Nov. 3, 1966, 80 Stat. 1261, provided for limitations on amount of grants.

SUBCHAPTER II—PLANNED AREAWIDE DEVELOPMENT

§3331. Congressional findings and declaration of purpose

(a) The Congress hereby finds that the welfare of the Nation and of its people is directly dependent upon the sound and orderly development and the effective organization and functioning of our State and local governments.

It further finds that it is essential that our State and local governments prepare, keep current, and carry out comprehensive plans and programs for their orderly physical development with a view to meeting efficiently all their economic and social needs.

It further finds that our State and local governments are especially handicapped in this task by the complexity and scope of governmental services required, the multiplicity of political jurisdictions and agencies involved, and the inadequacy of the operational and administrative arrangements available for cooperation among them.

It further finds that present requirements for areawide planning and programing in connection with various Federal programs have materially assisted in the solution of areawide problems, but that greater coordination of Federal programs and additional participation and cooperation are needed from the States and localities in perfecting and carrying out such efforts.

(b) It is the purpose of this subchapter to provide through greater coordination of Federal programs, and through supplementary grants for certain federally assisted development projects, additional encouragement and assistance to States and localities for making comprehensive areawide planning and programing effective.

(Pub. L. 89–754, title II, §201, Nov. 3, 1966, 80 Stat. 1261; Pub. L. 90–448, title VI, §602(b), Aug. 1, 1968, 82 Stat. 531.)

EDITORIAL NOTES

AMENDMENTS

1968—Pub. L. 90–448 extended scope from metropolitan planning and programing to areawide planning and programing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 89–754, §1, Nov. 3, 1966, 80 Stat. 1255, provided: "That this Act [enacting this chapter, section 1500d–1 of this title, sections 1735f–1, 1749cc–1, and 1749aaa to 1749aaa–5 of Title 12, Banks and Banking, and section 470b–1 of Title 16, Conservation, amending sections 1416, 1421, 1421b, 1453, 1455, 1456, 1460, 1463, 1471, 1472, 1474, 1485, 1487, 1492, 1500, 1500a, 1500c–2, 1500d, and 1500e of this title, section 663 of former Title 11, Bankruptcy, sections 24, 371, 1432, 1438, 1702, 1709, 1715c, 1715e, 1715k, 1715l, 1715n, 1715r, 1717, 1719, 1720, 1723, 1731a, 1735g, 1749, 1749c, 1749aa, 1749bb, 1749dd, 1749ee of Title 12, sections 77ddd and 637 of Title 15, Commerce and Trade, and section 461 of former Title 40, Public Buildings, Property, and Works, repealing section 1735h of Title 12, enacting provisions set out as notes under sections 1455 and 1500d–1 of this title and sections 1718, 1749cc–1, and 1749aaa of Title 12, and amending provisions set out as notes under sections 1701d–3, 1701q, and 1715e of Title 12] may be cited as the 'Demonstration Cities and Metropolitan Development Act of 1966'."

§3332. Cooperation between Federal agencies

In order to insure that all Federal programs related to areawide development are carried out in a coordinated manner—

(1) the Secretary is authorized to call upon other Federal agencies to supply such statistical data, program reports, and other materials as he deems necessary to discharge his responsibilities for areawide development, and to assist the President in coordinating the areawide development efforts of all Federal agencies; and

(2) all Federal agencies which are engaged in administering programs related to areawide development, or which otherwise perform functions relating thereto, shall, to the maximum extent practicable, consult with and seek advice from all other significantly affected Federal departments and agencies in an effort to assure fully coordinated programs.

(Pub. L. 89–754, title II, §202, Nov. 3, 1966, 80 Stat. 1261; Pub. L. 90–448, title VI, §602(c), Aug. 1, 1968, 82 Stat. 532.)

EDITORIAL NOTES

AMENDMENTS

1968—Pub. L. 90–448 substituted "areawide" for "metropolitan" wherever appearing.

§3333. Metropolitan expediters

Upon the request of the duly authorized local officials of the central city in any metropolitan area, and after consultation with local governmental authorities throughout the metropolitan area with respect to whether or not the Secretary should make an appointment under this section (and with respect to the individuals who might be so appointed), the Secretary may appoint a metropolitan expediter for such area whenever he finds a need for the services specified in this section. The metropolitan expediter shall provide information, data, and assistance to local authorities and private individuals and entities within the metropolitan area, and to all relevant Federal departments and agencies, with respect to all programs and activities conducted within such metropolitan area by the

Department of Housing and Urban Development, and with respect to other public and private activities and needs within such metropolitan area which relate to the programs and activities of the Department.

(Pub. L. 89–754, title II, §203, Nov. 3, 1966, 80 Stat. 1262.)

§3334. Coordination of Federal aids with local governments

(a) Review of projects by areawide agency or local government

All applications made after June 30, 1967, for Federal loans or grants to assist in carrying out open-space land projects or for the planning or construction of hospitals, airports, libraries, water supply and distribution facilities, sewerage facilities and waste treatment works, highways, transportation facilities, law enforcement facilities, and water development and land conservation projects within any metropolitan area shall be submitted for review—

(1) to any areawide agency which is designated to perform metropolitan or regional planning for the area within which the assistance is to be used, and which is, to the greatest practicable extent, composed of or responsible to the elected officials of a unit of areawide government or of the units of general local government within whose jurisdiction such agency is authorized to engage in such planning, and

(2) if made by a special purpose unit of local government, to the unit or units of general local government with authority to operate in the area within which the project is to be located.

(b) Comments and recommendations by areawide agency and local government

(1) Except as provided in paragraph (2) of this subsection, each application shall be accompanied (A) by the comments and recommendations with respect to the project involved by the areawide agency and governing bodies of the units of general local government to which the application has been submitted for review, and (B) by a statement by the applicant that such comments and recommendations have been considered prior to formal submission of the application. Such comments shall include information concerning the extent to which the project is consistent with comprehensive planning developed or in the process of development for the metropolitan area or the unit of general local government, as the case may be, and the extent to which such project contributes to the fulfillment of such planning. The comments and recommendations and the statement referred to in this paragraph shall, except in the case referred to in paragraph (2) of this subsection, be reviewed by the agency of the Federal Government to which such application is submitted for the sole purpose of assisting it in determining whether the application is in accordance with the provisions of Federal law which govern the making of the loans or grants.

(2) An application for a Federal loan or grant need not be accompanied by the comments and recommendations and the statements referred to in paragraph (1) of this subsection, if the applicant certifies that a plan or description of the project, meeting the requirements of such rules and regulations as may be prescribed under subsection (c), or such application, has lain before an appropriate areawide agency or instrumentality or unit of general local government for a period of sixty days without comments or recommendations thereon being made by such agency or instrumentality.

(3) The requirements of paragraphs (1) and (2) shall also apply to any amendment of the application which, in light of the purposes of this subchapter, involves a major change in the project covered by the application prior to such amendment.

(c) Rules and regulations

The Office of Management and Budget, or such other agency as may be designated by the President, is hereby authorized to prescribe such rules and regulations as are deemed appropriate for the effective administration of this section.

(Pub. L. 89–754, title II, §204, Nov. 3, 1966, 80 Stat. 1262; Pub. L. 90–351, title I, §522, June 19, 1968, 82 Stat. 208; 1970 Reorg. Plan No. 2, §102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085; Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 215.)

EDITORIAL NOTES

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–83 reenacted amendment by Pub. L. 90–351, inserting "law enforcement facilities," after "transportation facilities,".

1968—Subsec. (a). Pub. L. 90–351 inserted "law enforcement facilities," after "transportation facilities,".

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions vested by law (including reorganization plan) in Bureau of the Budget or Director of Bureau of the Budget transferred to President of United States by section 101 of Reorg. Plan No. 2 of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, set out in the Appendix to Title 5, Government Organization and Employees. Section 102 of Reorg. Plan No. 2 of 1970 redesignated Bureau of the Budget as Office of Management and Budget.

§3335. Grants to assist in planned areawide development

(a) Supplementary grants

The Secretary is authorized to make supplementary grants to applicant State and local public bodies and agencies carrying out, or assisting in carrying out, areawide development projects meeting the requirements of this section.

(b) Criteria

Grants may be made under this section only for areawide development projects in areas for which it has been demonstrated, to the satisfaction of the Secretary, that—

(1) areawide comprehensive planning and programing provide an adequate basis for evaluating (A) the location, financing, and scheduling of individual public facility projects (including but not limited to hospitals and libraries; sewer, water, and sewage treatment facilities; highway, mass transit, airport, and other transportation facilities; and recreation and other open-space areas) whether or not federally assisted; and (B) other proposed land development or uses, which projects or uses, because of their size, density, type, or location, have public areawide or interjurisdictional significance;

(2) adequate areawide institutional or other arrangements exist for coordinating, on the basis of such areawide comprehensive planning and programing, local public policies and activities affecting the development of the area; and

(3) public facility projects and other land development or uses which have a major impact on the development of the area are, in fact, being carried out in accord with such areawide comprehensive planning and programing.

(c) Grant to unit of general local government or other applicant

(1) Where the applicant for a grant under this section is a unit of general local government, it must demonstrate to the satisfaction of the Secretary that, taking into consideration the scope of its authority and responsibilities, it is adequately assuring that public facility projects and other land development or uses of public areawide or interjurisdictional significance are being, and will be, carried out in accord with areawide planning and programing meeting the requirements of subsection (b). In making this determination the Secretary shall give special consideration to whether the applicant is effectively assisting in, and conforming to, areawide planning and programing through (A) the location and scheduling of public facility projects, whether or not federally assisted; and (B) where appropriate, the establishment and consistent administration of zoning codes, subdivision regulations, and similar land-use and density controls.

(2) Where the applicant for a grant under this section is not a unit of general local government,

both it and the unit of general local government having jurisdiction over the location of the project must meet the requirements of this subsection.

(d) Secretary's consideration of comments of State bodies

In making the determinations required under this section, the Secretary shall obtain, and give full consideration to, the comments of the body or bodies (State or local) responsible for comprehensive planning and programing for the area.

(e) Restriction on grants to certain areawide development projects

No grant shall be made under this section with respect to an areawide development project for which a Federal grant has been made, or a contract of assistance has been entered into, under the legislation referred to in paragraph (2) of section 3338 of this title, prior to February 21, 1966, or more than one year prior to the date on which the Secretary has made the determinations required under this section with respect to the applicant and to the area in which the project is located: *Provided*, That in the case of a project for which a contract of assistance under the legislation referred to in paragraph (2) of section 3338 of this title has been entered into after June 30, 1967, no grant shall be made under this section unless an application for such grant has been made on or before the date of such contract.

(f) Racial balance or imbalance within school districts

Nothing in this section shall authorize the Secretary to require (or condition the availability or amount of financial assistance authorized to be provided under this subchapter upon) the adoption by any community of a program to achieve a racial balance or to eliminate racial imbalance within school districts.

(Pub. L. 89–754, title II, §205, Nov. 3, 1966, 80 Stat. 1263; Pub. L. 90–448, title VI, §602(d), Aug. 1, 1968, 82 Stat. 532.)

EDITORIAL NOTES

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–448, §602(d)(1), substituted "areawide development" for "metropolitan development".

Subsec. (b). Pub. L. 90–448, §602(d)(1)–(3), substituted "areawide development projects in areas" for "metropolitan development projects in metropolitan areas", "areawide comprehensive planning" for "metropolitanwide comprehensive planning" in three places, "public areawide" for "public metropolitanwide", and "adequate areawide" for "adequate metropolitanwide".

Subsec. (c). Pub. L. 90–448, §602(d)(3)–(5), substituted "public areawide" for "public metropolitanwide", and "areawide planning" for "metropolitan planning" in two places, and inserted "where appropriate," after "(B)".

Subsec. (d). Pub. L. 90–448, §602(d)(2), substituted "programing for the area" for "programing for the metropolitan area".

Subsec. (e). Pub. L. 90–448, §602(d)(1), substituted "areawide development project" for "metropolitan development project".

Subsec. (f). Pub. L. 90–448, §602(d)(6), struck out "within the metropolitanwide area" after "school districts".

§3336. Amount of grant

(a) Limitation; Federal and non-Federal contributions; projects or activities eligible for assistance

A grant under section 3335 of this title shall not exceed (1) 20 per centum of the cost of the project for which the grant is made; nor (2) the Federal grant made with respect to the project under the legislation referred to in paragraph (2) of section 3338 of this title. In no case shall the total Federal contributions to the cost of such project be more than 80 per centum. Notwithstanding any other

provision of law, including requirements with respect to non-Federal contributions, grants under section 3335 of this title shall be eligible for inclusion (directly or through refunds or credits) as part of the financing for such projects: *Provided*, That projects or activities on the basis of which assistance is provided under section 3305(c) of this title shall not be eligible for assistance under section 3335 of this title.

(b) Authorization of appropriations; availability of funds for expenditures

There are authorized to be appropriated for grants under section 3335 of this title not to exceed $25,000,000 for the fiscal year ending June 30, 1967, and not to exceed $50,000,000 for the fiscal year ending June 30, 1968. Any amounts appropriated under this section shall remain available until expended, and any amounts authorized for any fiscal year under this section but not appropriated may be appropriated for any succeeding fiscal year commencing prior to July 1, 1970.

(Pub. L. 89–754, title II, §206, Nov. 3, 1966, 80 Stat. 1264; Pub. L. 90–448, title VI, §602(f), Aug. 1, 1968, 82 Stat. 532.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 3305 of this title, referred to in subsec. (a), was omitted from the Code pursuant to section 5316 of this title, which terminated the authority to make grants and loans under subchapter I of this chapter after Jan. 1, 1975.

AMENDMENTS

1968—Subsec. (b). Pub. L. 90–448 permitted any amounts authorized for any fiscal year but not appropriated to be appropriated for any succeeding fiscal year commencing prior to July 1, 1970.

§3337. Consultations and certifications

In carrying out his authority under section 3335 of this title, including the issuance of regulations, the Secretary shall consult with the Department of the Interior; the Department of Health and Human Services; the Department of Commerce; and the Federal Aviation Agency with respect to metropolitan development projects assisted by those departments and agencies; and he shall, for the purpose of section 3336 of this title, accept their respective certifications as to the cost of those projects and the amount of the non-Federal contribution paid or to be paid to that cost.

(Pub. L. 89–754, title II, §207, Nov. 3, 1966, 80 Stat. 1264; Pub. L. 98–479, title II, §201(f), Oct. 17, 1984, 98 Stat. 2228.)

EDITORIAL NOTES

AMENDMENTS

1984—Pub. L. 98–479 substituted "Health and Human Services" for "Health, Education, and Welfare".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Federal Aviation Agency and of Administrator and other offices and officers thereof transferred by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, to Secretary of Transportation, with functions, powers, and duties of Secretary of Transportation pertaining to aviation safety to be exercised by Federal Aviation Administrator in Department of Transportation, see section 106 of Title 49, Transportation.

§3338. Definitions

As used in this subchapter—

(1) "Areawide development" means all projects or programs for the acquisition, use, and development of open-space land; and the planning and construction of hospitals, libraries, airports, water supply and distribution facilities, sewerage facilities and waste treatment works, transportation facilities, highways, water development and land conservation, and other public works facilities.

(2) "Areawide development project" means a project assisted or to be assisted under section 702 of the Housing and Urban Development Act of 1965 [42 U.S.C. 3102]; section 606 of the Public Health Service Act [42 U.S.C. 291f]; section 8 [1] of the Federal Water Pollution Control Act [33 U.S.C. 1158]; section 120(a) of title 23; section 12 [1] of the Federal Airport Act; section 19 [1] of the Airport and Airway Development Act of 1970; section 5309 of title 49; title VII of the Housing Act of 1961 [42 U.S.C. 1500 et seq.]; or section 200305(e) of title 54; or under section 101(a)(1) [1] of the Public Works and Economic Development Act of 1965 (for a project of a type which the Secretary determines to be eligible for assistance under any of the other provisions listed above).

(3) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or an agency or instrumentality of any of the foregoing.

(4) "Metropolitan area" means a standard metropolitan statistical area as established by the Office of Management and Budget, subject however to such modifications and extensions as the Secretary may determine to be appropriate for the purposes of this subchapter.

(5) "Comprehensive planning" includes the following, to the extent directly related to area needs or needs of a unit of general local government: (A) preparation, as a guide for long-range development, of general physical plans with respect to the pattern and intensity of land use and the provision of public facilities, including transportation facilities; (B) programing of capital improvements based on a determination of relative urgency; (C) long-range fiscal plans for implementing such plans and programs; and (D) proposed regulatory and administrative measures which aid in achieving coordination of all related plans of the departments or subdivisions of the governments concerned and intergovernmental coordination of related planned activities among the State and local governmental agencies concerned.

(6) "Hospital" means any public health center or general, tuberculosis, mental, chronic disease, or other type of hospital and related facilities, such as laboratories, outpatient departments, nurses' home and training facilities, and central service facilities normally operated in connection with hospitals, but does not include any hospital furnishing primarily domiciliary care.

(7) "Areawide agency" means an official State, metropolitan, regional, or district agency empowered under State or local laws or under an interstate compact or agreement to perform comprehensive planning in an area, an organization of the type referred to in section 701(g) [1] of the Housing Act of 1954; or such other agency or instrumentality as may be designated by the Governor (or, in the case of areas crossing State lines, any one or more of such agencies or instrumentalities as may be designated by the Governors of the States involved) to perform such planning.

(8) "Special purpose unit of local government" means any special district, public-purpose corporation, or other limited-purpose political subdivision of a State, but shall not include a school district.

(9) "Unit of general local government" means any city, county, town, parish, village, or other general-purpose political subdivision of a State.

(10) "Secretary" means the Secretary of Housing and Urban Development.

(Pub. L. 89–754, title II, §208, Nov. 3, 1966, 80 Stat. 1265; Pub. L. 90–448, title VI, §602(e), Aug. 1, 1968, 82 Stat. 532; Pub. L. 91–258, title I, §52(b)(3), May 21, 1970, 84 Stat. 235; 1970 Reorg. Plan No. 2, §102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085; Pub. L. 102–240, title III, §3003(b), Dec. 18, 1991, 105 Stat. 2088; Pub. L. 104–208, div. A, title I, §101(e) [title VII, §709(a)(6)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312; Pub. L. 113–287, §5(k)(2), Dec. 19, 2014, 128 Stat. 3269.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 702 of the Housing and Urban Development Act of 1965 [42 U.S.C. 3102], referred to in par. (2), was omitted from the Code pursuant to section 5316 of this title which terminated the authority to make grants or loans under that section after Jan. 1, 1975.

Section 8 of the Federal Water Pollution Control Act, referred to in par. (2), which related to grants for construction of sewerage treatment works, was formerly classified to section 1158 of Title 33, Navigation and Navigable Waters, prior to the reorganization of that Act by Pub. L. 92–500, Oct. 18, 1972, 86 Stat. 816. See Codification note set out under section 1251 of Title 33. Provisions of the Act relating to grants for construction of treatment works appear in section 1281 et seq. of Title 33.

Section 12 of the Federal Airport Act, referred to in par. (2), is section 12 of act May 13, 1946, ch. 251, 60 Stat. 177, which was classified to section 1111 of former Title 49, Transportation, prior to repeal by Pub. L. 91–258, title I, §52(a), May 21, 1970, 84 Stat. 235.

Section 19 of the Airport and Airway Development Act of 1970, referred to in par. (2), is section 19 of Pub. L. 91–258, title I, May 21, 1970, 84 Stat. 230, which was classified to section 1719 of former Title 49, prior to repeal by Pub. L. 97–248, title V, §523(a), Sept. 3, 1982, 96 Stat. 695.

The Housing Act of 1961, referred to in par. (2), is Pub. L. 87–70, June 30, 1961, 75 Stat. 149. Title VII of the Housing Act of 1961 which was classified generally to chapter 8C (§1500 et seq.) of this title, was omitted pursuant to section 5316 of this title which terminated the authority to make grants or loans under such title VII after Jan. 1, 1975. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 12, Banks and Banking, and Tables.

Section 101(a)(1) of the Public Works and Economic Development Act of 1965, referred to in par. (2), is section 101(a)(1) of Pub. L. 89–136, title I, Aug. 26, 1965, 79 Stat. 552, which was classified to section 3131 of this title prior to repeal by Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3597.

Section 701 of the Housing Act of 1954, referred to in par. (7), is section 701 of act Aug. 2, 1954, ch. 649, 68 Stat. 640, which was classified to section 461 of former Title 40, Public Buildings, Property, and Works, and was repealed by Pub. L. 97–35, title III, §313(b), Aug. 13, 1981, 95 Stat. 398.

CODIFICATION

In par. (2), "section 5309 of title 49" substituted for "section 3 of the Federal Transit Act [49 App. U.S.C. 1602]" on authority of Pub. L. 103–272, §6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation.

AMENDMENTS

2014—Par. (2). Pub. L. 113–287, which directed substitution of "section 200305(e) of title 54" for "section 5(e) of the Land And Water Conservation Fund Act of 1965", was executed by making the substitution for "section 5(e) of the Land and Water Conservation Fund Act of 1965" to reflect the probable intent of Congress.

1996—Par. (2). Pub. L. 104–208 struck out "title II of the Library Services and Construction Act;" before "section 606 of the Public Health Service Act".

1991—Par. (2). Pub. L. 102–240 substituted "Federal Transit Act" for "Urban Mass Transportation Act of 1964".

1970—Par. (2). Pub. L. 91–258 inserted "section 19 of the Airport and Airway Development Act of 1970;" after "section 12 of the Federal Airport Act;".

1968—Par. (1). Pub. L. 90–448, §602(e)(1), substituted "Areawide development" for "Metropolitan development."

Par. (2). Pub. L. 90–448, §602(e)(1), substituted "Areawide development project" for "Metropolitan development project".

Par. (7). Pub. L. 90–448, §602(e)(2), substituted "official State, metropolitan, regional, or district agency" for "official State or metropolitan or regional agency", and "in the case of areas" for "in the case of metropolitan areas".

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions vested by law (including reorganization plan) in Bureau of the Budget or Director of Bureau of the Budget transferred to President of United States by section 101 of Reorg. Plan No. 2 of 1970, eff. July 1,

1970, 35 F.R. 7959, 84 Stat. 2085, set out in the Appendix to Title 5, Government Organization and Employees. Section 102 of Reorg. Plan No. 2 of 1970 redesignated Bureau of the Budget as Office of Management and Budget.

[1] *See References in Text note below.*

§3339. Limitation on amount of grant

Grants made under section 3335 of this title for projects in any one State shall not exceed in the aggregate 15 per centum of the aggregate amount of funds authorized to be appropriated pursuant to section 3336(b) of this title.

(Pub. L. 89–754, title II, §209, Nov. 3, 1966, 80 Stat. 1266.)

SUBCHAPTER III—URBAN INFORMATION AND TECHNICAL ASSISTANCE SERVICES

§§3351 to 3356. Omitted

EDITORIAL NOTES

CODIFICATION

Appropriations for this subchapter have not been authorized for fiscal years commencing after June 30, 1972.

Section 3351, Pub. L. 89–754, title IX, §901, Nov. 3, 1966, 80 Stat. 1282, set out the declaration of purpose for this subchapter.

Section 3352, Pub. L. 89–754, title IX, §902, Nov. 3, 1966, 80 Stat. 1283, related to grant authority, scope of assistance, and terms and conditions of programs under this subchapter.

Section 3353, Pub. L. 89–754, title IX, §903, Nov. 3, 1966, 80 Stat. 1283, related to amounts and restrictions on grants under this subchapter.

Section 3354, Pub. L. 89–754, title IX, §904, Nov. 3, 1966, 80 Stat. 1283, related to cooperation of Federal departments and agencies with States, and coordination by Secretary of urban information and technical assistance programs under this subchapter.

Section 3355, Pub. L. 89–754, title IX, §905, Nov. 3, 1966, 80 Stat. 1283, defined "State", "Secretary", and "small communities".

Section 3356, Pub. L. 89–754, title IX, §906, Nov. 3, 1966, 80 Stat. 1284; Pub. L. 90–448, title XVII, §1703, Aug. 1, 1968, 82 Stat. 603; Pub. L. 91–152, title III, §308, Dec. 24, 1969, 83 Stat. 394; Pub. L. 91–609, title III, §305, Dec. 31, 1970, 84 Stat. 1781, authorized appropriations.

SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

§3371. Assistance for housing in Alaska

(a) Loans and grants; authorization; purposes

The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") may make loans and grants on the basis of need to the regional native housing authorities duly constituted

under the laws of the State of Alaska for the purpose of providing planning assistance, housing rehabilitation, and maintaining an adequate administrative structure in conjunction with the provision of housing and related facilities for Alaska residents.

(b) Amount of grants

Grants under this section shall not exceed 75 per centum of the aggregate cost of the housing and related facilities to be constructed under an approved program, except that the Secretary may make a grant in excess of such limitation in any case, after consultation with State officials.

(c) Authorization of appropriations

There is authorized to be appropriated not to exceed $10,000,000 to carry out the purposes of this section.

(Pub. L. 89–754, title X, §1004, Nov. 3, 1966, 80 Stat. 1284; Pub. L. 91–152, title II, §220, Dec. 24, 1969, 83 Stat. 390; Pub. L. 95–557, title IX, §904, Oct. 31, 1978, 92 Stat. 2125.)

EDITORIAL NOTES

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–557, §904(a), revised subsec. (a) generally to require that the Department of Housing and Urban Development make loans and grants, on the basis of need, to regional Alaska Native housing authorities for certain planning, administrative, and other expenses in conjunction with the provision of housing and related facilities for Alaska residents.

Subsec. (b). Pub. L. 95–557, §904(b), inserted "except that the Secretary may make a grant in excess of such limitation in any case, after consultation with State officials".

1969—Subsec. (a). Pub. L. 91–152 substituted "$10,875" for "$7,500".

§§3372, 3373. Repealed. Pub. L. 91–609, title V, §503(6), Dec. 31, 1970, 84 Stat. 1786

Section 3372, Pub. L. 89–754, title X, §1010, Nov. 3, 1966, 80 Stat. 1286; Pub. L. 90–448, title XVII, §1704, Aug. 1, 1968, 82 Stat. 603; Pub. L. 91–152, title IV, §§402, 417, Dec. 24, 1969, 83 Stat. 395, 401, related to application of advances in technology to housing and urban development and provided for: statement of purpose and duties of Secretary; objectives of research and studies; execution of research and studies directly or by contract, acquisition of property, and limitation on contracts; authorization of appropriations and availability of funds for expenditures; and limitation of authority under other provisions of law. See sections 1701z–1 to 1701z–4 of Title 12, Banks and Banking.

Section 3373, Pub. L. 89–754, title X, §1011, Nov. 3, 1966, 80 Stat. 1287, related to environmental studies and provided for: Congressional findings and comprehensive program of research, studies, surveys, and analyses; powers and duties of Secretary; advisory committees, functions, personnel, compensation, travel, and other necessary expenses; execution of studies, surveys, research, and analyses directly or by contract, and limitation on contracts; and authorization of appropriations and availability of funds for expenditures. See sections 1701z–1 to 1701z–4 of Title 12, Banks and Banking.

§3374. Acquisition of property at or near military bases which have been ordered to be closed and certain property owned by members of the Armed Forces, Department of Defense and United States Coast Guard civilian employees, and surviving spouses

(a) Authorization; conditions precedent

(1) Acquisition of property at or near military installations that have been ordered to be closed

Notwithstanding any other provision of law, the Secretary of Defense is authorized to acquire title to, hold, manage, and dispose of, or, in lieu thereof, to reimburse for certain losses upon

private sale of, or foreclosure against, any property improved with a one- or two-family dwelling which is situated at or near a military base or installation which the Department of Defense has, subsequent to November 1, 1964, ordered to be closed in whole or in part, if—

(A) the Secretary determines— — [1]

(i) that the owner of such property is, or has been, a Federal employee employed at or in connection with such base or installation (other than a temporary employee serving under a time limitation), a nonappropriated fund instrumentality employee employed at a nonappropriated fund instrumentality operated in connection with such base or installation, or a member of the Armed Forces of the United States assigned thereto;

(ii) that the closing of such base or installation, in whole or in part, has required or will require the termination of such owner's employment or service at or in connection with such base or installation or, in the case of a member of the Armed Forces not assigned to that base or installation at the time of public announcement of such closing, will prevent any reassignment of such member to the base or installation; and

(iii) that as the result of the actual or pending closing of such base or installation in whole or in part, or if as the result of such action and other similar action in the same area, there is no present market for the sale of such property upon reasonable terms and conditions; or

(B) the Secretary determines—

(i) that the conditions in clauses (i) and (ii) of subparagraph (A) have been met;

(ii) that the closing or realignment of the base or installation resulted from a realignment or closure carried out under the 2005 round of defense base closure and realignment under the Defense Base Closure and Realignment Act of 1990 (part XXIX [2] of Public Law 101–510; 10 U.S.C. 2687 note);

(iii) that the property was purchased by the owner before July 1, 2006;

(iv) that the property was sold by the owner between July 1, 2006, and September 30, 2012, or an earlier end date designated by the Secretary;

(v) that the property is the primary residence of the owner; and

(vi) that the owner has not previously received benefit payments authorized under this subsection.

(2) Homeowner assistance for wounded members of the Armed Forces, Department of Defense and United States Coast Guard civilian employees, and their spouses

Notwithstanding any other provision of law, the Secretary of Defense is authorized to acquire title to, hold, manage, and dispose of, or, in lieu thereof, to reimburse for certain losses upon private sale of, or foreclosure against, any property improved with a one- or two-family dwelling which was at the time of the relevant wound, injury, or illness, the primary residence of—

(A) any member of the Armed Forces in medical transition who—

(i) incurred a wound, injury, or illness in the line of duty during a deployment in support of the Armed Forces;

(ii) is disabled to a degree of 30 percent or more as a result of such wound, injury, or illness, as determined by the Secretary of Defense; and

(iii) is reassigned in furtherance of medical treatment or rehabilitation, or due to medical retirement in connection with such disability;

(B) any civilian employee of the Department of Defense or the United States Coast Guard who—

(i) was wounded, injured, or became ill in the performance of his or her duties during a forward deployment occurring on or after September 11, 2001, in support of the Armed Forces; and

(ii) is reassigned in furtherance of medical treatment, rehabilitation, or due to medical retirement resulting from the sustained disability; or

(C) the spouse of a member of the Armed Forces or a civilian employee of the Department of Defense or the United States Coast Guard if—

(i) the member or employee was killed in the line of duty or in the performance of his or her duties during a deployment on or after September 11, 2001, in support of the Armed Forces or died from a wound, injury, or illness incurred in the line of duty during such a deployment; and

(ii) the spouse relocates from such residence within 2 years after the death of such member or employee.

(3) Temporary homeowner assistance for members of the Armed Forces permanently reassigned during specified mortgage crisis

Notwithstanding any other provision of law, the Secretary of Defense is authorized to acquire title to, hold, manage, and dispose of, or, in lieu thereof, to reimburse for certain losses upon private sale of, or foreclosure against, any property improved with a one- or two-family dwelling situated at or near a military base or installation, if the Secretary determines—

(A) that the owner is a member of the Armed Forces serving on permanent assignment;

(B) that the owner is permanently reassigned by order of the United States Government to a duty station or home port outside a 50-mile radius of the base or installation;

(C) that the reassignment was ordered between February 1, 2006, and September 30, 2012, or an earlier end date designated by the Secretary;

(D) that the property was purchased by the owner before July 1, 2006;

(E) that the property was sold by the owner between July 1, 2006, and September 30, 2012, or an earlier end date designated by the Secretary;

(F) that the property is the primary residence of the owner; and

(G) that the owner has not previously received benefit payments authorized under this subsection.

(b) Eligibility for benefits; criteria

(1) In order to be eligible for the benefits of subsection (a)(1), a civilian employee or a member of the Armed Forces—

(A) must be assigned to or employed at or in connection with the installation or activity at the time of public announcement of the closure action, or employed by a nonappropriated fund instrumentality operated in connection with such base or installation;

(B) must have been transferred from such installation or activity, or terminated as an employee as a result of a reduction in force, within six months prior to public announcement of the closure action; or

(C) must have been transferred from the installation or activity on an overseas tour within three years prior to public announcement of the closure action.

(2) A member of the Armed Forces shall also be eligible for the benefits of subsection (a)(1) if the member—

(A) was transferred from the installation or activity within three years prior to public announcement of the closure action; and

(B) in connection with the transfer, was informed of a future, programmed reassignment to the installation.

(3) The eligibility of a civilian employee and member of the Armed Forces under paragraph (1) and a member of the Armed Forces under paragraph (2) for benefits under subsection (a)(1) in connection with the closure of an installation or activity is subject to the additional conditions set out in paragraphs (4) and (5).

(4) At the time of public announcement of the closure action, or at the time of transfer or termination as set forth above, such personnel or employees must—

(A) have been the owner-occupant of the dwelling, or

(B) have vacated the owned dwelling as a result of being ordered into on-post housing during a

six-month period prior to the closure announcement.

(5) As a consequence of such closure such employees or personnel must—

(A) be required to relocate because of military transfer or acceptance of employment beyond a normal commuting distance from the dwelling for which compensation is sought, or

(B) be unemployed, not as a matter of personal choice, and able to demonstrate such financial hardship that they are unable to meet their mortgage payments and related expenses.

(c) Election of benefits; mortgage loan encumbrance; foreclosure expenses

(1) Homeowner assistance related to closed military installations

(A) In general

Such persons as the Secretary of Defense may determine to be eligible under the criteria set forth in subsection (a)(1) shall elect either—

(i) to receive a cash payment as compensation for losses which may be or have been sustained in a private sale, in an amount not to exceed the difference between—

(I) 95 per centum of the fair market value of their property (as such value is determined by the Secretary of Defense) prior to public announcement of intention to close all or part of the military base or installation; and

(II) the fair market value of such property (as such value is so determined) at the time of the sale; or

(ii) to receive, as purchase price for their property, an amount not to exceed 90 per centum of prior fair market value as such value is determined by the Secretary of Defense, or the amount of the outstanding mortgages.

(B) Reimbursement of expenses

The Secretary may also pay a person who elects to receive a cash payment under subparagraph (A) an amount that the Secretary determines appropriate to reimburse the person for the costs incurred by the person in the sale of the property if the Secretary determines that such payment will benefit the person and is in the best interest of the United States.

(2) Homeowner assistance for wounded individuals and their spouses

(A) In general

Persons eligible under the criteria set forth in subsection (a)(2) may elect either—

(i) to receive a cash payment as compensation for losses which may be or have been sustained in a private sale, in an amount not to exceed the difference between—

(I) 95 per centum of prior fair market value of their property (as such value is determined by the Secretary of Defense); and

(II) the fair market value of such property (as such value is determined by the Secretary of Defense) at the time of sale; or

(ii) to receive, as purchase price for their property an amount not to exceed 90 per centum of prior fair market value as such value is determined by the Secretary of Defense, or the amount of the outstanding mortgages.

(B) Determination of benefits

The Secretary may also pay a person who elects to receive a cash payment under subparagraph (A) an amount that the Secretary determines appropriate to reimburse the person for the costs incurred by the person in the sale of the property if the Secretary determines that such payment will benefit the person and is in the best interest of the United States.

(3) Homeowner assistance for permanently reassigned individuals

(A) In general

Persons eligible under the criteria set forth in subsection (a)(3) may elect either—

(i) to receive a cash payment as compensation for losses which may be or have been sustained in a private sale, in an amount not to exceed the difference between—

(I) 95 per centum of prior fair market value of their property (as such value is determined by the Secretary of Defense); and

(II) the fair market value of such property (as such value is determined by the Secretary of Defense) at the time of sale; or

(ii) to receive, as purchase price for their property an amount not to exceed 90 per centum of prior fair market value as such value is determined by the Secretary of Defense, or the amount of the outstanding mortgages.

(B) Determination of benefits

The Secretary may also pay a person who elects to receive a cash payment under subparagraph (A) an amount that the Secretary determines appropriate to reimburse the person for the costs incurred by the person in the sale of the property if the Secretary determines that such payment will benefit the person and is in the best interest of the United States.

(4) Compensation and limitations related to foreclosures and encumbrances

Cash payment as compensation for losses sustained in a private sale shall not be made in any case in which the property is encumbered by a mortgage loan guaranteed, insured, or held by a Federal agency unless such mortgage loan is paid, assumed by a purchaser satisfactory to such Federal agency, or otherwise fully satisfied at or prior to the time such cash payment is made. Except in cases of payment as compensation for losses, in the event of foreclosure by mortgagees commenced on or after public announcement of intention to close all or part of the military base or installation the Secretary of Defense may reimburse or pay on account of eligible persons such sums as may be paid or be otherwise due and owing by such persons as the result of such foreclosure, including (without limiting the generality of the foregoing) direct costs of judicial foreclosure, expenses and liabilities enforceable according to the terms of their mortgages or promissory notes, and the amount of debts, if any, established against such persons by a Federal agency in the case of loans made, guaranteed, or insured by such agency following liquidation of the security for such loans.

(d) Fund for extension of financial assistance; capital and receipts; availability of monies; covering into Treasury as miscellaneous receipts; Federal title to and control of property; other laws unaffected; foreign properties, exclusion

There shall be in the Treasury a fund which shall be available to the Secretary of Defense for the purpose of extending the financial assistance provided above. The capital of such fund shall consist of such sums as may, from time to time, be appropriated thereto, and shall consist also of receipts from the management, rental, or sale of properties acquired under this section, which receipts shall be credited to the fund and shall be available, together with funds appropriated therefor, for purchase or reimbursement purposes as provided above, as well as to defray expenses arising in connection with the acquisition, management, and disposal of such properties, including payment of principal, interest, and expenses of mortgages or other indebtedness thereon, and including the cost of staff services and contract services, costs of insurance, and other indemnity. Any part of such receipts not required for such expenses shall be covered into the Treasury as miscellaneous receipts. Properties acquired under this section shall be conveyed to, and acquired in the name of, the United States. The Secretary of Defense shall have the power to deal with, rent, renovate, and dispose of, whether by sales for cash or credit or otherwise, any properties so acquired: *Provided, however,* That no contract for acquisition, or acquisition, shall be deemed to constitute a contract for or acquisition of family housing units in support of military installations or activities within the meaning of section 1594i [2] of this title, nor shall it be deemed a transaction within the contemplation of section 2662 of title 10: *Provided further,* That no properties in foreign countries shall be acquired under this section, except in connection with compensation for property located on a base or installation pursuant to subsection (l).

(e) Fund as source of payments to States in lieu of taxes; limitation on amount; allowance for public service expenditures

Payments from the fund created by this section may be made in lieu of taxes to any State or political subdivision thereof, with respect to real property, including improvements thereon, acquired and held under this section. The amount so paid for any year upon such property shall not exceed the taxes which would be paid to the State or subdivision, as the case may be, upon such property if it were not exempt from taxation, and shall reflect such allowance as may be considered appropriate for expenditures, if any, by the Government for streets, utilities, or other public services to serve such property.

(f) Title requirements; terms and conditions of payment; finality of decisions

The title to any property acquired under this section, the eligibility for, and the amounts of, cash payable, and the administration of the preceding provisions of this section, shall conform to such requirements, and shall be administered under such conditions and regulations, as the Secretary of Defense may prescribe. Such regulations shall also prescribe the terms and conditions under which payments may be made and instruments accepted under this section, and all the determinations and decisions made pursuant to such regulations by the Secretary of Defense regarding such payments and conveyances and the terms and conditions under which they are approved or disapproved, shall be final and conclusive and shall not be subject to judicial review.

(g) Repealed. Pub. L. 111–5, div. A, title X, §1001(a)(4), Feb. 17, 2009, 123 Stat. 197

(h) Omitted

(i) Specific authorization for funds; expenditure of monies in Fund

No funds may be appropriated for the acquisition of any property under authority of this section unless such funds have been specifically authorized for such purpose in a military construction authorization act, and no moneys in the fund created pursuant to subsection (d) of this section may be expended for any purpose except as may be provided in appropriation Acts.

(j) Omitted

(k) Reduction of operations at military base or installation

The authority provided by this section to the Secretary of Defense shall also be available when the Department of Defense has ordered a reduction in the scope of operations at a military base or installation. All references in subsections (a), (b), (c), (n), and (o) to "closures" or "closings" or words of similar effect shall be deemed to include the reduction in scope of operations at a base or installation.

(l) Foreign property losses

Notwithstanding the provisions of subsection (a)(1)(A)(ii) and subsection (b)(5), Federal employees or military personnel employed at or near a military base or installation outside the United States who are otherwise eligible under the criteria as set forth above shall be entitled to compensation for losses arising (1) out of the sale of property, or (2) out of the inability to sell property located on a base or installation, incident to the owner's transfer, reassignment, or involuntary termination of employment, which results in his relocation. Such employees or military personnel whose property is located off a base or installation shall be entitled to compensation under subsection (c) for losses sustained in private sales. Such employees or personnel whose property is located on a base or installation, who sell or are unable to find a purchaser for such property, may surrender their interest in such property to the United States, and shall be entitled to compensation, notwithstanding lack of ownership of the land on which such property is located, in an amount equal to (A) 90 per centum of the sum of the present owner's purchase price of the dwelling and improvements, and all costs of ownership including interest on notes, utilities and services, maintenance and insurance, less (B) the total of all housing allowances received from the Government during ownership and occupancy of the dwelling, all rents collected, and the sale price, if any, received for the property, as determined by the Secretary of Defense: *Provided, however*, That

the maximum compensation shall in no event exceed 90 per centum of the unamortized portion of the cost of the property, including improvements, at the time ownership is terminated, as reflected in the amortization schedule, if any, relating to such property. For the purpose of this subsection, the term "United States" means the several States and the District of Columbia.

(m) Eligibility for benefits as to closure actions announced after April 1, 1973; criteria

In addition to the coverage provided above, the benefits of subsection (a)(1) shall apply, as to closure actions in the several States and the District of Columbia announced after April 1, 1973, to otherwise eligible employees or personnel who are (1) employed or assigned either at or near the base or installation affected by the closure action, and (2) are required to relocate, due to transfer, reassignment or involuntary termination of employment, for reasons other than the closure action.

(n) Relocation assistance for Coast Guard personnel

(1) Assistance under subsection (a)(1) shall be provided by the Secretary of Defense with respect to Coast Guard bases and installations ordered to be closed, in whole or in part, after January 1, 1987. Such assistance shall be provided under terms equivalent to those under which assistance is provided under subsection (a)(1) for closings of military bases and installations which are under the jurisdiction of the Secretary of Defense.

(2) The Secretary of the department in which the Coast Guard is operating, if other than the Department of Defense, shall reimburse the Secretary of Defense for expenditures under subsection (a)(1) made by the Secretary of Defense with respect to closings of Coast Guard bases and installations ordered when the Coast Guard is not operating as a service in the Navy. The Secretary of Defense and the Secretary of the department in which the Coast Guard is operating shall enter into an agreement under which the Secretary of the department in which the Coast Guard is operating shall carry out such reimbursement.

(o) Relocation assistance for nonappropriated fund instrumentality and other civilian employees

(1) Assistance under subsection (a)(1) shall be provided by the Secretary of Defense with respect to nonappropriated fund instrumentality employees adversely affected by the closure of a base or installation ordered to be closed, in whole or in part, after December 31, 1988.

(2) Notwithstanding subsection (b), a civilian employee who is serving overseas and is entitled to reemployment by the Federal Government (including a nonappropriated fund instrumentality of the United States) at or in connection with a base or installation ordered to be closed, in whole or in part, shall be entitled to the benefits of subsection (a)(1) to the same extent as an employee employed at or in connection with that base or installation.

(3) All payments to a nonappropriated fund instrumentality employee under this section shall be made from the funds available to the Secretary of Defense under subsection (d).

(p) Definitions

In this section:

(1) the term "Armed Forces" has the meaning given the term "armed forces" in section 101(a) of title 10;

(2) the term "civilian employee" has the meaning given the term "employee" in section 2105(a) of title 5;

(3) the term "medical transition", in the case of a member of the Armed Forces, means a member who—

(A) is in Medical Holdover status;

(B) is in Active Duty Medical Extension status;

(C) is in Medical Hold status;

(D) is in a status pending an evaluation by a medical evaluation board;

(E) has a complex medical need requiring six or more months of medical treatment; or

(F) is assigned or attached to an Army Warrior Transition Unit, an Air Force Patient Squadron, a Navy Patient Multidisciplinary Care Team, or a Marine Patient Affairs Team/Wounded Warrior Regiment; and

(4) the term "nonappropriated fund instrumentality employee" means a civilian employee who—

(A) is a citizen of the United States; and

(B) is paid from nonappropriated funds of Army and Air Force Exchange Service, Navy Resale and Services Support Office, Marine Corps exchanges, or any other instrumentality of the United States under the jurisdiction of the Armed Forces which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the Armed Forces.

(Pub. L. 89–754, title X, §1013, Nov. 3, 1966, 80 Stat. 1290; Pub. L. 91–142, title VI, §602, Dec. 5, 1969, 83 Stat. 313; Pub. L. 91–511, title VI, §612, Oct. 26, 1970, 84 Stat. 1225; Pub. L. 92–545, title VI, §601, Oct. 25, 1972, 86 Stat. 1150; Pub. L. 93–166, title V, §513(b), Nov. 29, 1973, 87 Stat. 679; Pub. L. 100–448, §11, Sept. 28, 1988, 102 Stat. 1842; Pub. L. 101–510, div. A, title III, §331, Nov. 5, 1990, 104 Stat. 1535; Pub. L. 102–190, div. B, title XXVIII, §2823, Dec. 5, 1991, 105 Stat. 1547; Pub. L. 102–484, div. A, title X, §1054(i), Oct. 23, 1992, 106 Stat. 2503; Pub. L. 103–337, div. B, title XXVIII, §2805, Oct. 5, 1994, 108 Stat. 3053; Pub. L. 111–5, div. A, title X, §1001(a), (b), Feb. 17, 2009, 123 Stat. 194, 198.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Defense Base Closure and Realignment Act of 1990, referred to in subsec. (a)(1)(B)(ii), is part A of title XXIX of div. B of Pub. L. 101–510, Nov. 5, 1990, 104 Stat. 1808, which is set out as a note under section 2687 of Title 10, Armed Forces. For complete classification of this Act to the Code, see Tables.

Section 1594i of this title, referred to in subsec. (d), was repealed by Pub. L. 97–214, §7(3), July 12, 1982, 96 Stat. 173.

CODIFICATION

Subsecs. (h) and (j) of this section amended section 1715n(a)(8) and repealed section 1735h of Title 12, Banks and Banking, respectively, with such repealed section being covered by this section.

AMENDMENTS

2009—Pub. L. 111–5, §1001(b), inserted "and certain property owned by members of the Armed Forces, Department of Defense and United States Coast Guard civilian employees, and surviving spouses" after "ordered to be closed" in section catchline.

Subsec. (a). Pub. L. 111–5, §1001(a)(1), designated existing provisions as par. (1), inserted par. heading, substituted "if—" for "if he determines" in introductory provisions, inserted "(A) the Secretary determines—", redesignated former pars. (1) to (3) as cls. (i) to (iii), respectively, of subpar. (A) and realigned margins, and added subpar. (B) and pars. (2) and (3).

Subsec. (b). Pub. L. 111–5, §1001(a)(2), substituted "subsection (a)(1)" for "this section" wherever appearing.

Subsec. (c). Pub. L. 111–5, §1001(a)(3), revised and restructured subsec. (c) into pars. (1) to (4). Prior to amendment, subsec. (c) read as follows: "Such persons as the Secretary of Defense may determine to be eligible under the criteria set forth above shall elect either (1) to receive a cash payment as compensation for losses which may be or have been sustained in a private sale, in an amount not to exceed the difference between (A) 95 per centum of the fair market value of their property (as such value is determined by the Secretary of Defense) prior to public announcement of intention to close all or part of the military base or installation and (B) the fair market value of such property (as such value is so determined) at the time of the sale, or (2) to receive, as purchase price for their property, an amount not to exceed 90 per centum of prior fair market value as such value is determined by the Secretary of Defense, or the amount of the outstanding mortgages. The Secretary may also pay a person who elects to receive a cash payment under clause (1) of the preceding sentence an amount that the Secretary determines appropriate to reimburse the person for the costs incurred by the person in the sale of the property if the Secretary determines that such payment will benefit the person and is in the best interest of the Federal Government. Cash payment as compensation for losses sustained in a private sale shall not be made in any case in which the property is encumbered by a mortgage loan guaranteed, insured, or held by a Federal agency unless such mortgage loan is paid, assumed by a

purchaser satisfactory to such Federal agency, or otherwise fully satisfied at or prior to the time such cash payment is made. Except in cases of payment as compensation for losses, in the event of foreclosure by mortgagees commenced on or after public announcement of intention to close all or part of the military base or installation the Secretary of Defense may reimburse or pay on account of eligible persons such sums as may be paid or be otherwise due and owing by such persons as the result of such foreclosure, including (without limiting the generality of the foregoing) direct costs of judicial foreclosure, expenses and liabilities enforceable according to the terms of their mortgages or promissory notes, and the amount of debts, if any, established against such persons by a Federal agency in the case of loans made, guaranteed, or insured by such agency following liquidation of the security for such loans."

Subsec. (g). Pub. L. 111–5, §1001(a)(4), struck out subsec. (g). Text read as follows: "The Secretary of Defense is authorized to enter into such agreement with the Secretary of Housing and Urban Development as may be appropriate for the purposes of economy and efficiency of administration of this section. Such agreement may provide authority to the Secretary of Housing and Urban Development and his designee to make any or all of the determinations and take any or all of the actions which the Secretary of Defense is authorized to undertake pursuant to the preceding provisions of this section. Any such determinations shall be entitled to finality to the same extent as if made by the Secretary of Defense, and, in event the Secretaries of Defense and Housing and Urban Development so elect, the fund established pursuant to subsection (d) of this section shall be available to the Secretary of Housing and Urban Development to carry out the purposes thereof."

Subsec. (l). Pub. L. 111–5, §1001(a)(5), substituted "(a)(1)(A)(ii)" for "(a)(2)".

Subsec. (m). Pub. L. 111–5, §1001(a)(6), substituted "subsection (a)(1)" for "this section".

Subsec. (n)(1). Pub. L. 111–5, §1001(a)(7)(A), which directed substitution of "subsection (a)(1)" for "this section", was executed by making the substitution in two places to reflect the probable intent of Congress.

Subsec. (n)(2). Pub. L. 111–5, §1001(a)(7)(B), substituted "subsection (a)(1)" for "this section".

Subsec. (o)(1), (2). Pub. L. 111–5, §1001(a)(8)(A), (B), substituted "subsection (a)(1)" for "this section".

Subsec. (o)(4). Pub. L. 111–5, §1001(a)(8)(C), struck out par. (4) which defined "nonappropriated fund instrumentality employee" and "civilian employee".

Subsec. (p). Pub. L. 111–5, §1001(a)(9), added subsec. (p).

1994—Subsec. (c). Pub. L. 103–337 inserted after first sentence "The Secretary may also pay a person who elects to receive a cash payment under clause (1) of the preceding sentence an amount that the Secretary determines appropriate to reimburse the person for the costs incurred by the person in the sale of the property if the Secretary determines that such payment will benefit the person and is in the best interest of the Federal Government."

1992—Subsec. (a)(1). Pub. L. 102–484 substituted "member of the Armed Forces of the United States" for "serviceman".

1991—Subsec. (a)(1). Pub. L. 102–190, §2823(b)(1)(A), which directed the substitution of "member of the Armed Forces of the United States" for "servicemen" could not be executed because the word "servicemen" did not appear. See 1992 Amendment note above.

Subsec. (a)(2). Pub. L. 102–190, §2823(b)(1)(B), inserted before semicolon "or, in the case of a member of the Armed Forces not assigned to that base or installation at the time of public announcement of such closing, will prevent any reassignment of such member to the base or installation".

Subsec. (b). Pub. L. 102–190, §2823(a), (b)(2), (3), substituted pars. (1) to (3) for former introductory provisions and pars. (1) to (3); designated first proviso of subsec. (b) as par. (4) and substituted "At" for "*Provided*, That, at", redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively, and substituted period for colon at end of subpar. (B); and designated second proviso of subsec. (b) as par. (5) and substituted "As" for "*Provided further*, That as" and redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively. Prior to amendment, former introductory provisions and pars. (1) to (3) read as follows: "In order to be eligible for the benefits of this section such employees or military personnel must be or have been—

"(1) assigned to or employed at or in connection with the installation or activity at the time of public announcement of the closure action, or employed by a nonappropriated fund instrumentality operated in connection with such base or installation,

"(2) transferred from such installation or activity, or terminated as employees as a result of reduction-in-force, within six months prior to public announcement of the closure action, or

"(3) transferred from the installation or activity on an overseas tour unaccompanied by dependents within fifteen months prior to public announcement of the closure action:".

Subsec. (l). Pub. L. 102–190, §2823(b)(4), substituted "subsection (b)(5)" for "the second proviso of subsection (b)".

1990—Subsec. (a)(1). Pub. L. 101–510, §331(1), inserted ", a nonappropriated fund instrumentality

employee employed at a nonappropriated fund instrumentality operated in connection with such base or installation," after "limitation)".

Subsec. (b)(1). Pub. L. 101–510, §331(2), inserted at end "or employed by a nonappropriated fund instrumentality operated in connection with such base or installation,".

Subsec. (k). Pub. L. 101–510, §331(3), substituted "(n), and (o)" for "and (n) of this section".

Subsec. (o). Pub. L. 101–510, §331(4), added subsec. (o).

1988—Subsec. (k). Pub. L. 100–448, §11(1), substituted "(c), and (n)" for "and (c)".

Subsec. (n). Pub. L. 100–448, §11(2), added subsec. (n).

1973—Subsec. (m). Pub. L. 93–166 added subsec. (m).

1972—Subsec. (d). Pub. L. 92–545 inserted ", except in connection with compensation for property located on a base or installation pursuant to subsection (l)" to provision prohibiting acquisition of properties in foreign countries under this section.

Subsec. (l). Pub. L. 92–545 added subsec. (l).

1970—Subsec. (a)(3). Pub. L. 91–511 inserted "or if as the result of such action and other similar action in the same area," after "part,".

Subsec. (k). Pub. L. 91–511 added subsec. (k).

1969—Subsec. (c). Pub. L. 91–142, §602(a), struck out "and prior to the one hundred and twentieth day after November 3, 1966," after "installation" in third sentence.

Subsec. (d). Pub. L. 91–142, §602(b), excluded acquisition of foreign properties under this section.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1970 AMENDMENT

Pub. L. 91–511, title VI, §612, Oct. 26, 1970, 84 Stat. 1225, provided that the amendment made by that section is effective Oct. 28, 1969.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

[1] So in original. The second dash probably should not appear.

[2] See References in Text note below.

CHAPTER 42—NARCOTIC ADDICT REHABILITATION

SUBCHAPTER I—GENERAL PROVISIONS

Sec.
3401. Declaration of policy.
3402. State facilities and personnel for care and treatment; encouragement of adequate provision; benefit of experience of Surgeon General and Attorney General.

SUBCHAPTER II—CIVIL COMMITMENT OF PERSONS NOT CHARGED WITH ANY CRIMINAL OFFENSE

3411 to 3426. Repealed.

SUBCHAPTER III—REHABILITATION AND POSTHOSPITALIZATION CARE PROGRAMS AND ASSISTANCE TO STATES AND LOCALITIES

3441, 3442. Repealed.

SUBCHAPTER I—GENERAL PROVISIONS

§3401. Declaration of policy

It is the policy of the Congress that certain persons charged with or convicted of violating Federal criminal laws, who are determined to be addicted to narcotic drugs, and likely to be rehabilitated through treatment, should, in lieu of prosecution or sentencing, be civilly committed for confinement and treatment designed to effect their restoration to health, and return to society as useful members.

It is the further policy of the Congress that certain persons addicted to narcotic drugs who are not charged with the commission of any offense should be afforded the opportunity, through civil commitment, for treatment, in order that they may be rehabilitated and returned to society as useful members and in order that society may be protected more effectively from crime and delinquency which result from narcotic addiction.

(Pub. L. 89–793, §2, Nov. 8, 1966, 80 Stat. 1438.)

EDITORIAL NOTES

CODIFICATION

Section was not enacted as part of the Narcotic Addict Rehabilitation Act of 1966, which is classified to subchapters II and III of this chapter, chapter 314 (section 4251 et seq.) of Title 18, Crimes and Criminal Procedure, and chapter 175 (section 2901 et seq.) of Title 28, Judiciary and Judicial Procedure.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 89–793, title VI, §605, Nov. 8, 1966, 80 Stat. 1450, provided that: "Title I of this Act [enacting chapter 175 (§2901 et seq.) of Title 28, Judiciary and Judicial Procedure] shall take effect three months after the date of its enactment [Nov. 8, 1966], and shall apply to any case pending in a district court of the United States in which an appearance has not been made prior to such effective date. Titles II [enacting chapter 314 (§4251 et seq.) of Title 18, Crimes and Criminal Procedure] and V of this Act [amending section 7237(d) of Title 26, Internal Revenue Code and enacting provisions set out as note under section 4202 of Title 18] shall take effect three months after the date of its enactment [Nov. 8, 1966] and shall apply to any case pending in any court of the United States in which sentence has not yet been imposed as of such effective date. Title III of this Act [enacting section 3411 et seq. of this title] shall take effect three months after the date of its enactment [Nov. 8, 1966]."

SHORT TITLE OF 1971 AMENDMENT

Pub. L. 92–420, §1, Sept. 16, 1972, 86 Stat. 677, provided: "That this Act [amending section 3411 of this title, section 4251 of Title 18, Crimes and Criminal Procedure, and section 2901 of Title 28, Judiciary and Judicial Procedure, and enacting provisions set out as a note under section 2901 of Title 28] may be cited as the 'Narcotic Addict Rehabilitation Amendments of 1971'."

SHORT TITLE

Pub. L. 89–793, §1, Nov. 8, 1966, 80 Stat. 1438, provided: "That titles I, II, III, and IV of this Act [enacting subchapters II and III of this chapter, chapter 314 (§4251 et seq.) of Title 18, Crimes and Criminal Procedure, and chapter 175 (§2901 et seq.) of Title 28, Judiciary and Judicial Procedure] may be cited as the 'Narcotic Addict Rehabilitation Act of 1966'."

SEPARABILITY

Pub. L. 89–793, title VI, §604, Nov. 8, 1966, 80 Stat. 1450, provided that: "If any provision of this Act [enacting this chapter, chapter 314 (§4251 et seq.) of Title 18, Crimes and Criminal Procedure, and chapter 175 (§2901 et seq.) of Title 28, Judiciary and Judicial Procedure, amending section 257 of this title and section 7237 of Title 26, Internal Revenue Code, and enacting provisions set out as notes under this section

and section 4202 of Title 18] or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected thereby."

AUTHORIZATION OF APPROPRIATIONS

Pub. L. 89–793, title VI, §607, Nov. 8, 1966, 80 Stat. 1450, provided that: "There are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act [enacting this chapter, chapter 314 (§4251 et seq.) of Title 18, Crimes and Criminal Procedure, and chapter 175 (§2901 et seq.) of Title 28, Judiciary and Judicial Procedure, amending section 257 of this title and section 7237 of Title 26, Internal Revenue Code, and enacting provisions set out as notes under this section and section 4202 of Title 18]."

EXECUTIVE DOCUMENTS

REORGANIZATION PLAN NO. 3 OF 1966

Pub. L. 89–793, title VI, §606, Nov. 8, 1966, 80 Stat. 1450, provided that: "The provisions of this Act [enacting this chapter, chapter 314 (§4251 et seq.) of Title 18, Crimes and Criminal Procedure, and chapter 175 (§2901 et seq.) of Title 28, Judiciary and Judicial Procedure, amending section 257 of this title and section 7237 of Title 26, Internal Revenue Code, and enacting provisions set out as notes under this section and section 4202 of Title 18] shall be subject to the provisions of Reorganization Plan No. 3 of 1966 [set out as a note under section 202 of this title]."

§3402. State facilities and personnel for care and treatment; encouragement of adequate provision; benefit of experience of Surgeon General and Attorney General

The Surgeon General and the Attorney General are authorized to give representatives of States and local subdivisions thereof the benefit of their experience in the care, treatment, and rehabilitation of narcotic addicts so that each State may be encouraged to provide adequate facilities and personnel for the care and treatment of narcotic addicts in its jurisdiction.

(Pub. L. 89–793, title VI, §602, Nov. 8, 1966, 80 Stat. 1450.)

EDITORIAL NOTES

CODIFICATION

Section was not enacted as part of the Narcotic Addict Rehabilitation Act of 1966, which is classified to subchapters II and III of this chapter, chapter 314 (§4251 et seq.) of Title 18, Crimes and Criminal Procedure, and chapter 175 (§2901 et seq.) of Title 28, Judiciary and Judicial Procedure.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Secretary of Health and Human Services" substituted for "Secretary of Health, Education, and Welfare" pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1956, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

SUBCHAPTER II—CIVIL COMMITMENT OF PERSONS NOT CHARGED WITH ANY CRIMINAL OFFENSE

§§3411 to 3426. Repealed. Pub. L. 106–310, div. B, title XXXIV, §3405(b), Oct. 17, 2000, 114 Stat. 1221

Section 3411, Pub. L. 89–793, title III, §301, Nov. 8, 1966, 80 Stat. 1444; Pub. L. 91–513, title III, §1102(p), Oct. 27, 1970, 84 Stat. 1293; Pub. L. 92–420, §4, Sept. 16, 1972, 86 Stat. 677, defined terms used in this subchapter.

Section 3412, Pub. L. 89–793, title III, §302, Nov. 8, 1966, 80 Stat. 1444, related to preliminary proceedings.

Section 3413, Pub. L. 89–793, title III, §303, Nov. 8, 1966, 80 Stat. 1445, related to judicial proceedings, advisement of patient, appointment of physicians, examination of patient, conduct and report of examination, and return of patient for further proceedings.

Section 3414, Pub. L. 89–793, title III, §304, Nov. 8, 1966, 80 Stat. 1446, related to hearings.

Section 3415, Pub. L. 89–793, title III, §305, Nov. 8, 1966, 80 Stat. 1446, related to order of commitment for treatment to care and custody of Surgeon General and reports of Surgeon General.

Section 3416, Pub. L. 89–793, title III, §306, Nov. 8, 1966, 80 Stat. 1446, related to period of commitment to care and custody of Surgeon General, patient subject to posthospitalization program, and release from confinement.

Section 3417, Pub. L. 89–793, title III, §307, Nov. 8, 1966, 80 Stat. 1446, related to release from confinement.

Section 3418, Pub. L. 89–793, title III, §308, Nov. 8, 1966, 80 Stat. 1447, related to petition for inquiry into health and general condition and necessity for continuation of confinement, order for release from confinement and return to court, and placing patient under posthospitalization treatment.

Section 3419, Pub. L. 89–793, title III, §309, Nov. 8, 1966, 80 Stat. 1447, related to criminal conviction or criminal appellation from determination of being narcotic addict and criminal proceedings prohibited from using information gained in addiction inquiry.

Section 3420, Pub. L. 89–793, title III, §310, Nov. 8, 1966, 80 Stat. 1447, related to evidence, examining physician as a competent and compellable witness, and physician-patient privilege.

Section 3421, Pub. L. 89–793, title III, §311, Nov. 8, 1966, 80 Stat. 1447, related to inapplicability of subchapter to persons with criminal charge pending, on probation, or with sentence unserved and consent to commitment of such persons by authority with power over their custody.

Section 3422, Pub. L. 89–793, title III, §312, Nov. 8, 1966, 80 Stat. 1447, related to commitment to hospital of the Service being dependent upon certification of availability of facilities or personnel for treatment.

Section 3423, Pub. L. 89–793, title III, §313, Nov. 8, 1966, 80 Stat. 1447, related to compensation of physicians and counsel and source of funds.

Section 3424, Pub. L. 89–793, title III, §314, Nov. 8, 1966, 80 Stat. 1448, related to authority of Surgeon General.

Section 3425, Pub. L. 89–793, title III, §315, Nov. 8, 1966, 80 Stat. 1448, related to penalties for escape or rescue from custody.

Section 3426, Pub. L. 89–793, title III, §316, Nov. 8, 1966, 80 Stat. 1448, related to penalties for false statements.

SUBCHAPTER III—REHABILITATION AND POSTHOSPITALIZATION CARE PROGRAMS AND ASSISTANCE TO STATES AND LOCALITIES

§3441. Repealed. Pub. L. 106–310, div. B, title XXXIV, §3405(b), Oct. 17, 2000, 114 Stat. 1221

Section, Pub. L. 89–793, title IV, §401, Nov. 8, 1966, 80 Stat. 1448, related to establishment of outpatient services.

§3442. Repealed. Pub. L. 90–574, title III, §303(b), Oct. 15, 1968, 82 Stat. 1011

Section, Pub. L. 89–793, title IV, §402, Nov. 8, 1966, 80 Stat. 1448, authorized appropriations for grants to States and political subdivisions thereof and to private organizations and institutions for development of narcotic addict rehabilitation and treatment programs.

CHAPTER 43—DEPARTMENT OF HEALTH AND HUMAN SERVICES

SUBCHAPTER I—GENERAL PROVISIONS

Sec.
3501. Establishment of Department; effective date.
3501a. Additional Assistant Secretaries.
3502. Assistant Secretary for Administration; appointment and duties.
3502a. Administrator of Social and Rehabilitation Service; appointment and confirmation.
3503. Omitted.
3504. General Counsel; appointment.
3505. Seal.
3505a. Office of Population Affairs; establishment; Deputy Assistant Secretary for Population Affairs; appointment; staff and consultants.
3505b. Functions and duties of Deputy Assistant Secretary for Population Affairs.
3505c. Repealed.
3505d. National Health Professional Shortage Clearinghouse.
3506. Travel and subsistence expenses of officers and employees in connection with attendance at meetings or in performing advisory services.
3506a. Scientific engagement.
3507. Transfer of personnel and household goods; delegation of Secretary's authority.
3508 to 3511. Omitted, Repealed, or Transferred.
3512. Office to assist small manufacturers of medical devices; establishment.
3513. Working capital fund; establishment; amount; use; reimbursement.
3513a. Working capital fund; availability for centralized personnel data collection and reporting and common regional administrative support services.
3513b. Working capital fund; availability for common personnel support services.
3514. Special account for grants of Department; reports.
3514a. Nonrecurring expenses fund.
3515. Performance of one-year contracts during two fiscal years.
3515a. Dedicated telephone service between employee residences and computer centers.
3515b. Prohibition on funding certain experiments involving human participants.
3515c. Offset against Federal payments to States for provision of services.
3515d. Expenses of Office of Inspector General; protective services; investigating non-payment of child support.
3515e. Transfer of functions regarding independent living to Department of Health and Human Services, and savings provisions.

SUBCHAPTER II—OFFICE OF INSPECTOR GENERAL

3521 to 3527. Repealed.

SUBCHAPTER I—GENERAL PROVISIONS

§3501. Establishment of Department; effective date

The provisions of Reorganization Plan Numbered 1 of 1953, submitted to the Congress on March 12, 1953, shall take effect ten days after April 1, 1953, and its approval by the President, notwithstanding the provisions of the Reorganization Act of 1949, as amended, except that section 9 of such Act shall apply to such reorganization plan and to the reorganization made thereby.

(Apr. 1, 1953, ch. 14, 67 Stat. 18.)

EDITORIAL NOTES

REFERENCES IN TEXT

Reorganization Plan Numbered 1 of 1953, referred to in text, is Reorg. Plan No. 1 of 1953, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, which is set out as a note below and in the Appendix to Title 5, Government Organization and Employees.

The Reorganization Act of 1949, as amended, referred to in text, is act June 20, 1949, ch. 226, 63 Stat. 203, which enacted sections 133z to 133z–15 of former Title 5, Executive Departments and Government Officers and Employees. Sections 133z to 133z–15 of former Title 5 were repealed and reenacted as sections 901 to 913 of Title 5, Government Organizations and Employees, by Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 378. Section 913 of Title 5 has been omitted from the Code. Section 9 of the Reorganization Act of 1949, which enacted section 133z–7 of former Title 5, was also repealed and reenacted as section 907(a) to (c) of Title 5 by Pub. L. 89–554.

CODIFICATION

Section was formerly classified to section 623 of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 1, 1966, 80 Stat. 378.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services and the Assistant Secretary for Public Health Emergency Preparedness [now Assistant Secretary for Preparedness and Response] relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(5) and (6), and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

REDUCING ADMINISTRATIVE BURDEN FOR RESEARCHERS

Pub. L. 114–255, div. A, title II, §2034, Dec. 13, 2016, 130 Stat. 1059, provided that:

"(a) PLAN PREPARATION AND IMPLEMENTATION OF MEASURES TO REDUCE ADMINISTRATIVE BURDENS.—

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act [Dec. 13, 2016], the Secretary of Health and Human Services (referred to in this section as the 'Secretary') shall—

"(A) lead a review by research funding agencies of all regulations and policies related to the disclosure of financial conflicts of interest, including the minimum threshold for reporting financial conflicts of interest;

"(B) make revisions, as appropriate, to harmonize existing policies and reduce administrative burden on researchers while maintaining the integrity and credibility of research findings and protections of human participants; and

"(C) confer with the Office of the Inspector General about the activities of such office related to financial conflicts of interest involving research funding agencies.

"(2) CONSIDERATIONS.—In updating policies under paragraph (1)(B), the Secretary shall consider—

"(A) modifying the timelines for the reporting of financial conflicts of interest to just-in-time information by institutions receiving grant or cooperative agreement funding from the National Institutes of Health;

"(B) ensuring that financial interest disclosure reporting requirements are appropriate for, and relevant to, awards that will directly fund research, which may include modification of the definition of the term 'investigator' for purposes of the regulations and policies described in subparagraphs (A) and (B)

of paragraph (1); and

"(C) updating any applicable training modules of the National Institutes of Health related to Federal financial interest disclosure.

"(b) MONITORING OF SUBRECIPIENTS OF FUNDING FROM THE NATIONAL INSTITUTES OF HEALTH.—The Director of the National Institutes of Health (referred to in this section as the 'Director of National Institutes of Health') shall implement measures to reduce the administrative burdens related to monitoring of subrecipients of grants by primary awardees of funding from the National Institutes of Health, which may incorporate findings and recommendations from existing and ongoing activities. Such measures may include, as appropriate—

"(1) an exemption from subrecipient monitoring requirements, upon request from the primary awardees, provided that—

"(A) the subrecipient is subject to Federal audit requirements pursuant to the Uniform Guidance of the Office of Management and Budget;

"(B) the primary awardee conducts, pursuant to guidance of the National Institutes of Health, a pre-award evaluation of each subrecipient's risk of noncompliance with Federal statutes and regulations, the conditions of the subaward, and any recurring audit findings; and

"(C) such exemption does not absolve the primary awardee of liability for misconduct by subrecipients; and

"(2) the implementation of alternative grant structures that obviate the need for subrecipient monitoring, which may include collaborative grant models allowing for multiple primary awardees.

"(c) REPORTING OF FINANCIAL EXPENDITURES.—The Secretary, in consultation with the Director of National Institutes of Health, shall evaluate financial expenditure reporting procedures and requirements for recipients of funding from the National Institutes of Health and take action, as appropriate, to avoid duplication between department and agency procedures and requirements and minimize burden to funding recipients.

"(d) ANIMAL CARE AND USE IN RESEARCH.—Not later than 2 years after the date of enactment of this Act [Dec. 13, 2016], the Director of National Institutes of Health, in collaboration with the Secretary of Agriculture and the Commissioner of Food and Drugs, shall complete a review of applicable regulations and policies for the care and use of laboratory animals and make revisions, as appropriate, to reduce administrative burden on investigators while maintaining the integrity and credibility of research findings and protection of research animals. In carrying out this effort, the Director of the National Institutes of Health shall seek the input of experts, as appropriate. The Director of the National Institutes of Health shall—

"(1) identify ways to ensure such regulations and policies are not inconsistent, overlapping, or unnecessarily duplicative, including with respect to inspection and review requirements by Federal agencies and accrediting associations;

"(2) take steps to eliminate or reduce identified inconsistencies, overlap, or duplication among such regulations and policies; and

"(3) take other actions, as appropriate, to improve the coordination of regulations and policies with respect to research with laboratory animals.

"(e) DOCUMENTATION OF PERSONNEL EXPENSES.—The Secretary shall clarify the applicability of the requirements under the Office of Management and Budget Uniform Guidance for management and certification systems adopted by entities receiving Federal research grants through the Department of Health and Human Services regarding documentation of personnel expenses, including clarification of the extent to which any flexibility to such requirements specified in such Uniform Guidance applies to entities receiving grants through the Department of Health and Human Services.

"(f) RESEARCH POLICY BOARD.—

"(1) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act [Dec. 13, 2016], the Director of the Office of Management and Budget shall establish an advisory committee, to be known as the 'Research Policy Board' (referred to in this subsection as the 'Board'), to provide Federal Government officials with information on the effects of regulations related to Federal research requirements.

"(2) MEMBERSHIP.—

"(A) IN GENERAL.—The Board shall include not more than 10 Federal members, including each of the following Federal members or their designees:

"(i) The Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget.

"(ii) The Director of the Office of Science and Technology Policy.

"(iii) The Secretary of Health and Human Services.

"(iv) The Director of the National Science Foundation.

"(v) The secretaries and directors of other departments and agencies that support or regulate scientific research, as determined by the Director of the Office of Management and Budget.

"(B) NON-FEDERAL MEMBERS.—The Board shall be comprised of not less than 9 and not more than 12 representatives of academic research institutions, other private, nonprofit research institutions, or other nonprofit organizations with relevant expertise. Such members shall be appointed by a formal process, to be established by the Director of the Office of Management and Budget, in consultation with the Federal membership, and that incorporates—

"(i) nomination by members of the nonprofit scientific research community, including academic research institutions; and

"(ii) procedures to fill membership positions vacated before the end of a member's term.

"(3) PURPOSE AND RESPONSIBILITIES.—The Board shall make recommendations regarding the modification and harmonization of regulations and policies having similar purposes across research funding agencies to ensure that the administrative burden of such research policy and regulation is minimized to the greatest extent possible and consistent with maintaining responsible oversight of federally funded research. Activities of the Board may include—

"(A) providing thorough and informed analysis of regulations and policies;

"(B) identifying negative or adverse consequences of existing policies and making actionable recommendations regarding possible improvement of such policies;

"(C) making recommendations with respect to efforts within the Federal Government to improve coordination of regulation and policy related to research;

"(D) creating a forum for the discussion of research policy or regulatory gaps, challenges, clarification, or harmonization of such policies or regulation, and best practices; and

"(E) conducting ongoing assessment and evaluation of regulatory burden, including development of metrics, periodic measurement, and identification of process improvements and policy changes.

"(4) EXPERT SUBCOMMITTEES.—The Board may form temporary expert subcommittees, as appropriate, to develop timely analysis on pressing issues and assist the Board in anticipating future regulatory challenges, including challenges emerging from new scientific advances.

"(5) REPORTING REQUIREMENTS.—Not later than 2 years after the date of enactment of this Act, and once thereafter, the Board shall submit a report to the Director of the Office of Management and Budget, the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget, the Director of the Office of Science and Technology Policy, the heads of relevant Federal departments and agencies, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Energy and Commerce of the House of Representatives containing formal recommendations on the conceptualization, development, harmonization, and reconsideration of scientific research policy, including the regulatory benefits and burdens.

"(6) SUNSET.—The Board shall terminate on September 30, 2021.

"(7) GAO REPORT.—Not later than 4 years after the date of enactment of this Act, the Comptroller General of the United States shall conduct an independent evaluation of the activities carried out by the Board pursuant to this subsection and submit to the appropriate committees of Congress a report regarding the results of the independent evaluation. Such report shall review and assess the Board's activities with respect to the responsibilities described in paragraph (3)."

DATA COLLECTION RELATING TO RACE OR ETHNICITY

Pub. L. 106–525, title III, §301, Nov. 22, 2000, 114 Stat. 2507, provided that:

"(a) STUDY.—The National Academy of Sciences shall conduct a comprehensive study of the Department of Health and Human Services' data collection systems and practices, and any data collection or reporting systems required under any of the programs or activities of the Department, relating to the collection of data on race or ethnicity, including other Federal data collection systems (such as the Social Security Administration) with which the Department interacts to collect relevant data on race and ethnicity.

"(b) REPORT.—Not later than 1 year after the date of enactment of this Act [Nov. 22, 2000], the National Academy of Sciences shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Commerce [now Committee on Energy and Commerce] of the House of Representatives, a report that—

"(1) identifies the data needed to support efforts to evaluate the effects of socioeconomic status, race and ethnicity on access to health care and other services and on disparity in health and other social outcomes and the data needed to enforce existing protections for equal access to health care;

"(2) examines the effectiveness of the systems and practices of the Department of Health and Human

Services described in subsection (a), including pilot and demonstration projects of the Department, and the effectiveness of selected systems and practices of other Federal, State, and tribal agencies and the private sector, in collecting and analyzing such data;

"(3) contains recommendations for ensuring that the Department of Health and Human Services, in administering its entire array of programs and activities, collects, or causes to be collected, reliable and complete information relating to race and ethnicity; and

"(4) includes projections about the costs associated with the implementation of the recommendations described in paragraph (3), and the possible effects of the costs on program operations.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for fiscal year 2001."

UNDER SECRETARY RETITLED DEPUTY SECRETARY

Pub. L. 101–509, title V, §529 [title I, §112(a)(1)], Nov. 5, 1990, 104 Stat. 1427, 1454, provided that: "The position of Under Secretary of Health and Human Services, established by section 2 of Reorganization Plan No. 1 of 1953 (67 Stat. 631) [set out below], is retitled the Deputy Secretary of Health and Human Services."

[Section 529 [title I, §112(a)(1)] of Pub. L. 101–509 effective on first day of first pay period that begins on or after Nov. 5, 1990, with continued service by incumbent Under Secretary of Health and Human Services, see section 529 [title I, §112(e)(1), (2)(A)] of Pub. L. 101–509, set out as an Effective Date of 1990 Amendment; Continued Service by Incumbents note under section 3404 of Title 20, Education.]

INVESTIGATION OF YOUTH CAMP SAFETY

Pub. L. 92–318, title VI, §§601–603, June 23, 1972, 86 Stat. 353, 354, authorized the Secretary of Health, Education, and Welfare to make a study of the field of youth camp safety to determine the need for Federal legislation, required the Secretary to submit a report on his investigation to the Congress before Mar. 1, 1973, and authorized $300,000 in appropriations to carry out the study.

EXECUTIVE DOCUMENTS

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to Secretary of Health and Human Services, see Parts 1, 2, and 8 of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out as a note under section 5195 of this title.

ORDER OF SUCCESSION

For order of succession during any period when both Secretary and Deputy Secretary of Health and Human Services are unable to perform functions and duties of office of Secretary, see Ex. Ord. No. 13250, Dec. 28, 2001, 67 F.R. 1597, listed in a table under section 3345 of Title 5, Government Organization and Employees.

REORGANIZATION PLAN NO. 1 OF 1953

EFF. APR. 11, 1953, 18 F.R. 2053, 67 STAT. 631, AS AMENDED SEPT. 11, 1967, PUB. L. 90–83, §10(C), 81 STAT. 224

Prepared by the President and transmitted to the Senate and to the House of Representatives in Congress assembled, March 12, 1953, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended [see 5 U.S.C. 901 et seq.].

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SECTION 1. CREATION OF DEPARTMENT; SECRETARY

There is hereby established an executive department, which shall be known as the Department of Health, Education, and Welfare (hereafter in this reorganization plan referred to as the Department). There shall be at the head of the Department a Secretary of Health, Education, and Welfare (hereafter in this reorganization plan referred to as the Secretary), who shall be appointed by the President by and with the advice and consent of the Senate, and who shall receive compensation at the rate now or hereafter prescribed by law for the heads of executive departments. The Department shall be administered under the supervision and direction of the Secretary.

SEC. 2. UNDER SECRETARY AND ASSISTANT SECRETARIES

There shall be in the Department an Under Secretary of Health, Education, and Welfare and two Assistant

Secretaries of Health, Education, and Welfare, each of whom shall be appointed by the President by and with the advice and consent of the Senate, shall perform such functions as the Secretary may prescribe, and shall receive compensation at the rate now or hereafter provided by law for under secretaries and assistant secretaries, respectively, of executive departments. The Under Secretary (or, during the absence or disability of the Under Secretary or in the event of a vacancy in the office of Under Secretary, an Assistant Secretary determined according to such order as the Secretary shall prescribe) shall act as Secretary during the absence or disability of the Secretary or in the event of a vacancy in the office of Secretary.

SEC. 3. SPECIAL ASSISTANT

[Repealed. Pub. L. 90–83, §10(c), Sept. 11, 1967, 81 Stat. 224. Section provided for the appointment of Special Assistant to the Secretary (Health and Medical Affairs).]

SEC. 4. COMMISSIONER OF SOCIAL SECURITY

There shall be in the Department a Commissioner of Social Security who shall be appointed by the President by and with the advice and consent of the Senate, shall perform such functions concerning social security and public welfare as the Secretary may prescribe, and shall receive compensation at the rate now or hereafter fixed by law for grade GS–18 of the general schedule established by the Classification Act of 1949, as amended [chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees].

SEC. 5. TRANSFERS TO THE DEPARTMENT

All functions of the Federal Security Administrator are hereby transferred to the Secretary. All agencies of the Federal Security Agency, together with their respective functions, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds (available or to be made available), and all other functions, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds (available or to be made available) of the Federal Security Agency are hereby transferred to the Department.

SEC. 6. PERFORMANCE OF FUNCTIONS OF THE SECRETARY

The Secretary may from time to time make such provisions as the Secretary deems appropriate authorizing the performance of any of the functions of the Secretary by any other officer, or by any agency or employee, of the Department.

SEC. 7. ADMINISTRATIVE SERVICE

In the interest of economy and efficiency the Secretary may from time to time establish central administrative services in the fields of procurement, budgeting, accounting, personnel, library, legal, and other services and activities common to the several agencies of the Department; and the Secretary may effect such transfers within the Department of the personnel employed, the property and records used or held, and the funds available for use in connection with such administrative-service activities as the Secretary may deem necessary for the conduct of any services so established: *Provided*, That no professional or substantive function vested by law in any officer shall be removed from the jurisdiction of such officer under this section.

SEC. 8. ABOLITIONS

The Federal Security Agency (exclusive of the agencies thereof transferred by section 5 of this reorganization plan), the offices of Federal Security Administrator and Assistant Federal Security Administrator created by Reorganization Plan No. I [of 1939] (53 Stat. 1423), the two offices of assistant heads of the Federal Security Agency created by Reorganization Plan No. 2 of 1946 (60 Stat. 1095), and the office for Commissioner for Social Security created by section 701 of the Social Security Act, as amended (64 Stat. 558) [former section 901 of this title], are hereby abolished. The Secretary shall make such provisions as may be necessary in order to wind up any outstanding affairs of the Agency and offices abolished by this section which are not otherwise provided for in this reorganization plan.

SEC. 9. INTERIM PROVISIONS

The President may authorize the persons who immediately prior to the time this reorganization plan takes effect occupy the offices of Federal Security Administrator, Assistant Federal Security Administrator, assistant heads of the Federal Security Agency, and Commissioner for Social Security to act as Secretary, Under Secretary, and Assistant Secretaries of Health, Education, and Welfare, and as Commissioner of Social Security, respectively, until those offices are filled by appointment in the manner provided by sections 1, 2, and 4 of this reorganization plan, but not for a period of more than 60 days. While so acting, such persons

shall receive compensation at the rates provided by this reorganization plan for the offices the functions of which they perform.

[The Secretary and Department of Health, Education, and Welfare were redesignated the Secretary and Department of Health and Human Services, respectively, by 20 U.S.C. 3508. For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see 20 U.S.C. 3441 and 3503.]

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 1 of 1953, prepared in accordance with the provisions of the Reorganization Act of 1949, as amended.

In my message of February 2, 1953, I stated that I would send to the Congress a reorganization plan defining a new administrative status for Federal activities in health, education, and social security. This plan carries out that intention by creating a Department of Health, Education, and Welfare as one of the executive departments of the Government and by transferring to it the various units of the Federal Security Agency. The Department will be headed by a Secretary of Health, Education, and Welfare, who will be assisted by an Under Secretary and two Assistant Secretaries.

The purpose of this plan is to improve the administration of the vital health, education, and social-security functions now being carried on in the Federal Security Agency by giving them departmental rank. Such action is demanded by the importance and magnitude of these functions, which affect the well-being of millions of our citizens. The programs carried on by the Public Health Service include, for example, the conduct and promotion of research into the prevention and cure of such dangerous ailments as cancer and heart disease. The Public Health Service also administers payments to the States for the support of their health services and for urgently needed hospital construction. The Office of Education collects, analyzes, and distributes to school administrators throughout the country information relating to the organization and management of educational systems. Among its other functions is the provision of financial help to school districts burdened by activities of the United States Government. State assistance to the aged, the blind, the totally disabled, and dependent children is heavily supported by grants-in-aid administered through the Social Security Administration. The old-age and survivors insurance system and child development and welfare programs are additional responsibilities of that Administration. Other offices of the Federal Security Agency are responsible for the conduct of Federal vocational rehabilitation programs and for the enforcement of food and drug laws.

There should be an unremitting effort to improve those health, education, and social-security programs which have proved their value. I have already recommended the expansion of the social-security system to cover persons not now protected, the continuation of assistance to school districts whose population has been greatly increased by the expansion of defense activities, and the strengthening of our food and drug laws.

But good intent and high purpose are not enough; all such programs depend for their success upon efficient, responsible administration. I have recently taken action to assure that the Federal Security Administrator's views are given proper consideration in executive councils by inviting her to attend meetings of the Cabinet. Now the establishment of the new Department provided for in Reorganization Plan No. 1 of 1953 will give the needed additional assurance that these matters will receive the full consideration they deserve in the whole operation of the Government.

This need has long been recognized. In 1923, President Harding proposed a Department of Education and Welfare, which was also to include health functions. In 1924, the Joint Committee on Reorganization recommended a new department similar to that suggested by President Harding. In 1932, one of President Hoover's reorganization proposals called for the concentration of health, education, and recreational activities in a single executive department. The President's Committee on Administrative Management in 1937 recommended the placing of health, education, and social-security functions in a Department of Social Welfare. This recommendation was partially implemented in 1939 by the creation of the Federal Security Agency—by which action the Congress indicated its approval of the grouping of these functions in a single agency. A new department could not be proposed at that time because the Reorganization Act of 1939 prohibited the creation of additional executive departments. In 1949, the Commission on Organization of the Executive Branch of the Government proposed the creation of a department for social security and education.

The present plan will make it possible to give the officials directing the Department titles indicative of their responsibilities and salaries comparable to those received by their counterparts in other executive departments. As the Under Secretary of an executive department, the Secretary's principal assistant will be better equipped to give leadership in the Department's organization and management activities, for which he will be primarily responsible. The plan opens the way to further administrative improvement by authorizing the Secretary to

centralize services and activities common to the several agencies of the Department. It also established a uniform method of appointment for the heads of the three major constituent agencies. At present, the Surgeon General and the Commissioner of Education are appointed by the President and confirmed by the Senate, while the Commissioner for Social Security is appointed by the Federal Security Administrator. Hereafter, all three will be Presidential appointees subject to Senate confirmation.

I believe, and this plan reflects my conviction, that these several fields of Federal activity should continue within the framework of a single department. The plan at the same time assures that the Office of Education and the Public Health Service retain the professional and substantive responsibilities vested by law in those agencies or in their heads. The Surgeon General, the Commissioner of Education, and the Commissioner of Social Security will all have direct access to the Secretary.

There should be in the Department an Advisory Committee on Education, made up of persons chosen by the Secretary from outside the Federal Government, which would advise the Secretary with respect to the educational programs of the Department. I recommend the enactment of legislation authorizing the defrayal of the expenses of this Committee. The creation of such a Committee as an advisory body to the Secretary will help insure the maintenance of responsibility for the public educational system in State and local governments while preserving the national interest in education through appropriate Federal action.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 1 of 1953 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended. I have also found and hereby declare that by reason of these reorganizations, it is necessary to include in the reorganization plan provisions for the appointment and compensation of the new officers specified in sections 1, 2, 3, and 4 of the reorganization plan. The rates of compensation fixed for these officers are, respectively, those which I have found to prevail in respect of comparable officers in the executive branch of the Government.

Although the effecting of the reorganizations provided for in the reorganization plan will not in itself result in immediate savings, the improvement achieved in administration will in the future allow the performance of necessary services at greater savings than present operations would permit. An itemization of these savings in advance of actual experience is not practicable.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, March 12, 1953.

EX. ORD. NO. 11583. OFFICE OF CONSUMER AFFAIRS

Ex. Ord. No. 11583, Feb. 24, 1971, 36 F.R. 3509, as amended by Ex. Ord. No. 11595, May 26, 1971, 36 F.R. 9763; Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

Consumer protection fosters a market place in which our competitive economic system flourishes best. It is good for businessmen because it gives the consumer greater confidence in the goods and services provided by business. It is good for consumers because it reinforces the concept of buyers' rights:

—the right to make an intelligent choice among products and services;

—the right to accurate information on which to make a free choice;

—the right to expect that the health and safety of the buyer is taken into account by those who seek his patronage;

—the right to register dissatisfaction, and have a complaint heard and weighed, when a buyer's interests are badly served.

The Special Assistant to the President for Consumer Affairs is performing an important role in representing consumer interests in the Federal Government. It is important that the role of the office of the Special Assistant be reinforced by increasing its responsibilities and reemphasizing its importance.

There is need for a consumer office within the Executive Office of the President, which not only advises and represents the President on matters of consumer interest, but also analyzes and coordinates the implementation of all Federal activities in the field of consumer protection, helping to establish priorities and resolve conflicts, and recommending ways in which governmental consumer programs can be made more effective.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

SECTION 1. *Office of Consumer Affairs*. The Office of Consumer Affairs (hereinafter referred to as the "Office") is hereby established in the Executive Office of the President. The Office shall be headed by a Director, who shall be appointed by the President, and there shall be in the Office two Deputy Directors who shall also be appointed by the President. The Deputy Directors shall perform such duties as the Director may designate, and in case of a vacancy in the office of Director or during the absence or incapacity of the

Director, the Deputy Directors, in the order designated by the President, shall act as Director. The Director and Deputy Directors shall receive compensation at such rates as the President, consonant with law, may hereafter determine.

SEC. 2. *Powers and duties of the Director*. (a) The Director shall be responsible for the exercise of the powers and the discharge of the duties of the Office, and shall have the authority to direct and supervise all personnel and activities thereof. The Director shall take all actions as may be necessary to organize the Office so as to carry out the functions and to achieve the purposes set forth in this order.

(b) In addition to any other authority conferred upon him by this order, the Director is authorized, in carrying out his functions hereunder, to—

(1) appoint one or more advisory committees composed of such private citizens and officials of the Federal, State, and local governments as he deems desirable to advise him with respect to his functions. Members of such committees (including the Consumer Advisory Council established in section 5 of this order) other than those regularly employed by the Federal Government, while attending meetings of such committees or otherwise serving at the request of the Director, shall be entitled to receive compensation and travel expenses as authorized by law for persons serving intermittently;

(2) promulgate such rules, regulations, and procedures as may be necessary to carry out the functions vested in him or in the Office, and delegate authority for the performance of any function to any officer or employee under his direction and supervision;

(3) utilize, with their consent, the services, personnel, and facilities of other Federal, State, local and private agencies and instrumentalities with or without reimbursement thereof except as reimbursement may be required by law; and

(c) The Director shall report periodically to the President on significant developments affecting the interests of consumers together with such recommendations including legislative recommendations as he deems appropriate.

SEC. 3. *Functions*. (a) The Office shall advise the President as to all matters affecting the interest of consumers.

(b) The Office shall—

(1) with respect to consumer interests in Federal policies and programs, encourage and assist in development and implementation of consumer programs; coordinate and review policies and programs; seek resolution of conflicts; advise and make recommendations to Federal agencies with respect to policy matters, the effectiveness of their programs and operations, and the elimination of duplications;

(2) assure that the interests of consumers are presented and considered in a timely manner by the appropriate levels of the Federal Government in the formulation of policies and in the operation of programs that affect the consumer interest;

(3) conduct investigations, conferences, and surveys concerning the needs, interests and problems of consumers, except that it shall, where feasible, avoid duplicating activities conducted by other Federal agencies;

(4) submit recommendations to the President on how Federal programs and activities affecting consumers can be improved;

(5) take action with respect to consumer complaints to the extent authorized by section 4 of this order;

(6) perform the functions assigned to the President's Committee on Consumer Interests in Executive Order No. 11566 of October 26, 1970;

(7) encourage and coordinate the development of information of interest to consumers by Federal agencies and the publication and distribution of materials which will inform consumers of matters of interest to them in language which is readily understandable by the layman;

(8) encourage and coordinate research conducted by Federal agencies leading to improved consumer products, services, and consumer information;

(9) encourage, initiate, coordinate, evaluate, and participate in consumer education programs and consumer counseling programs;

(10) encourage, cooperate with, and assist State and local governments in the promotion and protection of consumer interests; and

(11) cooperate with and encourage private enterprise in the promotion and protection of consumer interest.

SEC. 4. *Consumer complaints*. (a) Whenever the Office receives from any source complaints or other information disclosing a possible violation of (1) any law of the United States or (2) any rule or order of any Federal agency concerning consumer interests, the Office shall promptly transmit such complaint or other information to the Federal agency charged with the duty of enforcing such law, rule, or order, for appropriate action.

(b) Whenever the Office receives complaints or other information disclosing any commercial or trade

practice which it deems detrimental to the general interests of consumers within the United States, and which is not included within the category specified in subsection (a) of this section, the Office may transmit such complaint or other information promptly to the Federal, State, or local agency whose regulatory or other authority provides the most effective means to act upon them; the Office may in its discretion also refer such complaint or other information to the private persons or industry against whom the complaint is made.

SEC. 5. *Consumer Advisory Council*. (a) There is hereby established in the Office a Consumer Advisory Council to be composed of not more than 12 members appointed by the President. Members shall be appointed on the basis of their knowledge and experience in areas of interest to consumers and their demonstrated ability to exercise independent, informed, and critical judgment.

(b)(1) Members shall be appointed for two-year terms. Members of the Consumer Advisory Council, established pursuant to Executive Order No. 11136 of January 3, 1964, as amended, shall continue in office in accordance with the terms of their original appointments.

(2) Any member chosen to fill a vacancy shall be appointed for the unexpired term of the member he succeeds.

(3) A vacancy in the Council shall not affect its authority to act, and a majority of the members thereof shall constitute a quorum.

(c) The President shall designate the Chairman from among the members composing the Council. The Council shall meet at the call of the Director. The Director shall be an ex-officio member of the Council and its Executive Secretary.

(d) The Council shall advise the Director with respect to—

(1) policy matters relating to consumer interests; and

(2) the effectiveness of Federal programs and operations, which affect the interests of consumers; and

(3) problems of primary importance to consumers, and ways in which unmet consumer needs can appropriately be met through Federal Government action.

SEC. 6. *Consideration of the consumer interest in Federal agency determinations*. Every Federal agency in taking any action of a nature which can reasonably be construed as substantially affecting the interests of consumers of products and services, including, but not limited to, (1) the promulgation of rules, regulations, or guidelines, (2) the formulation of written policy decisions, or (3) the issuance of orders, decrees, or standards, shall, in taking such action, give due consideration to the valid interests of consumers.

SEC. 7. *Abolition of Committee and Council*. Except as otherwise provided herein, the President's Committee on Consumer Interests and the Consumer Advisory Council established under Executive Order No. 11136 of January 3, 1964, as amended by Executive Order No. 11349 of May 1, 1967, are abolished.

SEC. 8. *Construction*. Nothing in this order shall be construed as subjecting any function vested by law in, or assigned pursuant to law to, any Federal agency or the head thereof to the authority of any other agency or officer or as abrogating or restricting any such function in any manner.

SEC. 9. *Orders superseded*. Executive Order No. 11136 of January 3, 1964, and Executive Order No. 11349 of May 1, 1967, are hereby superseded.

EX. ORD. NO. 11702. TRANSFER OF OFFICE OF CONSUMER AFFAIRS

Ex. Ord. No. 11702, Jan. 25, 1973, 38 F.R. 2957, as amended by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

Under and by virtue of the authority vested in me by section 301 of title 3 of the United States Code [section 301 of title 3, The President] and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. The Office of Consumer Affairs, established by Executive Order No. 11583 of February 24, 1971, as amended by Executive Order No. 11595 of May 26, 1971 [set out above], together with its functions, is hereby transferred from the Executive Office of the President to the Department of Health and Human Services. The Director of the Office of Consumer Affairs shall continue as the Special Assistant to the President for Consumer Affairs.

SEC. 2. In view of the establishment of the Council on Economic Policy, the Cabinet Committee on Economic Policy, together with its functions, is hereby abolished and Executive Order No. 11453 of January 24, 1969, is hereby revoked.

EX. ORD. NO. 12160. ENHANCEMENT AND COORDINATION OF FEDERAL CONSUMER PROGRAMS

Ex. Ord. No. 12160, Sept. 26, 1979, 44 F.R. 55787, as amended by Ex. Ord. No. 12265, Jan. 15, 1981, 46 F.R. 4665; Ex. Ord. No. 13286, §51, Feb. 28, 2003, 68 F.R. 10628, provided:

By virtue of the authority vested in me as President by the Constitution of the United States of America, and in order to improve the management, coordination, and effectiveness of agency consumer programs, it is

ordered as follows:

1–1. ESTABLISHMENT OF THE CONSUMER AFFAIRS COUNCIL

1–101. There is hereby established the Consumer Affairs Council (hereinafter referred to as the "Council").

1–102. The Council shall consist of representatives of the following agencies and such other officers or employees of the United States as the President may designate as members:

(a) Department of Agriculture.
(b) Department of Commerce.
(c) Department of Defense.
(d) Department of Energy.
(e) Department of Health and Human Services.
(f) Department of Housing and Urban Development.
(g) Department of the Interior.
(h) Department of Justice.
(i) Department of Labor.
(j) Department of State.
(k) Department of Transportation.
(l) Department of the Treasury.
(m) Department of Homeland Security.
(n) ACTION Agency [now Corporation for National and Community Service].
(o) Administrative Conference of the United States.
(p) Community Services Administration.
(q) Department of Education.
(r) Environmental Protection Agency.
(s) Equal Employment Opportunity Commission.
(t) General Services Administration.
(u) Small Business Administration.
(v) Tennessee Valley Authority.
(w) Veterans Administration [now Department of Veterans Affairs].
(x) Commission on Civil Rights is invited to participate.

Each agency on the Council shall be represented by the head of the agency or by a senior-level official designated by the head of the agency.

1–2. FUNCTIONS OF THE COUNCIL

1–201. The Council shall provide leadership and coordination to ensure that agency consumer programs are implemented effectively; and shall strive to maximize effort, promote efficiency and interagency cooperation, and to eliminate duplication and inconsistency among agency consumer programs.

1–3. DESIGNATION AND FUNCTIONS OF THE CHAIRPERSON

1–301. The President shall designate the chairperson of the Council (hereinafter referred to as the "Chairperson").

1–302. The Chairperson shall be the presiding officer of the Council and shall determine the times when the Council shall convene.

1–303. The Chairperson shall establish such policies, definitions, procedures, and standards to govern the implementation, interpretation, and application of this Order, and generally perform such functions and take such steps, as are necessary or appropriate to carry out the provisions of this Order.

1–4. CONSUMER PROGRAM REFORMS

1–401. The Chairperson, assisted by the Council, shall ensure that agencies review and revise their operating procedures so that consumer needs and interests are adequately considered and addressed. Agency consumer programs should be tailored to fit particular agency characteristics, but those programs shall include, at a minimum, the following five elements:

(a) *Consumer Affairs Perspective*. Agencies shall have identifiable, accessible professional staffs of consumer affairs personnel authorized to participate, in a manner not inconsistent with applicable statutes, in the development and review of all agency rules, policies, programs, and legislation.

(b) *Consumer Participation*. Agencies shall establish procedures for the early and meaningful participation by consumers in the development and review of all agency rules, policies, and programs. Such procedures shall include provisions to assure that consumer concerns are adequately analyzed and considered in

decisionmaking. To facilitate the expression of those concerns, agencies shall provide for forums at which consumers can meet with agency decisionmakers. In addition, agencies shall make affirmative efforts to inform consumers of pending proceedings and of the opportunities available for participation therein.

(c) *Informational Materials*. Agencies shall produce and distribute materials to inform consumers about the agencies' responsibilities and services, about their procedures for consumer participation, and about aspects of the marketplace for which they have responsibility. In addition, each agency shall make available to consumers who attend agency meetings open to the public materials designed to make those meetings comprehensible to them.

(d) *Education and Training*. Agencies shall educate their staff members about the Federal consumer policy embodied in this Order and about the agencies' programs for carrying out that policy. Specialized training shall be provided to agency consumer affairs personnel and, to the extent considered appropriate by each agency and in a manner not inconsistent with applicable statutes, technical assistance shall be made available to consumers and their organizations.

(e) *Complaint Handling*. Agencies shall establish procedures for systematically logging in, investigating, and responding to consumer complaints, and for integrating analyses of complaints into the development of policy.

1–402. The head of each agency shall designate a senior-level official within that agency to exercise, as the official's sole responsibility, policy direction for, and coordination and oversight of, the agency's consumer activities. The designated official shall report directly to the head of the agency and shall apprise the agency head of the potential impact on consumers of particular policy initiatives under development or review within the agency.

1–5. IMPLEMENTATION OF CONSUMER PROGRAM REFORMS

1–501. Within 60 days after the issuance of this Order, each agency shall prepare a draft report setting forth with specificity its program for complying with the requirements of Section 1–4 above. Each agency shall publish its draft consumer program in the Federal Register and shall give the public 60 days to comment on the program. A copy of the program shall be sent to the Council.

1–502. Each agency shall, within 30 days after the close of the public comment period on its draft consumer program, submit a revised program to the Chairperson. The Chairperson shall be responsible, on behalf of the President, for approving agency programs for compliance with this Order before their final publication in the Federal Register. Each agency's final program shall be published no later than 90 days after the close of the public comment period, and shall include a summary of public comments on the draft program and a discussion of how those comments are reflected in the final program.

1–503. Each agency's consumer program shall take effect no later than 30 days after its final publication in the Federal Register.

1–504. The Chairperson, with the assistance and advice of the Council, shall monitor the implementation by agencies of their consumer programs.

1–505. The Chairperson shall, promptly after the close of the fiscal year, submit to the President a full report on government-wide progress under this Order during the previous fiscal year. In addition, the Chairperson shall evaluate, from time to time, the consumer programs of particular agencies and shall report to the President as appropriate. Such evaluations shall be informed by appropriate consultations with interested parties.

1–6. BUDGET REVIEW

1–601. Each agency shall include a separate consumer program exhibit in its yearly budget submission to the Office of Management and Budget. By October 1 of each year the Director of the Office of Management and Budget shall provide the Chairperson with a copy of each of these exhibits. The Chairperson shall thereafter provide OMB with an analysis of the adequacy of the management of, and the funding and staff levels for, particular agency consumer programs.

1–7. CIVIL SERVICE INITIATIVES

1–701. In order to strengthen the professional standing of consumer affairs personnel, and to improve the recruitment and training of such personnel, the Office of Personnel Management shall consult with the Council regarding:

(a) the need for new or revised classification and qualification standard(s), consistent with the requirements of Title 5, United States Code, to be used by agencies in their classification of positions which include significant consumer affairs duties;

(b) the recruitment and selection of employees for the performance of consumer affairs duties; and

(c) the training and development of employees for the performance of such duties.

1–8. ADMINISTRATIVE PROVISIONS

1–801. Executive agencies shall cooperate with and assist the Council and the Chairperson in the performance of their functions under this Order and shall on a timely basis furnish them with such reports as they may request.

1–802. The Chairperson shall utilize the assistance of the United States Office of Consumer Affairs in fulfilling the responsibilities assigned to the Chairperson under this Order.

1–803. The Chairperson shall be responsible for providing the Council with such administrative services and support as may be necessary or appropriate; agencies shall assign, to the extent not inconsistent with applicable statutes, such personnel and resources to the activities of the Council and the Chairperson as will enable the Council and the Chairperson to fulfill their responsibilities under this Order.

1–804. The Chairperson may invite representatives of non-member agencies, including independent regulatory agencies, to participate from time to time in the functions of the Council.

1–9. DEFINITIONS

1–901. "Consumer" means any individual who uses, purchases, acquires, attempts to purchase or acquire, or is offered or furnished any real or personal property, tangible or intangible goods, services, or credit for personal, family, or household purposes.

1–902. "Agency" or "agencies" means any department or agency in the executive branch of the Federal government, except that the term shall not include:

(a) independent regulatory agencies, except as noted in subsection 1–804;

(b) agencies to the extent that their activities fall within the categories excepted in Sections 6(b)(2), (3), (4), and (6) of Executive Order No. 12044 [5 U.S.C. 553 note].

(c) agencies to the extent that they demonstrate within 30 days of the date of issuance of this Order, to the satisfaction of the Chairperson with the advice of the Council, that their activities have no substantial impact upon consumers.

EXECUTIVE ORDER NO. 13125

Ex. Ord. No. 13125, June 7, 1999, 64 F.R. 31105, as amended by Ex. Ord. No. 13216, June 6, 2001, 66 F.R. 31373, which established in the Department of Health and Human Services a President's Advisory Commission on Asian Americans and Pacific Islanders, was superseded by Ex. Ord. No. 13515, §4(a), Oct. 14, 2009, 74 F.R. 53638, formerly set out as a note under section 1501 of Title 15, Commerce and Trade, and by Ex. Ord. No. 14031, §4(a), May 28, 2021, 86 F.R. 29680, formerly set out below.

EXECUTIVE ORDER NO. 14031

Ex. Ord. No. 14031, May 28, 2021, 86 F.R. 29675, as amended by Ex. Ord. No. 14109, §4, Sept. 29, 2023, 88 F.R. 68449, which related to advancing equity, justice, and opportunity for Asian Americans, Native Hawaiians, and Pacific Islanders, was revoked by Ex. Ord. No. 14148, §2(ii), Jan. 20, 2025, 90 F.R. 8239.

EXTENSION OF TERM OF PRESIDENT'S ADVISORY COMMISSION ON ASIAN AMERICANS, NATIVE HAWAIIANS, AND PACIFIC ISLANDERS

Term of President's Advisory Commission on Asian Americans, Native Hawaiians, and Pacific Islanders extended until Sept. 30, 2025, by Ex. Ord. No. 14109, Sept. 29, 2023, 88 F.R. 68447, set out as a note under section 1013 of Title 5, Government Organization and Employees.

Previous extension of term of President's Advisory Commission on Asian Americans, Native Hawaiians, and Pacific Islanders was contained in the following prior Executive Order:

Ex. Ord. No. 14048, Sept. 30, 2021, 86 F.R. 55465, extended term until Sept. 30, 2023.

§3501a. Additional Assistant Secretaries

There shall be in the Department of Health and Human Services, in addition to the Assistant Secretaries now provided for by law, three additional Assistant Secretaries of Health and Human Services, who shall be appointed by the President, by and with the advice and consent of the Senate. The provisions of section 2 of the Reorganization Plan Numbered 1 of 1953 (67 Stat. 631) shall be applicable to such additional Assistant Secretaries to the same extent as they are applicable to the Assistant Secretaries authorized by that section.

(Pub. L. 89–115, §4(a), Aug. 9, 1965, 79 Stat. 449; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

EDITORIAL NOTES

REFERENCES IN TEXT

Reorganization Plan Numbered 1 of 1953, referred to in text, is set out as a note under section 202 of this title.

CODIFICATION

Section was formerly classified to section 623h of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 1, 1966, 80 Stat. 378.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Department of Health and Human Services" and "Assistant Secretaries of Health and Human Services" substituted in text for "Department of Health, Education, and Welfare" and "Assistant Secretaries of Health, Education, and Welfare", respectively, pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

ASSISTANT SECRETARY FOR PUBLIC AFFAIRS

Pub. L. 112–166, §2(e)(1), Aug. 10, 2012, 126 Stat. 1284, provided that: "Notwithstanding any other provision of law, the appointment of an individual to serve as the Assistant Secretary for Public Affairs within the Department of Health and Human Services shall not be subject to the advice and consent of the Senate."

§3502. Assistant Secretary for Administration; appointment and duties

There shall be in the Department of Health and Human Services an Assistant Secretary of Health and Human Services for Administration who shall be appointed, with the approval of the President, by the Secretary of Health and Human Services under the classified civil service, who shall perform such duties as the Secretary shall prescribe.

(Pub. L. 86–568, title II, §202, July 1, 1960, 74 Stat. 305; Pub. L. 88–426, title III, §§305(34), 307, Aug. 14, 1964, 78 Stat. 426, 432; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 623g of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 1, 1966, 80 Stat. 378.

AMENDMENTS

1964—Pub. L. 88–426, §305(34), struck out provisions which prescribed compensation of Administrative Assistant Secretary.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Department of Health and Human Services", "Assistant Secretary of Health and Human Services", and "Secretary of Health and Human Services" substituted in text for "Department of Health, Education, and Welfare", "Assistant Secretary of Health, Education, and Welfare", and "Secretary of Health, Education, and Welfare", respectively, pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

"Assistant Secretary of Health, Education, and Welfare for Administration" substituted for "Administrative Assistant Secretary of Health, Education, and Welfare" pursuant to section 307 of Pub. L. 88–426.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–426 effective on the first day of the first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88–426, see section 501 of Pub. L. 88–426, title V, Aug. 14, 1964, 78 Stat. 435.

EFFECTIVE DATE

Section effective on the first day of the first pay period which begins on or after July 1, 1960, see section 122 of Pub. L. 86–568.

§3502a. Administrator of Social and Rehabilitation Service; appointment and confirmation

Appointments made on or after October 30, 1972, to the office of Administrator of the Social and Rehabilitation Service, within the Department of Health and Human Services, shall be made by the President, by and with the advice and consent of the Senate.

(Pub. L. 92–603, title II, §294, Oct. 30, 1972, 86 Stat. 1459; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Department of Health and Human Services" substituted in text for "Department of Health, Education, and Welfare" pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

§3503. Omitted

EDITORIAL NOTES

CODIFICATION

Section, act July 31, 1956, ch. 802, §2, 70 Stat. 733, provided for the appointment and compensation of a General Counsel in the Department of Health, Education, and Welfare, and has been omitted in view of section 3504 of this title, which abolished the office as it existed on July 31, 1956, upon appointment and qualification of General Counsel provided for by section 3504(a) of this title, or Apr. 1, 1957, whichever occurred earlier. See section 3504(b) of this title.

Section was formerly classified to section 623b of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 1, 1966, 80 Stat. 378.

§3504. General Counsel; appointment

(a) The President shall appoint on and after July 31, 1956, by and with the advice and consent of the Senate, a General Counsel of the Department of Health and Human Services.

(b) The existing office of General Counsel of the Department of Health and Human Services shall be abolished effective upon the appointment and qualification of the General Counsel provided for by subsection (a) or April 1, 1957, whichever is earlier.

(July 31, 1956, ch. 804, title III, §301, 70 Stat. 742; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

EDITORIAL NOTES

CODIFICATION

Section is based on that part of section 301 of act July 31, 1956, relating to the General Counsel of the Department of Health, Education, and Welfare [now Health and Human Services]. That part of such section 301 relating to the General Counsel of the Department of Agriculture, is classified to section 2214 of Title 7, Agriculture. That part of such section 301 relating to the General Counsel of the Post Office Department was enacted as section 307 of Title 39 by Pub. L. 86–682, Sept. 2, 1960, 74 Stat. 580. Such provisions were eliminated from Title 39 by the Postal Reorganization Act, Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 719.

Section was formerly classified to section 623c of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 1, 1966, 80 Stat. 378.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Department of Health and Human Services" substituted in text for "Department of Health, Education, and Welfare" pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

§3505. Seal

The Secretary of the Department of Health and Human Services is authorized to adopt an official seal to be used as directed by the said Secretary on appropriate occasions in connection with the functions of such Department or of any office, bureau, board, or establishment which is or shall hereafter become a part of such Department, and such seal shall be judicially noticed. Copies of any books, records, papers, or other documents in the Department of Health and Human Services shall be admitted in evidence equally with the originals thereof when authenticated under such seal.

(May 9, 1941, ch. 97, 55 Stat. 184; 1953 Reorg. Plan No. I, §5, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 623d of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 1, 1966, 80 Stat. 378.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Secretary of Health and Human Services" and "Department of Health and Human Services" substituted in text for "Secretary of Health, Education, and Welfare" and "Department of Health, Education, and Welfare", respectively, pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 3501 of this title. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953.

CREATION OF FEDERAL SECURITY AGENCY

The Federal Security Agency was created by Reorg. Plan No. 1 of 1939, §201, eff. July 1, 1939, 4 F.R. 2727, 53 Stat. 1423, set out in the Appendix to Title 5, Government Organization and Employees.

§3505a. Office of Population Affairs; establishment; Deputy Assistant Secretary for Population Affairs; appointment; staff and consultants

(a) There is established within the Department of Health and Human Services an Office of Population Affairs to be directed by a Deputy Assistant Secretary for Population Affairs under the direct supervision of the Assistant Secretary for Health and Scientific Affairs. The Deputy Assistant Secretary for Population Affairs shall be appointed by the Secretary.

(b) The Secretary is authorized to provide the Office of Population Affairs with such full-time professional and clerical staff and with the services of such consultants as may be necessary for it to carry out its duties and functions.

(Pub. L. 91–572, §3, Dec. 24, 1970, 84 Stat. 1504; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Department of Health and Human Services" substituted for "Department of Health, Education, and Welfare" in subsec. (a) pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

§3505b. Functions and duties of Deputy Assistant Secretary for Population Affairs

The Secretary shall utilize the Deputy Assistant Secretary for Population Affairs—

(1) to administer all Federal laws for which the Secretary has administrative responsibility and which provide for or authorize the making of grants or contracts related to population research and family planning programs;

(2) to administer and be responsible for all population and family planning research carried on directly by the Department of Health and Human Services or supported by the Department through grants to, or contracts with, entities and individuals;

(3) to act as a clearinghouse for information pertaining to domestic and international population research and family planning programs for use by all interested persons and public and private entities;

(4) to provide a liaison with the activities carried on by other agencies and instrumentalities of the Federal Government relating to population research and family planning;

(5) to provide or support training for necessary manpower for domestic programs of population research and family planning programs of service and research; and

(6) to coordinate and be responsible for the evaluation of the other Department of Health and Human Services programs related to population research and family planning and to make periodic recommendations to the Secretary.

(Pub. L. 91–572, §4, Dec. 24, 1970, 84 Stat. 1505; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Department of Health and Human Services" substituted for "Department of Health, Education, and

Welfare" in pars. (2) and (6) pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

§3505c. Repealed. Pub. L. 94–63, title II, §203(b), July 29, 1975, 89 Stat. 307

Section, Pub. L. 91–572, §5, Dec. 24, 1970, 84 Stat. 1505, required the Secretary to submit a report to Congress not later than six months after Dec. 24, 1970, setting forth a plan for the implementation of family planning and population research programs under section 300 et seq. of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1975, see section 608 of Pub. L. 94–63, set out as an Effective Date of 1975 Amendment note under section 247b of this title.

§3505d. National Health Professional Shortage Clearinghouse

(a) Establishment; function

There is established in the Department of Health and Human Services a National Health Professional Shortage Clearinghouse. It shall be the function of the Clearinghouse to provide information to, and maintain listings of, (1) communities and areas with health professional needs, and (2) prospective health workers interested in such opportunities.

(b) Information and listing services available without charge

Information and listing services performed by the Clearinghouse shall be provided free of charge to all interested health professionals and to all communities and groups within the areas determined by the Secretary under section 294n(f) [1] of this title to have a shortage of and need for health professionals.

(c) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to establish, operate, and maintain the Clearinghouse created by subsection (a).

(Pub. L. 92–157, title II, §202, Nov. 18, 1971, 85 Stat. 461; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 101–597, title IV, §401(d), Nov. 16, 1990, 104 Stat. 3035.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 294n of this title, referred to in subsec. (b), was in the original a reference to section 741 of act July 1, 1944. Section 741 of that Act was omitted in the general revision of subchapter V of this chapter by Pub. L. 102–408, title I, §102, Oct. 13, 1992, 106 Stat. 1994. Pub. L. 102–408 enacted a new section 776 of act July 1, 1944, relating to acquired immune deficiency syndrome, which was classified to section 294n of this title and was subsequently renumbered section 2692 and transferred to section 300ff–111 of this title.

AMENDMENTS

1990—Pub. L. 101–597 substituted "National Health Professional Shortage Clearinghouse" for "National Health Manpower Shortage Clearinghouse" in section catchline and subsec. (a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Department of Health and Human Services" substituted for "Department of Health, Education, and Welfare" in subsec. (a) pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of

Title 20, Education.

[1] *See References in Text note below.*

§3506. Travel and subsistence expenses of officers and employees in connection with attendance at meetings or in performing advisory services

To the extent and under the conditions provided by regulations of the Secretary, officers (including commissioned officers of the Public Health Service) and employees of the Department of Health and Human Services may on and after June 29, 1957, in connection with their attendance at meetings or in performing advisory services concerned with the functions or activities of the Department, be permitted to accept payment, in cash or in kind, from non-Federal agencies, organizations, and individuals, for travel and subsistence expenses, to be retained by them to cover the cost thereof or deposited to the credit of the appropriation from which the cost thereof is paid, as may be provided, in such regulations.

(Pub. L. 85–67, title II, §211, June 29, 1957, 71 Stat. 224; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 623f of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 1, 1966, 80 Stat. 378.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Secretary of Health and Human Services" and "Department of Health and Human Services" substituted in text for "Secretary of Health, Education, and Welfare" and "Department of Health, Education, and Welfare", respectively, pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out in the Appendix to Title 5, Government Organization and Employees.

§3506a. Scientific engagement

(a) In general

Scientific meetings that are attended by scientific or medical personnel, or other professionals, of the Department of Health and Human Services for whom attendance at such meeting is directly related to their professional duties and the mission of the Department—

(1) shall not be considered conferences for the purposes of complying with Federal reporting requirements contained in annual appropriations Acts or in this section; and

(2) shall not be considered conferences for purposes of a restriction contained in an annual appropriations Act, based on Office of Management and Budget Memorandum M-12-12 or any

other regulation restricting travel to such meeting.

(b) Limitation

Nothing in this section shall be construed to exempt travel for scientific meetings from Federal regulations relating to travel.

(c) Reports

Not later than 90 days after the end of the fiscal year, each operating division of the Department of Health and Human Services shall prepare, and post on an Internet website of the operating division, an annual report on scientific meeting attendance and related travel spending for each fiscal year. Such report shall include—

(1) general information concerning the scientific meeting activities involved;

(2) information concerning the total amount expended for such meetings;

(3) a description of all such meetings that were attended by scientific or medical personnel, or other professionals, of each such operating division where the total amount expended by the operating division associated with each such meeting were in excess of $30,000, including—

(A) the total amount of meeting expenses incurred by the operating division for such meeting;

(B) the location of such meeting;

(C) the date of such meeting;

(D) a brief explanation on how such meeting advanced the mission of the operating division; and

(E) the total number of individuals whose travel expenses or other scientific meeting expenses were paid by the operating division; and

(4) with respect to any such meeting where the total expenses to the operating division exceeded $150,000, a description of the exceptional circumstances that necessitated the expenditure of such amounts.

(Pub. L. 114–255, div. A, title III, §3074, Dec. 13, 2016, 130 Stat. 1137.)

§3507. Transfer of personnel and household goods; delegation of Secretary's authority

The Secretary of Health and Human Services may on and after July 12, 1943, delegate to such officers and employees as he may designate for the purpose all his authority in connection with the transfer of personnel and household goods and effects from one official station to another.

(July 12, 1943, ch. 221, title II, 57 Stat. 513; 1953 Reorg. Plan No. I, §5, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 623e of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 1, 1966, 80 Stat. 378.

Section is from the Labor-Federal Security Appropriation Act, 1944.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:

July 2, 1942, ch. 475, title II, 56 Stat. 587.

Apr. 28, 1942, ch. 247, title III, 56 Stat. 235.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Secretary of Health and Human Services" substituted in text for "Secretary of Health, Education, and Welfare" pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953 set out as a note under section 202 of this title. Federal Security Agency and office of Administrator abolished by section 8 of said Reorg. Plan No. 1 of 1953.

§3508. Omitted

EDITORIAL NOTES

CODIFICATION

Section, which authorized the Secretary to make transfers of motor vehicles between bureaus and offices without transfer of funds, was from section 202 of the Department of Labor, and Health, Education, and Welfare Appropriation Act, 1976 (Pub. L. 94–206, title II, Jan. 28, 1976, 90 Stat. 20), and was not repeated in subsequent appropriation acts.

Similar provisions were contained in the following prior appropriation acts:

Dec. 7, 1974, Pub. L. 93–517, title II, §202, 88 Stat. 1647.
Dec. 18, 1973, Pub. L. 93–192, title II, §202, 87 Stat. 760.
Aug. 10, 1971, Pub. L. 92–80, title II, §202, 85 Stat. 298.
Jan. 11, 1971, Pub. L. 91–667, title II, §202, 84 Stat. 2015.
Mar. 5, 1970, Pub. L. 91–204, title II, §202, 84 Stat. 43.
Oct. 11, 1968, Pub. L. 90–557, title II, §202, 82 Stat. 991.
Nov. 8, 1967, Pub. L. 90–132, title II, §202, 81 Stat. 407.
Nov. 7, 1966, Pub. L. 89–787, title II, §202, 80 Stat. 1400.
Aug. 31, 1965, Pub. L. 89–156, title II, §202, 79 Stat. 608.
Sept. 19, 1964, Pub. L. 88–605, title II, §202, 78 Stat. 979.
Oct. 11, 1963, Pub. L. 88–136, title II, §202, 77 Stat. 244.
Aug. 14, 1962, Pub. L. 87–582, title II, §202, 76 Stat. 379.
Sept. 22, 1961, Pub. L. 87–290, title II, §203, 75 Stat. 608.
Sept. 2, 1960, Pub. L. 86–703, title II, §203, 74 Stat. 773.
Aug. 14, 1959, Pub. L. 86–158, title II, §205, 73 Stat. 355.
Aug. 1, 1958, Pub. L. 85–580, title II, §206, 72 Stat. 473.
June 29, 1957, Pub. L. 85–67, title II, §207, 71 Stat. 224.
June 29, 1956, ch. 477, title II, §207, 70 Stat. 436.
Aug. 1, 1955, ch. 437, title II, §206, 69 Stat. 410.
July 2, 1954, ch. 457, title II, §206, 68 Stat. 445.
July 31, 1953, ch. 296, title II, §206, 67 Stat. 257.

Section was formerly classified to section 623a of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 1, 1966, 80 Stat. 378.

§3509. Repealed. Pub. L. 105–362, title VI, §601(a)(2)(C), Nov. 10, 1998, 112 Stat. 3285

Section, Pub. L. 91–513, title IV, §1200, Oct. 27, 1970, 84 Stat. 1296; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 103–437, §15(m), Nov. 2, 1994, 108 Stat. 4593, related to annual report by Secretary of Health and Human Services on statutory advisory councils.

§§3510, 3511. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3510, Pub. L. 91–667, title II, Jan. 11, 1971, 84 Stat. 2015, which related to the Working Capital Fund, was transferred to section 3513a of this title.

Section 3511, Pub. L. 93–282, title II, §201, May 14, 1974, 88 Stat. 134; Pub. L. 94–371, §8, July 26, 1976, 90 Stat. 1040; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695, which established the Alcohol, Drug Abuse, and Mental Health Administration and National Panel on Alcohol, Drug Abuse, and Mental Health, was redesignated section 501 of the Public Health Service Act by Pub. L. 98–24, §2(b)(2), Apr. 26, 1983, 97 Stat. 176, and is classified to section 290aa of this title.

§3512. Office to assist small manufacturers of medical devices; establishment

The Secretary of Health and Human Services shall establish within the Department of Health and Human Services an identifiable office to provide technical and other nonfinancial assistance to small manufacturers of medical devices to assist them in complying with the requirements of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.], as amended by this Act.

(Pub. L. 94–295, §10, May 28, 1976, 90 Stat. 583; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

EDITORIAL NOTES

REFERENCES IN TEXT

Federal Food, Drug, and Cosmetic Act, referred to in text, is act June 25, 1938, ch. 675, 52 Stat. 1040, which is classified generally to chapter 9 (§301 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

This Act, referred to in text, means Pub. L. 94–295, May 28, 1976, 90 Stat. 539, known as the Medical Device Amendments of 1976, which enacted this section, sections 360c to 360k, 379, 379a, of Title 21, amended sections 321, 331, 334, 351, 352, 358, 360, 374, 376 [now 379e], and 381 of Title 21, section 55 of Title 15, Commerce and Trade, and enacted provisions set out as notes under section 301 of Title 21. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 301 of Title 21 and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Secretary of Health and Human Services" and "Department of Health and Human Services" substituted in text for "Secretary of Health, Education, and Welfare" and "Department of Health, Education, and Welfare", respectively, pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

§3513. Working capital fund; establishment; amount; use; reimbursement

There is established a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of (1) a central reproduction service; (2) a central visual exhibit service; (3) a central supply service for supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department; (4) a central tabulating service; (5) telephone, mail, and messenger services; (6) a central accounting and payroll service; and (7) a central laborers' service: *Provided*, That any stocks of supplies and

equipment on hand or on order shall be used to capitalize such fund: *Provided further*, That such fund shall be reimbursed in advance from funds available to bureaus, offices, and agencies for which such centralized services are performed at rates which will return in full all expenses of operation, including reserves for accrued annual leave and depreciation of equipment.

(July 5, 1952, ch. 575, title II, §201, 66 Stat. 369; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 86–703, title II, §201, Sept. 2, 1960, 74 Stat. 773.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of title II of act July 5, 1952, popularly known as the Federal Security Agency Appropriation Act, 1953.

Section was formerly classified to section 905 of this title.

AMENDMENTS

1960—Pub. L. 86–703 made fund available for maintenance and operation of a central visual exhibit service, telephone, mail and messenger services, a central accounting and payroll service, and a central laborers' service.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Secretary of Health and Human Services" and "Department of Health and Human Services" substituted for "Secretary of Health, Education, and Welfare" and "Department of Health, Education, and Welfare", respectively, pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. No. 1 of 1953, set out as a note under section 202 of this title. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953.

§3513a. Working capital fund; availability for centralized personnel data collection and reporting and common regional administrative support services

The Working Capital Fund of the Department of Health and Human Services shall on and after January 11, 1971, be available for expenses necessary for centralized personnel data collection and reporting and common regional administrative support services.

(Pub. L. 91–667, title II, Jan. 11, 1971, 84 Stat. 2015; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of title II of Pub. L. 91–667, popularly known as the Department of Health, Education, and Welfare Appropriation Act, 1971.

Section was formerly classified to section 3510 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Department of Health and Human Services" substituted in text for "Department of Health, Education, and Welfare" pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

§3513b. Working capital fund; availability for common personnel support services

The Working Capital Fund of the Department of Health and Human Services shall on and after August 10, 1971, be available for expenses necessary for common personnel support services in the Washington area.

(Pub. L. 92–80, title II, Aug. 10, 1971, 85 Stat. 297; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of title II of Pub. L. 92–80, popularly known as the Department of Health, Education, and Welfare Appropriation Act, 1972.

Section was formerly classified to section 905a of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Department of Health and Human Services" substituted in text for "Department of Health, Education, and Welfare" pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

§3514. Special account for grants of Department; reports

There is hereby established on the books of the Treasury an account or accounts without fiscal year limitation. There shall be deposited in such account, to the extent provided by the Secretary of Health and Human Services or his designee, all or part of any grant awarded by the Secretary or any other officer or employee of the Department of Health and Human Services. Payments of any such grant shall from time to time be made to the grantee from such account or accounts, subject to such limitations relating to fund accumulation as the Secretary may prescribe, to the extent needed to carry out the purposes of any such grant. Such reports as the Secretary or other officer awarding the grant may find necessary to assure expenditure of funds for the purpose of and in accordance with the terms and conditions of the grant shall be made to the Secretary or such officer by any such grantee.

(Pub. L. 89–105, §6, Aug. 4, 1965, 79 Stat. 430; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 553 of former Title 31, Money and Finance.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Secretary of Health and Human Services" and "Department of Health and Human Services" substituted in text for "Secretary of Health, Education, and Welfare" and "Department of Health, Education, and Welfare", respectively, pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

§3514a. Nonrecurring expenses fund

There is hereby established in the Treasury of the United States a fund to be known as the "Nonrecurring expenses fund" (the Fund): *Provided*, That unobligated balances of expired discretionary funds appropriated in this or any succeeding fiscal year from the General Fund of the Treasury to the Department of Health and Human Services by this or any other Act may be transferred (not later than the end of the fifth fiscal year after the last fiscal year for which such funds are available for the purposes for which appropriated) into the Fund: *Provided further*, That amounts deposited in the Fund shall be available until expended, and in addition to such other funds as may be available for such purposes, for capital acquisition necessary for the operation of the Department, including facilities infrastructure and information technology infrastructure, subject to approval by the Office of Management and Budget: *Provided further*, That amounts in the Fund may be obligated only after the Committees on Appropriations of the House of Representatives and the Senate are notified at least 15 days in advance of the planned use of funds.

(Pub. L. 110–161, div. G, title II, §223, Dec. 26, 2007, 121 Stat. 2188; Pub. L. 111–8, div. F, title II, §220, Mar. 11, 2009, 123 Stat. 783.)

EDITORIAL NOTES

AMENDMENTS

2009—Pub. L. 111–8 substituted "in this or any succeeding" for "for this or any succeeding".

§3515. Performance of one-year contracts during two fiscal years

Funds provided in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts may be used for one-year contracts which are to be performed in two fiscal years, so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

(Pub. L. 102–394, title II, §208, Oct. 6, 1992, 106 Stat. 1811.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to this section were contained in the following prior appropriation acts:
Pub. L. 102–170, title II, §208, Nov. 26, 1991, 105 Stat. 1127.
Pub. L. 101–517, title II, §208, Nov. 5, 1990, 104 Stat. 2209.
Pub. L. 101–166, title II, §210, Nov. 21, 1989, 103 Stat. 1177.
Pub. L. 100–202, §101(h) [title II, §210], Dec. 22, 1987, 101 Stat. 1329–256, 1329–274.
Pub. L. 99–500, §101(i) [H.R. 5233, title II, §210], Oct. 18, 1986, 100 Stat. 1783–287, and Pub. L. 99–591, §101(i) [H.R. 5233, title II, §210], Oct. 30, 1986, 100 Stat. 3341–287.
Pub. L. 99–178, title II, §210, Dec. 12, 1985, 99 Stat. 1120.

§3515a. Dedicated telephone service between employee residences and computer centers

For the purpose of insuring proper management of federally supported computer systems and data

bases, funds appropriated by this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts are available for the purchase of dedicated telephone service between the private residences of employees assigned to computer centers funded under this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts, and the computer centers to which such employees are assigned.

(Pub. L. 102–394, title II, §210, Oct. 6, 1992, 106 Stat. 1812.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to this section were contained in the following prior appropriation acts:
Pub. L. 102–170, title II, §210, Nov. 26, 1991, 105 Stat. 1127.
Pub. L. 101–517, title II, §210, Nov. 5, 1990, 104 Stat. 2209.
Pub. L. 101–166, title II, §212, Nov. 21, 1989, 103 Stat. 1177.
Pub. L. 100–202, §101(h) [title II, §213], Dec. 22, 1987, 101 Stat. 1329–256, 1329–275.

§3515b. Prohibition on funding certain experiments involving human participants

None of the funds appropriated by this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts shall be used to pay for any research program or project or any program, project, or course which is of an experimental nature, or any other activity involving human participants, which is determined by the Secretary or a court of competent jurisdiction to present a danger to the physical, mental, or emotional well-being of a participant or subject of such program, project, or course, without the written, informed consent of each participant or subject, or a participant's parents or legal guardian, if such participant or subject is under eighteen years of age. The Secretary shall adopt appropriate regulations respecting this section.

(Pub. L. 102–394, title II, §211, Oct. 6, 1992, 106 Stat. 1812.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to this section were contained in the following prior appropriation acts:
Pub. L. 102–170, title II, §211, Nov. 26, 1991, 105 Stat. 1127.
Pub. L. 101–517, title II, §212, Nov. 5, 1990, 104 Stat. 2209.
Pub. L. 101–166, title II, §215, Nov. 21, 1989, 103 Stat. 1178.

§3515c. Offset against Federal payments to States for provision of services

For any program funded in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts, the Secretary of Health and Human Services is authorized, when providing services or conducting activities for a State with respect to such program for which the Secretary is entitled to reimbursement by the State, to obtain such reimbursement as an offset against Federal payments to which the State would otherwise be entitled under such program from funds appropriated for the same or any subsequent fiscal year. Such offsets shall be credited to the appropriation account which bore the expense of providing the service or conducting the activity, and shall remain available until expended.

(Pub. L. 102–394, title II, §214, Oct. 6, 1992, 106 Stat. 1812.)

§3515d. Expenses of Office of Inspector General; protective services; investigating non-payment of child support

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $33,849,000: *Provided*, That of such amount, necessary sums are available for providing protective services to the Secretary and investigating non-payment of child support cases for which non-payment is a Federal offense under section 228 of title 18, each of which activities is hereby authorized in this and subsequent fiscal years.

(Pub. L. 106–554, §1(a)(1) [title II], Dec. 21, 2000, 114 Stat. 2763, 2763A–24.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in text, is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, which was set out in the Appendix to Title 5, Government Organization and Employees, and was substantially repealed and restated in chapter 4 (§401 et seq.) of Title 5 by Pub. L. 117–286, §§3(b), 7, Dec. 27, 2022, 136 Stat. 4206, 4361. For disposition of sections of the Act into chapter 4 of Title 5, see Disposition Table preceding section 101 of Title 5.

CODIFICATION

Section is from the Department of Health and Human Services Appropriations Act, 2001.

§3515e. Transfer of functions regarding independent living to Department of Health and Human Services, and savings provisions

(a) Definitions

For purposes of this section, unless otherwise provided or indicated by the context—

(1) the term "Administration for Community Living" means the Administration for Community Living of the Department of Health and Human Services;

(2) the term "Federal agency" has the meaning given to the term "agency" by section 551(1) of title 5;

(3) the term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(4) the term "Rehabilitation Services Administration" means the Rehabilitation Services Administration of the Office of Special Education and Rehabilitative Services of the Department of Education.

(b) Transfer of functions

There are transferred to the Administration for Community Living, all functions which the Commissioner of the Rehabilitation Services Administration exercised before the effective date of this section (including all related functions of any officer or employee of that Administration) under chapter 1 of title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796 et seq.).

(c) Personnel determinations by the Office of Management and Budget

The Office of Management and Budget shall—

(1) ensure that this section does not result in any net increase in full-time equivalent employees at any Federal agency impacted by this section; and

(2) not later than 1 year after the effective date of this section, certify compliance with this subsection to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

(d) Delegation and assignment

Except where otherwise expressly prohibited by law or otherwise provided by this section, the Administrator of the Administration for Community Living may delegate any of the functions

transferred to the Administrator of such Administration by subsection (b) and any function described in subsection (b) that was transferred or granted to such Administrator after the effective date of this section to such officers and employees of such Administration as the Administrator may designate, and may authorize successive redelegations of such functions described in subsection (b) as may be necessary or appropriate. No delegation of such functions by the Administrator of the Administration for Community Living under this subsection or under any other provision of this section shall relieve such Administrator of responsibility for the administration of such functions.

(e) Reorganization

Except where otherwise expressly prohibited by law or otherwise provided by this Act, the Administrator of the Administration for Community Living is authorized to allocate or reallocate any function transferred under subsection (b) among the officers of such Administration, and to consolidate, alter, or discontinue such organizational entities in such Administration as may be necessary or appropriate.

(f) Rules

The Administrator of the Administration for Community Living is authorized to prescribe, in accordance with the provisions of chapters 5 and 6 of title 5, such rules and regulations as that Administrator determines necessary or appropriate to administer and manage the functions described in subsection (b) of that Administration.

(g) Transfer and allocations of appropriations and personnel

Except as otherwise provided in this section, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by subsection (b), subject to section 1531 of title 31, shall be transferred to the Administration for Community Living. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(h) Incidental transfers

The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized to make such determinations as may be necessary with regard to the functions transferred by subsection (b), and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this section. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities terminated by this section and for such further measures and dispositions as may be necessary to effectuate the purposes of this section, with respect to such functions.

(i) Savings provisions

(1) Continuing effect of legal documents

All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(A) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under subsection (b); and

(B) which are in effect at the time this section takes effect, or were final before the effective date of this section and are to become effective on or after the effective date of this section,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Administrator of the Administration for Community Living or other authorized official, a court of competent jurisdiction, or by operation of law.

(2) Proceedings not affected

The provisions of this section shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Rehabilitation Services Administration at the time this section takes effect, with respect to functions transferred by subsection (b) but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this paragraph shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(3) Suits not affected

The provisions of this section shall not affect suits commenced (with respect to functions transferred under subsection (b)) before the effective date of this section, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(4) Nonabatement of actions

No suit, action, or other proceeding commenced by or against the Rehabilitation Services Administration (with regard to functions transferred under subsection (b)), or by or against any individual in the official capacity of such individual as an officer of the Rehabilitation Services Administration (with regard to functions transferred under subsection (b)), shall abate by reason of the enactment of this section.

(5) Administrative actions relating to promulgation of regulations

Any administrative action relating to the preparation or promulgation of a regulation by the Rehabilitation Services Administration (with regard to functions transferred under subsection (b)) may be continued by the Administration for Community Living with the same effect as if this section had not been enacted.

(j) Separability

If a provision of this section or its application to any person or circumstance is held invalid, neither the remainder of this section nor the application of the provision to other persons or circumstances shall be affected.

(k) References

A reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to—

(1) the Commissioner of the Rehabilitation Services Administration (with regard to functions transferred under subsection (b)), shall be deemed to refer to the Administrator of the Administration for Community Living; and

(2) the Rehabilitation Services Administration (with regard to functions transferred under subsection (b)), shall be deemed to refer to the Administration for Community Living.

(l) Transition

The Administrator of the Administration for Community Living is authorized to utilize—

(1) the services of such officers, employees, and other personnel of the Rehabilitation Services Administration with regard to functions transferred under subsection (b); and

(2) funds appropriated to such functions,

for such period of time as may reasonably be needed to facilitate the orderly implementation of this section.

(m) Administration for Community Living

(1) Transfer of functions

There are transferred to the Administration for Community Living, all functions which the Commissioner of the Rehabilitation Services Administration exercised before the effective date of this section (including all related functions of any officer or employee of that Administration) under the Assistive Technology Act of 1998 (29 U.S.C. 3001 et seq.).

(2) Administrative matters

Subsections (d) through (l) shall apply to transfers described in paragraph (1).

(n) National Institute on Disability, Independent Living, and Rehabilitation Research

(1) Definitions

For purposes of this subsection, unless otherwise provided or indicated by the context—

(A) the term "NIDILRR" means the National Institute on Disability, Independent Living, and Rehabilitation Research of the Administration for Community Living of the Department of Health and Human Services; and

(B) the term "NIDRR" means the National Institute on Disability and Rehabilitation Research of the Office of Special Education and Rehabilitative Services of the Department of Education.

(2) Transfer of functions

There are transferred to the NIDILRR, all functions which the Director of the NIDRR exercised before the effective date of this section (including all related functions of any officer or employee of the NIDRR).

(3) Administrative matters

(A) In general

Subsections (d) through (l) shall apply to transfers described in paragraph (2).

(B) References

For purposes of applying those subsections under subparagraph (A), those subsections—

(i) shall apply to the NIDRR and the Director of the NIDRR in the same manner and to the same extent as those subsections apply to the Rehabilitation Services Administration and the Commissioner of that Administration; and

(ii) shall apply to the NIDILRR and the Director of the NIDILRR in the same manner and to the same extent as those subsections apply to the Administration for Community Living and the Administrator of that Administration.

(Pub. L. 113–128, title IV, §491, July 22, 2014, 128 Stat. 1695.)

EDITORIAL NOTES

REFERENCES IN TEXT

The effective date of this section, referred to in subsecs. (b), (c)(2), (d), (i)(1)(B), (3), (m)(1), and (n)(2), and the time this section takes effect, referred to in subsec. (i)(1)(B), (2), mean the date of enactment of Pub. L. 113–128, which was approved July 22, 2014. See section 506(d) of Pub. L. 113–128, set out as a note under section 3101 of Title 29, Labor.

The Rehabilitation Act of 1973, referred to in subsec. (b), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355. Chapter 1 of title VII of the Act is classified generally to part A (§796 et seq.) of subchapter VII of chapter 16 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

This Act, referred to in subsec. (e), is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425, known as the Workforce Innovation and Opportunity Act, which enacted chapter 32 (§3101 et seq.) of Title 29, Labor, repealed chapter 30 (§2801 et seq.) of Title 29 and chapter 73 (§9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

The Assistive Technology Act of 1998, referred to in subsec. (m)(1), is Pub. L. 105–394, Nov. 13, 1998, 112 Stat. 3627, which is classified principally to chapter 31 (§3001 et seq.) of Title 29, Labor. For complete

classification of this Act to the Code, see Short Title note set out under section 3001 of Title 29 and Tables.

CODIFICATION

Section is comprised of section 491 of Pub. L. 113–128. Subsec. (o) of section 491 of Pub. L. 113–128 amended sections 3002, 3005, and 3006 of Title 29, Labor.

SUBCHAPTER II—OFFICE OF INSPECTOR GENERAL

§§3521 to 3527. Repealed. Pub. L. 100–504, title I, §102(e)(2), Oct. 18, 1988, 102 Stat. 2517

Section 3521, Pub. L. 94–505, title II, §201, Oct. 15, 1976, 90 Stat. 2429; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695, established Office of Inspector General.

Section 3522, Pub. L. 94–505, title II, §202, Oct. 15, 1976, 90 Stat. 2430; Pub. L. 95–452, §10(c), Oct. 12, 1978, 92 Stat. 1109, provided for Inspector General and Deputy Inspector General, removal of such officers, political activities restriction, and appointment of Assistant Inspector General for Auditing and Assistant Inspector General for Investigations.

Section 3523, Pub. L. 94–505, title II, §203, Oct. 15, 1976, 90 Stat. 2430; Pub. L. 96–226, title II, §201, Apr. 3, 1980, 94 Stat. 315, prescribed duties and responsibilities of Inspector General.

Section 3524, Pub. L. 94–505, title II, §204, Oct. 15, 1976, 90 Stat. 2431; Pub. L. 95–142, §4(c), Oct. 25, 1977, 91 Stat. 1183; Pub. L. 97–375, title II, §206(c), Dec. 21, 1982, 96 Stat. 1824, required preparation and submission of reports.

Section 3525, Pub. L. 94–505, title II, §205, Oct. 15, 1976, 90 Stat. 2432, related to administrative provisions.

Section 3526, Pub. L. 94–505, title II, §206, Oct. 15, 1976, 90 Stat. 2433, provided for transfer of functions.

Section 3527, Pub. L. 94–505, title II, §207, Oct. 15, 1976, 90 Stat. 2434; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695, defined "Secretary", "Department", "Inspector General", "Deputy", and "Federal agency".

For transfer of functions under sections 3521 to 3527 to and establishment of the Office of Inspector General of the Department of Health and Human Services, see the Inspector General Act of 1978, Pub. L. 95–452, as amended, formerly set out in the Appendix to Title 5, Government Organization and Employees. See chapter 4 of Title 5.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective 180 days after Oct. 18, 1988, see section 113 of Pub. L. 100–504, set out as an Effective and Termination Dates of 1988 Amendments note under section 5315 of Title 5, Government Organization and Employees.

CHAPTER 44—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Sec.

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§3531. Congressional declaration of purpose

The Congress hereby declares that the general welfare and security of the Nation and the health and living standards of our people require, as a matter of national purpose, sound development of the Nation's communities and metropolitan areas in which the vast majority of its people live and work.

To carry out such purpose, and in recognition of the increasing importance of housing and urban development in our national life, the Congress finds that establishment of an executive department is desirable to achieve the best administration of the principal programs of the Federal Government which provide assistance for housing and for the development of the Nation's communities; to assist the President in achieving maximum coordination of the various Federal activities which have a major effect upon urban community, suburban, or metropolitan development; to encourage the solution of problems of housing, urban development, and mass transportation through State, county, town, village, or other local and private action, including promotion of interstate, regional, and metropolitan cooperation; to encourage the maximum contributions that may be made by vigorous private homebuilding and mortgage lending industries to housing, urban development, and the national economy; and to provide for full and appropriate consideration, at the national level, of the needs and interests of the Nation's communities and of the people who live and work in them.

(Pub. L. 89–174, §2, Sept. 9, 1965, 79 Stat. 667.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 624 of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employee by Pub. L. 89–554, §1, Sept. 1, 1966, 80 Stat. 378.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE: INTERIM APPOINTMENTS

Pub. L. 89–174, §11, Sept. 9, 1965, 79 Stat. 671, provided that:

"(a) The provisions of this Act [see Short Title note below] shall take effect upon the expiration of the first period of sixty calendar days following the date on which this Act is approved by the President [Sept. 9, 1965], or on such earlier date as the President shall specify by Executive order published in the Federal Register, except that any of the officers provided for in sections 3(a), 4(a), and 4(b) of this Act [sections 3532(a), 3533(a), and 3533(b) of this title] may be nominated and appointed, as provided in such sections, at any time after the date this Act is approved by the President [Sept. 9, 1965].

"(b) In the event that one or more officers required by this Act, to be appointed, by and with the advice and consent of the Senate, shall not have entered upon office on the effective date of this Act, the President may designate any person who was an officer of the Housing and Home Finance Agency immediately prior to said effective date to act in such office until the office is filled as provided in this Act or until the expiration of the first period of sixty days following said effective date, whichever shall first occur. While so acting such persons shall receive compensation at the rates provided by this Act for the respective offices in which they act."

SHORT TITLE OF 1989 AMENDMENT

Pub. L. 101–235, §1(a), Dec. 15, 1989, 103 Stat. 1987, provided that: "This Act [see Tables for classification] may be cited as the 'Department of Housing and Urban Development Reform Act of 1989'."

SHORT TITLE

Pub. L. 89–174, §1, Sept. 9, 1965, 79 Stat. 667, provided: "That this Act [enacting this chapter, amending section 1451 of this title, sections 1 and 2211 of former Title 5, Executive Departments and Government Officers and Employees (see sections 101 and 5312 of Title 5, Government Organization and Employees), section 19 of Title 3, The President, and section 1723 of Title 12, Banks and Banking, and enacting provisions set out as notes under this section] may be cited as the 'Department of Housing and Urban Development Act'."

SAVINGS PROVISION: ABATEMENT OF ACTIONS; CONTINUATION OF RULES, REGULATIONS, ETC.; REFERENCES IN OTHER LAWS TO HOUSING AND HOME FINANCE AGENCY; LAPSE OF AGENCIES

Pub. L. 89–174, §9, Sept. 9, 1965, 79 Stat. 670, provided that:

"(a) No cause of action by or against any agency whose functions are transferred by this Act [see Short Title note above and section 3534 of this title], or by or against any officer of any agency in his official capacity, shall abate by reason of this enactment. Such causes of action may be asserted by or against the United States or such official of the Department as may be appropriate.

"(b) No suit, action, or other proceeding commenced by or against any agency whose functions are transferred by this Act [see Short Title note above and section 3534 of this title], or by or against any officer of any such agency in his official capacity, shall abate by reason of the enactment of this Act. A court may at any time during the pendency of the litigation, on its own motion or that of any party, order that the same may be maintained by or against the United States or such official of the Department as may be appropriate.

"(c) Except as may be otherwise expressly provided in this Act [see Short Title note above], all powers and authorities conferred by this Act shall be cumulative and additional to and not in derogation of any powers and authorities otherwise existing. All rules, regulations, orders, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to applicable law, prior to the effective date of this Act [see Effective Date note above] by any agency, officer, or office pertaining to any functions, powers, and duties transferred by this Act shall continue in full force and effect after the effective date of this Act until modified or rescinded by the Secretary or such other officer or office of the Department as, in accordance with applicable law, may be appropriate. With respect to any function, power, or duty transferred by or under this Act and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or to any officer, office, or agency therein, except the Federal National Mortgage Association and its officers, shall be deemed to mean the Secretary. The positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of this Act [section 3534(a) of this title] shall lapse."

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 11452

Ex. Ord. No. 11452, Jan. 23, 1969, 34 F.R. 1223, as amended, which established the Council for Urban Affairs to advise the President with respect to urban affairs, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237. The Council was terminated and its functions transferred to the Domestic Council by

section 2(b) of Ex. Ord. No. 11541, July 1, 1970, 35 F.R. 10737, set out as a note under section 501 of Title 31, Money and Finance.

EX. ORD. NO. 11668. NATIONAL CENTER FOR HOUSING MANAGEMENT

Ex. Ord. No. 11668, Apr. 21, 1972, 37 F.R. 8057, provided:

By virtue of the authority vested in me as President of the United States and in accordance with the provisions of the Department of Housing and Urban Development Act, as amended (42 U.S.C. 3531 et seq.), title VIII of the Housing Act of 1964, as amended (20 U.S.C. 801 et seq.), and title V of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z–1 et seq.), it is ordered as follows:

SECTION 1. *Policy*. The Nation's housing stock represents an important national resource which must be preserved and well managed if public and private investments are to be protected, and if we are to meet our goal of providing a decent home and suitable living environment for low and moderate income residents. The production of Federally-assisted housing has greatly expanded in recent years, creating a need for a balanced strategy to ensure that such housing remains viable for the purposes intended.

This expansion also creates a need for a growing supply of new management manpower for the years ahead. Special skills must be developed among these managers so that they can effectively overcome the social and economic problems facing many residents of Federally-assisted housing, including the elderly. Training, the improvement of career opportunities, and the upgrading of industry standards are all essential to the improvement of the Nation's housing management capability, particularly for low and moderate income housing.

SEC. 2. *Establishment of a National Center for Housing Management*. (a) The Secretary of Housing and Urban Development is directed to call upon public-spirited citizens, dedicated and experienced in the appropriate disciplines, to create, in accordance with existing laws, a new, non-governmental, not-for-profit institution to serve as a National Center for Housing Management (referred to herein as the Center).

(b) The Center should be designed to provide objective and independent leadership at the national level in helping meet the Nation's housing management and training needs and should work cooperatively with the Department of Housing and Urban Development and with the public and private organizations and institutions involved in, or affected by, its activities.

SEC. 3. *Activities of the Center*. The activities of the Center should be developed along lines that include the following objectives:

(1) Development of training and educational programs for housing management and personnel:

(2) Cooperation with public and private national, State, and local organizations and institutions in extending housing management training and educational opportunities, using to the fullest extent possible the services and facilities of existing agencies with expertise in training and education.

(3) Cooperation with national, State, and local organizations and institutions in establishing or expanding recruitment and placement systems that will link training in housing management to job opportunities in that field.

(4) Development of improved housing management practices and assistance in professionalizing the housing management industry; and

(5) Stimulating the creation of new management entities, and strengthening the effectiveness of existing management entities.

SEC. 4. *Assistance by Federal Agencies*. To the extent consistent with law, all other Federal executive departments and agencies shall cooperate and work with the Department of Housing and Urban Development and the Center in providing appropriate advice and financial support so as to ensure that the above described objectives are carried out with the most effective and efficient use of Federal, State and local resources, both public and private.

RICHARD NIXON.

§3532. Establishment of Department

(a) Designation; appointment and supervision of Secretary

There is hereby established at the seat of government an executive department to be known as the Department of Housing and Urban Development (hereinafter referred to as the "Department"). There shall be at the head of the Department a Secretary of Housing and Urban Development (hereinafter

referred to as the "Secretary"), who shall be appointed by the President by and with the advice and consent of the Senate. The Department shall be administered under the supervision and direction of the Secretary.

(b) General duties of Secretary

The Secretary shall, among his responsibilities, advise the President with respect to Federal programs and activities relating to housing and urban development; develop and recommend to the President policies for fostering the orderly growth and development of the Nation's urban areas; exercise leadership at the direction of the President in coordinating Federal activities affecting housing and urban development; provide technical assistance and information, including a clearinghouse service to aid State, county, town, village, or other local governments in developing solutions to community and metropolitan development problems; consult and cooperate with State Governors and State agencies, including, when appropriate, holding informal public hearings, with respect to Federal and State programs for assisting communities in developing solutions to community and metropolitan development problems and for encouraging effective regional cooperation in the planning and conduct of community and metropolitan development programs and projects; encourage comprehensive planning by the State aud [1] local governments with a view to coordinating Federal, State, and local urban and community development activities; encourage private enterprise to serve as large a part of the Nation's total housing and urban development needs as it can and develop the fullest cooperation with private enterprise in achieving the objectives of the Department; and conduct continuing comprehensive studies, and make available findings, with respect to the problems of housing and urban development.

(c) Denial or limitation of benefits of departmental programs, functions, or activities on basis of population or corporate status of community

Nothing in this chapter shall be construed to deny or limit the benefits of any program, function, or activity assigned to the Department by this chapter or any other Act to any community on the basis of its population or corporate status, except as may be expressly provided by law.

(d) Coordination of housing and urban development programs in enterprise zones

The Secretary shall—

(1) promote the coordination of all programs under the jurisdiction of the Secretary that are carried on within an enterprise zone designated pursuant to section 11501 of this title;

(2) expedite, to the greatest extent possible, the consideration of applications for programs referred to in paragraph (1) through the consolidation of forms or otherwise; and

(3) provide, whenever possible, for the consolidation of periodic reports required under programs referred to in paragraph (1) into one summary report submitted at such intervals as may be designated by the Secretary.

(Pub. L. 89–174, §3, Sept. 9, 1965, 79 Stat. 667; Pub. L. 90–83, §10(b), Sept. 11, 1967, 81 Stat. 223; Pub. L. 100–242, title VII, §705, Feb. 5, 1988, 101 Stat. 1963.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original "this Act", meaning Pub. L. 89–174, Sept. 9, 1965, 79 Stat. 667, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3531 of this title and Tables.

CODIFICATION

Section was formerly classified to section 624a of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employee by Pub. L. 89–554, §1, Sept. 1, 1966, 80 Stat. 378.

AMENDMENTS

1988—Subsec. (d). Pub. L. 100–242 added subsec. (d).

1967—Subsec. (a). Pub. L. 90–83 struck out provision for compensation of Secretary.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE; INTERIM APPOINTMENTS

Nomination and appointment of Secretary of Housing and Urban Development any time after Sept. 9, 1965, and interim designation and compensation of officer of Housing and Home Finance Agency for that office upon nonentry upon the office upon expiration of first period of sixty calendar days following Sept. 9, 1965, or on earlier date specified by Executive order, see section 11 of Pub. L. 89–174, set out as a note under section 3531 of this title.

OFFICE OF LEAD BASED PAINT ABATEMENT AND POISONING PREVENTION

Pub. L. 102–389, title II, Oct. 6, 1992, 106 Stat. 1593, provided in part that: "Notwithstanding any other provision of this or any other Act with respect to any fiscal year, the Office of Lead-Based Paint Abatement and Poisoning Prevention shall be contained within the Office of the Secretary, and said Office shall have ultimate responsibility within the Department of Housing and Urban Development, except for the Secretary, for all matters related to the abatement of lead in housing, and research related to lead abatement, consistent with the responsibilities outlined for the Office in Senate Report 102–107."

Pub. L. 102–139, title II, Oct. 28, 1991, 105 Stat. 753, provided in part: "That there shall be established, in the Office of the Secretary, an Office of Lead Based Paint Abatement and Poisoning Prevention to be headed by a career Senior Executive Service employee who shall be responsible for all lead-based paint abatement and poisoning prevention activities (including, but not limited to, research, abatement, training regulations and policy development): *Provided further*, That such office shall be allocated a staffing level of twenty staff years."

CONDOMINIUM AND COOPERATIVE STUDY AND REPORT; SUBMISSION TO CONGRESS

Pub. L. 93–383, title VII, §821, Aug. 22, 1974, 88 Stat. 740, authorized the Secretary of Housing and Urban Development to conduct a full and complete investigation and study, and report to Congress not later than one year after Aug. 22, 1974, with respect to condominiums and cooperatives, and the problems, difficulties, and abuses or potential abuses applicable to condominium and cooperative housing.

EXECUTIVE DOCUMENTS

ORDER OF SUCCESSION

For order of succession during any period when both Secretary and Deputy Secretary of Housing and Urban Development are unable to perform functions and duties of office of Secretary, see Ex. Ord. No. 13243, Dec. 18, 2001, 66 F.R. 66262, listed in a table under section 3345 of Title 5, Government Organization and Employees.

EX. ORD. NO. 11297. COORDINATION OF FEDERAL URBAN PROGRAM

Ex. Ord. No. 11297, Aug. 11, 1966, 31 F.R. 10765, provided:

WHEREAS our Nation has become predominantly urban in character and is confronted by serious problems arising from inherited urban decay and rapid urban growth; and

WHEREAS the living standards and general welfare of its people depend upon the solution of the problems of urban life; and

WHEREAS the Congress has provided in the Department of Housing and Urban Development Act [see Short Title note under section 3531 of this title] that the Secretary of Housing and Urban Development (hereinafter referred to as the Secretary) shall "advise the President with respect to Federal programs and activities relating to housing and urban development; develop and recommend to the President policies for fostering the orderly growth and development of the Nation's urban areas; and exercise leadership at the direction of the President in coordinating Federal activities affecting housing and urban development"; and

WHEREAS such activities are closely interrelated with other important Federal activities affecting urban areas so that there is a need for maximum consultation and cooperation among Federal departments and agencies in their administration of programs having impact on urban areas; and

WHEREAS such consultation and cooperation are also essential to enable the Secretary to carry out his responsibilities under that Act to "provide technical assistance and information, including a clearinghouse service to aid State, county, town, village, or other local governments in developing solutions to community and metropolitan development problems; consult and cooperate with State Governors and State agencies . . .

with respect to Federal and State programs for assisting communities in developing solutions to community and metropolitan development problems and for encouraging effective regional cooperation in the planning and conduct of community and metropolitan development programs and projects".

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States by the Constitution and laws of the United States, it is ordered as follows:

SECTION 1. *Functions of the Secretary of Housing and Urban Development*. (a) To assist the Secretary in carrying out his responsibilities pursuant to the Department of Housing and Urban Development Act, he shall convene, or authorize his representatives to convene, meetings at appropriate times and places of the heads, or representatives designated by them, of such Federal departments and agencies with programs affecting urban areas as he deems necessary or desirable for the following purposes:

(1) To provide a forum for consideration of mutual problems concerning Federal programs and activities affecting the development of urban areas and for the exchange of current information needed to achieve coordination of, and to avoid duplication in, such programs and activities.

(2) To promote cooperations among Federal departments and agencies in achieving consistent policies, practices, and procedures for administration of their programs affecting urban areas.

(3) To consult with and obtain the advice of the Federal departments and agencies with respect to:

(A) consultation and cooperation with State Governors and State and local agencies concerning Federal and State programs for assisting communities;

(B) provision of technical information, a clearinghouse service, and other assistance to State and local governments in solving community and metropolitan development problems; and

(C) encouragement of comprehensive planning of, and effective regional cooperation in, local urban, community, and metropolitan development activities.

(4) To identify urban development problems of particular States, metropolitan areas, or communities which require interagency or intergovernmental coordination.

(b) The Secretary shall make arrangements with such Federal departments and agencies for working groups to consider special problems arising with respect to matters described in subsection (a) of this section.

SECTION 2. *Agency responsibilities*. The heads of Federal departments and agencies have programs which have an impact on urban areas, or representatives designated by them, shall participate in meetings convened pursuant to this Order and, to the extent permitted by law and funds available, shall furnish information, at the request of the Secretary, pertaining to programs within the responsibilities of such departments or agencies, and such additional information as will assist the Secretary in providing a clearinghouse service to aid State and local governments in developing solutions to community and metropolitan development problems.

SECTION 3. *Construction*. Nothing in this Order shall be construed as subjecting any function vested by law in, or assigned pursuant to law to, any Federal department or agency or head thereof to the authority of any other agency or officer or as abrogating or restricting any such function in any manner.

SECTION 4. *Administrative arrangements*. (a) Each executive department and agency participating under section 1 or section 2 shall furnish necessary assistance for effectuating the provisions of this Order as authorized by section 214 of the Act of May 3, 1945, 59 Stat. 134 (31 U.S.C. 691) [31 U.S.C. 1346(b)].

(b) The Department of Housing and Urban Development shall provide necessary administrative services pursuant to this Order.

LYNDON B. JOHNSON.

EXECUTIVE ORDER NO. 13602

Ex. Ord. No. 13602, Mar. 15, 2012, 77 F.R. 16131, which established a White House Council on Strong Cities, Strong Communities, was superseded and revoked by Ex. Ord. No. 13748, §5, Nov. 16, 2016, 81 F.R. 83621, set out as a note under section 601 of Title 5, Government Organization and Employees.

[1] *So in original. Probably should be "and".*

§3533. Officers of Department

(a) Deputy Secretary, Assistant Secretaries, and General Counsel

(1) There shall be in the Department a Deputy Secretary, 7 Assistant Secretaries, and a General Counsel, who shall be appointed by the President by and with the advice and consent of the Senate, and who shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time.

(2) There shall be in the Department an Assistant Secretary for Public Affairs, who shall be appointed by the President and shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time.

(b) Federal Housing Commissioner

There shall be in the Department a Federal Housing Commissioner, who shall be one of the Assistant Secretaries, who shall head a Federal Housing Administration within the Department, who shall have such duties and powers as may be prescribed by the Secretary, and who shall administer, under the supervision and direction of the Secretary, departmental programs relating to the private mortgage market. The Secretary shall ensure, to the extent practicable, that managers of Federal Housing Administration programs, at each level of the Department, shall be accountable for program operation, risk management, management of cash and other Federal assets, and program financing related to activities over which such managers have responsibility.

(c) Director of Urban Program Coordination; designation; powers and duties; studies of urban and community problems and recommendations for administration of Federal programs affecting such problems

There shall be in the Department a Director of Urban Program Coordination, who shall be designated by the Secretary. He shall assist the Secretary in carrying out his responsibilities to the President with respect to achieving maximum coordination of the programs of the various departments and agencies of the Government which have a major impact on community development. In providing such assistance, the Director shall make such studies of urban and community problems as the Secretary shall request, and shall develop recommendations relating to the administration of Federal programs affecting such problems, particularly with respect to achieving effective cooperation among the Federal, State, and local agencies concerned. Subject to the direction of the Secretary, the Director shall, in carrying out his responsibilities, (1) establish and maintain close liaison with the Federal departments and agencies concerned and (2) consult with State, local, and regional officials, and consider their recommendations with respect to such programs.

(d) Assistant to Secretary; designation; duty to provide information and advice to nonprofit project sponsors

There shall be in the Department an Assistant to the Secretary, designated by the Secretary, who shall be responsible for providing information and advice to nonprofit organizations desiring to sponsor housing projects assisted under programs administered by the Department.

(e) Special Assistant for Indian and Alaska Native Programs; report to Congress

(1)(A) There shall be in the Department a Special Assistant for Indian and Alaska Native Programs, who shall be located in the Office of the Assistant Secretary for Public and Indian Housing. The Special Assistant for Indian and Alaska Native Programs shall be designated by the Secretary not later than 60 days after October 12, 1977.

(B) The Special Assistant for Indian and Alaska Native Programs shall be appointed based solely on merit and shall be covered under the provisions of title 5 governing appointments in the competitive service.

(C) The Special Assistant for Indian and Alaska Native Programs shall be responsible for—

(i) administering, in coordination with the relevant office in the Department, the provision of housing assistance to Indian tribes or Indian housing authorities under each program of the Department that provides for such assistance;

(ii) administering the community development block grant program for Indian tribes under title I of the Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.] and the provision of assistance to Indian tribes under such Act;

(iii) directing, coordinating, and assisting in managing any regional offices of the Department that administer Indian programs to the extent of such programs; and

(iv) coordinating all programs of the Department relating to Indian and Alaska Native housing and community development.

(D) The Secretary shall include in the annual report under section 3536 of this title a description of the extent of the housing needs for Indian families and community development needs of Indian tribes in the United States and the activities of the Department, and extent of such activities, in meeting such needs.

(2) The Secretary shall, not later than December 1 of each year, submit to Congress an annual report which shall include—

(A) a description of his actions during the current year and a projection of his activities during the succeeding years;

(B) estimates of the cost of the projected activities for succeeding fiscal years;

(C) a statistical report on the conditions of Indian and Alaska Native housing; and

(D) recommendations for such legislative, administrative, and other actions, as he deems appropriate.

(f) Federal Housing Administration Comptroller

There shall be in the Department a Federal Housing Administration Comptroller, designated by the Secretary, who shall be responsible for overseeing the financial operations of the Federal Housing Administration.

(g) Office of Housing Counseling

(1) Establishment

There is established, in the Department, the Office of Housing Counseling.

(2) Director

There is established the position of Director of Housing Counseling. The Director shall be the head of the Office of Housing Counseling and shall be appointed by, and shall report to, the Secretary. Such position shall be a career-reserved position in the Senior Executive Service.

(3) Functions

(A) In general

The Director shall have primary responsibility within the Department for all activities and matters relating to homeownership counseling and rental housing counseling, including—

(i) research, grant administration, public outreach, and policy development relating to such counseling; and

(ii) establishment, coordination, and administration of all regulations, requirements, standards, and performance measures under programs and laws administered by the Department that relate to housing counseling, homeownership counseling (including maintenance of homes), mortgage-related counseling (including home equity conversion mortgages and credit protection options to avoid foreclosure), and rental housing counseling, including the requirements, standards, and performance measures relating to housing counseling.

(B) Specific functions

The Director shall carry out the functions assigned to the Director and the Office under this section and any other provisions of law. Such functions shall include establishing rules necessary for—

(i) the counseling procedures under section 1701x(g)(1) of title 12;

(ii) carrying out all other functions of the Secretary under section 1701x(g) of title 12, including the establishment, operation, and publication of the availability of the toll-free telephone number under paragraph (2) of such section;

(iii) contributing to the distribution of home buying information booklets pursuant to section 2604 of title 12;

(iv) carrying out the certification program under section 1701x(e) of title 12;

(v) carrying out the assistance program under section 1701x(a)(4) of title 12, including

criteria for selection of applications to receive assistance;

(vi) carrying out any functions regarding abusive, deceptive, or unscrupulous lending practices relating to residential mortgage loans that the Secretary considers appropriate, which shall include conducting the study under section 6 [1] of the Expand and Preserve Home Ownership Through Counseling Act;

(vii) providing for operation of the advisory committee established under paragraph (4) of this subsection;

(viii) collaborating with community-based organizations with expertise in the field of housing counseling; and

(ix) providing for the building of capacity to provide housing counseling services in areas that lack sufficient services, including underdeveloped areas that lack basic water and sewer systems, electricity services, and safe, sanitary housing.

(4) Advisory committee

(A) In general

The Secretary shall appoint an advisory committee to provide advice regarding the carrying out of the functions of the Director.

(B) Members

Such advisory committee shall consist of not more than 12 individuals, and the membership of the committee shall equally represent the mortgage and real estate industry, including consumers and housing counseling agencies certified by the Secretary.

(C) Terms

Except as provided in subparagraph (D), each member of the advisory committee shall be appointed for a term of 3 years. Members may be reappointed at the discretion of the Secretary.

(D) Terms of initial appointees

As designated by the Secretary at the time of appointment, of the members first appointed to the advisory committee, 4 shall be appointed for a term of 1 year and 4 shall be appointed for a term of 2 years.

(E) Prohibition of pay; travel expenses

Members of the advisory committee shall serve without pay, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5.

(F) Advisory role only

The advisory committee shall have no role in reviewing or awarding housing counseling grants.

(5) Scope of homeownership counseling

In carrying out the responsibilities of the Director, the Director shall ensure that homeownership counseling provided by, in connection with, or pursuant to any function, activity, or program of the Department addresses the entire process of homeownership, including the decision to purchase a home, the selection and purchase of a home, issues arising during or affecting the period of ownership of a home (including refinancing, default and foreclosure, and other financial decisions), and the sale or other disposition of a home.

(h) Special Assistant for Veterans Affairs

(1) Position

There shall be in the Office of the Secretary a Special Assistant for Veterans Affairs, who shall report directly to the Secretary.

(2) Appointment

The Special Assistant for Veterans Affairs shall be appointed based solely on merit and shall be

covered under the provisions of title 5 governing appointments in the competitive service.

(3) Responsibilities

The Special Assistant for Veterans Affairs shall be responsible for—

(A) ensuring veterans have fair access to housing and homeless assistance under each program of the Department providing either such assistance;

(B) coordinating all programs and activities of the Department relating to veterans;

(C) serving as a liaison for the Department with the Department of Veterans Affairs, including establishing and maintaining relationships with the Secretary of Veterans Affairs;

(D) serving as a liaison for the Department, and establishing and maintaining relationships with the United States Interagency Council on Homelessness and officials of State, local, regional, and nongovernmental organizations concerned with veterans;

(E) providing information and advice regarding—

(i) sponsoring housing projects for veterans assisted under programs administered by the Department; or

(ii) assisting veterans in obtaining housing or homeless assistance under programs administered by the Department;

(F) coordinating with the Secretary of Housing and Urban Development and the Secretary of Veterans Affairs in carrying out section 404 of the Housing Opportunity Through Modernization Act of 2016;

(G) collaborating with the Department of Veterans Affairs on making joint recommendations to the Congress, the Secretary of Housing and Urban Development, and the Secretary of Veterans Affairs on how to better coordinate and improve services to veterans under both Department of Housing and Urban Development and Department of Veteran Affairs veterans housing programs, including ways to improve the Independent Living Program of the Department of Veteran Affairs; and

(H) carrying out such other duties as may be assigned to the Special Assistant by the Secretary or by law.

(Pub. L. 89–174, §4, Sept. 9, 1965, 79 Stat. 668; Pub. L. 90–83, §10(b), Sept. 11, 1967, 81 Stat. 223; Pub. L. 90–284, title VIII, §808(b)(1), Apr. 11, 1968, 82 Stat. 84; Pub. L. 90–448, title XVII, §1708(a), Aug. 1, 1968, 82 Stat. 606; Pub. L. 91–609, title IX, §917, Dec. 31, 1970, 84 Stat. 1816; Pub. L. 93–383, title VIII, §818(a), Aug. 22, 1974, 88 Stat. 740; Pub. L. 95–128, title IX, §901, Oct. 12, 1977, 91 Stat. 1148; Pub. L. 101–235, title I, §§121, 122, 140, Dec. 15, 1989, 103 Stat. 2021, 2030; Pub. L. 101–509, title V, §529 [title I, §112(a)(4)], Nov. 5, 1990, 104 Stat.1427, 1454; Pub. L. 101–576, title II, §205(c)(2), Nov. 15, 1990, 104 Stat. 2845; Pub. L. 102–550, title IX, §902(a)(1), Oct. 28, 1992, 106 Stat. 3866; Pub. L. 111–203, title XIV, §1442, July 21, 2010, 124 Stat. 2163; Pub. L. 112–166, §2(g), Aug. 10, 2012, 126 Stat. 1285; Pub. L. 114–201, title IV, §403(a), July 29, 2016, 130 Stat. 808.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Housing and Community Development Act of 1974, referred to in subsec. (e)(1)(C)(ii), is Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633. Title I of the Act is classified principally to chapter 69 (§5301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

Section 6 of the Expand and Preserve Home Ownership Through Counseling Act, referred to in subsec. (g)(3)(B)(vi), probably means section 1446 of subtitle D of title XIV of Pub. L. 111–203, July 21, 2010, 124 Stat. 2172, which is not classified to the Code.

Section 404 of the Housing Opportunity Through Modernization Act of 2016, referred to in subsec. (h)(3)(F), is section 404 of Pub. L. 114–201, which is set out as a note under section 11313 of this title.

CODIFICATION

Section was formerly classified to section 624b of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employee, by Pub. L. 89–554, §1, Sept. 1, 1966, 80 Stat. 378.

AMENDMENTS

2016—Subsec. (h). Pub. L. 114–201 added subsec. (h).

2012—Subsec. (a). Pub. L. 112–166 designated existing provisions as par. (1), substituted "7" for "eight" in par. (1), and added par. (2).

2010—Subsec. (g). Pub. L. 111–203 added subsec. (g).

1992—Subsec. (e)(1). Pub. L. 102–550 designated existing provisions as subpar. (A), substituted "located in the Office of the Assistant Secretary for Public and Indian Housing" for "responsible for coordinating all programs of the Department relating to Indian and Alaska Native housing and community development", and added subpars. (B) through (D).

1990—Subsec. (a). Pub. L. 101–509 substituted "a Deputy Secretary" for "an Under Secretary".

Subsec. (e). Pub. L. 101–576 struck out subsec. (e), added by section 121 of Pub. L. 101–235, which related to Chief Financial Officer.

1989—Subsec. (a). Pub. L. 101–235, §140(2), designated second sentence of subsec. (a), relating to appointment, function, and duties of Federal Housing Commissioner, as (b).

Subsec. (b). Pub. L. 101–235, §140, designated second sentence of subsec. (a), relating to appointment, function, and duties of Federal Housing Commissioner, as subsec. (b) and sentence at end requiring Secretary to ensure that managers are accountable for certain aspects of the programs. Former subsec. (b) redesignated (c).

Subsecs. (c), (d). Pub. L. 101–235, §140(1), redesignated subsecs. (b) and (c) as (c) and (d), respectively. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 101–235, §140(1), redesignated former subsec. (d), relating to Special Assistant for Indian and Alaska Native Programs, as (e).

Pub. L. 101–235, §121, added subsec. (e) relating to Chief Financial Officer.

Subsec. (f). Pub. L. 101–235, §122, added subsec. (f).

1977—Subsec. (d). Pub. L. 95–128 added subsec. (d).

1974—Subsec. (a). Pub. L. 93–383, §818(a)(1), increased number of Assistant Secretaries from six to eight.

Subsec. (b). Pub. L. 93–383, §818(a)(2), (3), redesignated former subsec. (c) as (b). Former subsec. (b), which related to appointment and functions of an Assistant Secretary for Administration, was struck out.

Subsecs. (c), (d). Pub. L. 93–383, §818(a)(3), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

1970—Subsec. (d). Pub. L. 91–609 added subsec. (d).

1968—Subsec. (a). Pub. L. 90–448 increased number of Assistant Secretaries from five to six.

Pub. L. 90–284 increased number of Assistant Secretaries from four to five.

1967—Subsec. (a). Pub. L. 90–83 struck out provision setting compensation for the Under Secretary, Assistant Secretaries, and General Counsel.

Subsec. (b). Pub. L. 90–83 struck out provision covering the compensation to be paid the Assistant Secretary for Administration.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–166 effective 60 days after Aug. 10, 2012, and applicable to appointments made on and after that effective date, including any nomination pending in the Senate on that date, see section 6(a) of Pub. L. 112–166, set out as a note under section 113 of Title 6, Domestic Security.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the date on which final regulations implementing that amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, see section 1400(c) of Pub. L. 111–203, set out as a note under section 1601 of Title 15, Commerce and Trade.

EFFECTIVE DATE OF 1990 AMENDMENT; CONTINUED SERVICE BY INCUMBENTS

Amendment by Pub. L. 101–509 effective on first day of first pay period that begins on or after Nov. 5, 1990, with continued service by incumbent Under Secretary of Housing and Urban Development, see section

529 [title I, §112(e)(1), (2)(D)] of Pub. L. 101–509, set out as a note under section 3404 of Title 20, Education.

EFFECTIVE DATE; INTERIM APPOINTMENTS

Nomination and appointment of Under Secretary, Assistant Secretaries, General Counsel, Federal Housing Commissioner, and Assistant Secretary for Administration of Department of Housing and Urban Development any time after Sept. 9, 1965, and interim designation and compensation of officers of Housing and Home Finance Agency for those offices upon non-entry upon the offices upon expiration of first period of sixty calendar days following Sept. 9, 1965 or on earlier date specified by Executive order, see section 11 of Pub. L. 89–174, set out as a note under section 3531 of this title.

TRANSFER OF POSITION IN OFFICE OF DEPUTY ASSISTANT SECRETARY FOR SPECIAL NEEDS

Pub. L. 114–201, title IV, §403(b), July 29, 2016, 130 Stat. 809, provided that: "On the date that the initial Special Assistant for Veterans Affairs is appointed pursuant to section 4(h)(2) of the Department of Housing and Urban Development Act [42 U.S.C. 3533(h)(2)], as added by subsection (a) of this section, the position of Special Assistant for Veterans Programs in the Office of the Deputy Assistant Secretary for Special Needs of the Department of Housing and Urban Development shall be terminated."

TRANSFER OF FUNCTIONS

Pub. L. 102–550, title IX, §902(a)(2), (3), Oct. 28, 1992, 106 Stat. 3866, 3867, provided that:

"(2) TRANSFER OF FUNCTIONS.—Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act [Oct. 28, 1992], the Secretary of Housing and Urban Development shall transfer to the Special Assistant for Indian and Alaska Native Programs any functions and duties described in section 4(e)(1)(B) of the Department of Housing and Urban Development Act [42 U.S.C. 3533(e)(1)(B)] (as added by paragraph (1) of this subsection).

"(3) STAFF.—Not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall transfer from offices within the Department of Housing and Urban Development to the office of the Special Assistant for Indian and Alaska Native Programs such staff, having experience and capacity to administer Indian housing and community development programs, as may be necessary and appropriate to assist the Special Assistant in carrying out the responsibilities under section 4(e)(1)(B) of the Department of Housing and Urban Development Act (as added by paragraph (1) of this subsection)."

OFFICE OF INSPECTOR GENERAL

Functions, powers, and duties of Office of Inspector General in Department of Housing and Urban Development transferred to Office of Inspector General in Department of Housing and Urban Development, as established by Pub. L. 95–452, §2, Oct. 12, 1978, 92 Stat. 1101, set out in the Appendix to Title 5, Government Organization and Employees. See section 9(a)(1)(G) of Pub. L. 95–452, set out in Appendix to Title 5.

[1] *See References in Text note below.*

§3533a. Transferred

Section, Pub. L. 90–448, title XI, §1105(a), Aug. 1, 1968, 82 Stat. 567; Pub. L. 96–153, title VI, §603(a), Dec. 21, 1979, 93 Stat. 1138, which established in Federal Emergency Management Agency position of Federal Insurance Administrator, was transferred to section 4129 of this title.

§3534. Transfer of functions

(a) Housing and Home Finance Agency, Federal Housing Administration, and Public Housing Administration

Except as otherwise provided in subsection (b) of this section, there are hereby transferred to and vested in the Secretary all of the functions, powers, and duties of the Housing and Home Finance Agency, of the Federal Housing Administration and the Public Housing Administration in that

Agency, and of the heads and other officers and offices of said agencies.

(b) Government National Mortgage Association

The Government National Mortgage Association, together with its functions, powers, and duties, is hereby transferred to the Department.

(c) Studies of organization of housing and urban development functions and programs and recommendations regarding transfer of such functions and programs to or from Department

The President shall undertake studies of the organization of housing and urban development functions and programs within the Federal Government, and he shall provide the Congress with the findings and conclusions of such studies, together with his recommendations regarding the transfer of such functions and programs to or from the Department. Notwithstanding any other provision of this chapter, none of the functions of the Secretary of the Interior authorized under chapter 2003 of title 54 or other functions carried out by the Bureau of Outdoor Recreation shall be transferred from the Department of the Interior or in any way be limited geographically unless specifically provided for by reorganization plan pursuant to provisions of chapter 9 of title 5, or by statute.

(Pub. L. 89–174, §5, Sept. 9, 1965, 79 Stat. 669; Pub. L. 90–83, §10(b), Sept. 11, 1967, 81 Stat. 223; Pub. L. 90–448, title VIII, §807(c), Aug. 1, 1968, 82 Stat. 544; Pub. L. 102–550, title XIII, §1352, Oct. 28, 1992, 106 Stat. 3969; Pub. L. 110–289, div. A, title I, §1161(f), July 30, 2008, 122 Stat. 2780; Pub. L. 113–287, §5(k)(3), Dec. 19, 2014, 128 Stat. 3270.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original "this Act", meaning Pub. L. 89–174, Sept. 9, 1965, 79 Stat. 667, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3531 of this title and Tables.

CODIFICATION

In subsec. (c) "chapter 9 of title 5" substituted for "the Reorganization Act of 1949, as amended," on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Section was formerly classified to section 624c of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employees by Pub. L. 89–554, §1, Sept. 1, 1966, 80 Stat. 378.

AMENDMENTS

2014—Subsec. (c). Pub. L. 113–287 substituted "chapter 2003 of title 54" for "the Land and Water Conservation Fund Act of 1965 (78 Stat. 897)".

2008—Subsec. (d). Pub. L. 110–289 struck out subsec. (d) which read as follows: "Notwithstanding any other provision of this chapter, the Secretary may not merge or consolidate the Office of Federal Housing Enterprise Oversight of the Department, or any of the functions or responsibilities of such Office, with any function or program administered by the Secretary."

1992—Subsec. (d). Pub. L. 102–550 added subsec. (d).

1968—Subsec. (b). Pub. L. 90–448 substituted "Government National Mortgage Association" for "Federal National Mortgage Association", and struck out provisions which allocated the position of the President of the Federal National Mortgage Association among the positions referred to in section 3535(c) of this title.

1967—Subsec. (b). Pub. L. 90–83 struck out "and the item numbered (94) of section 303(e) of the Federal Executive Salary Act of 1964 of this title" after "The next to the last sentence of section 1723 of title 12" in repealing provision.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–448 effective from and after a date, no more than 120 days following Aug. 1, 1968, as established by the Secretary of Housing and Urban Development, see section 808 of Pub. L. 90–448,

set out as an Effective Date note under section 1716b of Title 12, Banks and Banking.

TRANSFER OF FUNCTIONS

Pub. L. 89–174, §9(c), Sept. 9, 1965, 79 Stat. 670, set out as a note under section 3531 of this title, provides that references to the Housing and Home Finance Agency or to any agency or officer therein are to be deemed to mean the Secretary of Housing and Urban Development, pursuant to the transfer of functions under this section, and that the Housing and Home Finance Agency and the Public Housing Administration, a constituent agency therein, have lapsed.

§3535. Administrative provisions

(a) Transfer of personnel, assets, etc.

The personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, or other funds held, used, arising from, or available or to be made available in connection with, the functions, powers, and duties transferred by section 3534 of this title are hereby transferred with such functions, powers, and duties, respectively.

(b) Repealed. Pub. L. 90–448, title VIII, §807(d), Aug. 1, 1968, 82 Stat. 544

(c) Employment, compensation, authority, and duties of personnel

The Secretary is authorized, subject to the civil service and classification laws, to select, appoint, employ, and fix the compensation of such officers and employees, including attorneys, as shall be necessary to carry out the provisions of this chapter and to prescribe their authority and duties: *Provided*, That any other provision of law to the contrary notwithstanding, the Secretary may fix the compensation for not more than six positions in the Department at the annual rate applicable to positions in level V of the Executive Schedule provided by subchapter II of chapter 53 of title 5.

(d) Delegation of authority; rules and regulations

The Secretary may delegate any of his functions, powers, and duties to such officers and employees of the Department as he may designate, may authorize such successive redelegations of such functions, powers, and duties as he may deem desirable, and may make such rules and regulations as may be necessary to carry out his functions, powers, and duties.

(e) Temporary employment of experts or consultants; compensation

The Secretary may obtain services as authorized by section 3109 of title 5, at rates for individuals not to exceed the per diem equivalent to the highest rate for grade GS–18 of the General Schedule under section 5332 of title 5. The Secretary is authorized to enter into contracts with private companies for the provision of such managerial support to the Federal Housing Administration as the Secretary determines to be appropriate, including but not limited to the management of insurance risk and the improvement of the delivery of mortgage insurance.

(f) Working capital fund; establishment; uses; appropriations; capitalization; reimbursement

The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as he shall find to be desirable in the interest of economy and efficiency in the Department, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its agencies; central messenger, mail, telephone, and other communications services; office space; central services for document reproduction and for graphics and visual aids; and a central library service. In addition to amounts appropriated to provide capital for said fund, which appropriations are hereby authorized, the fund shall be capitalized by transfer to it of such stock of supplies and equipment on hand or on order as the Secretary shall direct. Such fund shall be

reimbursed from available funds of agencies and offices in the Department for which services are performed at rates which will return in full all expenses of operation, including reserves for accrued annual leave and for depreciation of equipment.

(g) Seal

The Secretary shall cause a seal of office to be made for the Department of such device as he shall approve, and judicial notice shall be taken of such seal.

(h) Financial transactions, finality; checking accounts for funds in Treasury; availability of funds for administrative expenses; consolidation of cash for banking and checking purposes

Except as such authority is otherwise expressly provided in any other Act administered by the Secretary, such financial transactions of the Secretary as the making of loans or grants (and vouchers approved by the Secretary in connection with such financial transactions) shall be final and conclusive upon all officers of the Government. Funds made available to the Secretary pursuant to any provision of law for such financial transactions shall be deposited in a checking account or accounts with the Treasury of the United States. Such funds and any receipts and assets obtained or held by the Secretary in connection with such financial transactions shall be available, in such amounts as may from year to year be authorized by the Congress, for the administrative expenses of the Secretary in connection with such financial transactions. Notwithstanding the provisions of any other law, the Secretary may, with the approval of the Comptroller General, consolidate into one or more accounts for banking and checking purposes all cash obtained or held in connection with such financial transactions, including amounts appropriated, from whatever source derived.

(i) Foreclosure of property; actions for protection and enforcement of rights; purchase of property; dealing with property after such acquisition; deprivation of State court civil and criminal jurisdiction; impairment of civil rights under State laws; application of section 6101 of title 41; annual payments in lieu of local property taxes; sale and exchanges of property; insurance; modification of interest, time for installment payment, and other terms; other covenants, conditions, and provisions

Except as such authority is otherwise expressly provided in any other Act administered by the Secretary, the Secretary is authorized to—

(1) foreclose on any property or commence any action to protect or enforce any right conferred upon him by any law, contract, or other agreement, and bid for and purchase at any foreclosure or any other sale any property in connection with which he has made a loan or grant. In the event of any such acquisition, the Secretary may, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property: *Provided*, That any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property: *Provided further*, That section 6101 of title 41 shall not apply to any contract for services or supplies on account of any property so acquired or owned if the amount of such contract does not exceed $2,500;

(2) enter into agreements to pay annual sums in lieu of taxes to any State or local taxing authority with respect to any real property so acquired or owned;

(3) sell or exchange at public or private sale, or lease, real or personal property, and sell or exchange any securities or obligations, upon such terms as he may fix;

(4) obtain insurance against loss in connection with property and other assets held;

(5) consent to the modification, with respect to the rate of interest, time of payment of any installment of principal or interest, security, or any other term of any contract or agreement to which he is a party or which has been transferred to him; and

(6) include in any contract or instrument such other covenants, conditions, or provisions as he may deem necessary, including any provisions relating to the authority or requirements under paragraph (5).

(j) Fees and charges

Notwithstanding any other provision of law the Secretary is authorized to establish fees and charges, chargeable against program beneficiaries and project participants, which shall be adequate to cover over the long run, costs of inspection, project review and financing service, audit by Federal or federally authorized auditors, and other beneficial rights, privileges, licenses, and services. Such fees and charges heretofore or hereafter collected shall be considered nonadministrative and shall remain available for operating expenses of the Department in providing similar services on a consolidated basis.

(k) Gifts and services, acceptance; taxable status of property; investments; disbursements

(1) The Secretary is authorized to accept and utilize voluntary and uncompensated services and accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury in a separate fund and shall be disbursed upon order of the Secretary. Property accepted pursuant to this paragraph, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest.

(2) For the purpose of Federal income, estate, and gift taxes, property accepted under paragraph (1) shall be considered as a gift or bequest to or for use of the United States.

(3) Upon the request of the Secretary, the Secretary of the Treasury may invest and reinvest in securities of the United States or in securities guaranteed as to principal and interest by the United States any moneys contained in the fund provided for in paragraph (1). Income accruing from such securities and from any other property held by the Secretary pursuant to paragraph (1) shall be deposited to the credit of the fund and shall be disbursed upon order of the Secretary.

(l) Consultants; appointment of advisory committees; compensation and travel expenses

The Secretary is authorized to appoint, without regard to the civil service laws, such advisory committees as shall be appropriate for the purpose of consultation with and advice to the Department in performance of its functions. Members of such committees, other than those regularly employed by the Federal Government, while attending meetings of such committees or otherwise serving at the request of the Secretary, may be paid compensation at rates not exceeding those authorized for individuals under subsection (e) of this section, and while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in the Government service employed intermittently.

(m) Occupancy preference in rental housing for military personnel

Whenever he shall determine that, because of location, or other considerations, any rental housing project assisted under title II of the National Housing Act [12 U.S.C. 1707 et seq.] or title I of the Housing and Urban Development Act of 1965 could ordinarily be expected substantially to serve the family housing needs of lower income military personnel serving on active duty, the Secretary is authorized to provide for or approve such preference or priority of occupancy of such project by such military personnel as he shall determine is appropriate to assure that the project will serve their needs on a continuing basis notwithstanding the frequency with which individual members of such personnel may be transferred or reassigned to new duty stations.

(n) Day care center for children of employees of Department; establishment; fees and charges

Notwithstanding any other provision of law, the Secretary is authorized by contract or otherwise to establish, equip, and operate a day care center facility or facilities, or to assist in establishing, equipping, and operating interagency day care facilities for the purpose of serving children who are members of households of employees of the Department. The Secretary is authorized to establish or provide for the establishment of appropriate fees and charges to be chargeable against the Department of Housing and Urban Development employees or others who are beneficiaries of services provided by any such day care center. In addition, limited start-up costs may be provided by the Secretary in an amount limited to 3 per centum of the first year's operating budget, but not to exceed $3,500.

(o) Agenda of rules or regulations under development or review; transmittal to Congress

(1) Notwithstanding any other provision of law, the Secretary shall transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives an agenda of all rules or regulations which are under development or review by the Department. Such an agenda shall be transmitted to such Committees within 30 days of October 31, 1978, and at least semi-annually thereafter.

(2)(A) Any rule or regulation which is on any agenda submitted under paragraph (1) may not be published for comment prior to or during the 15-calendar day period beginning on the day after the date on which such agenda was transmitted. If within such period, either Committee notifies the Secretary in writing that it intends to review any rule or regulation or portion thereof which appears on the agenda, the Secretary shall submit to both Committees a copy of any such rule or regulation, in the form it is intended to be proposed, at least 15 calendar days prior to its being published for comment in the Federal Register.

(B) Any rule or regulation which has not been published for comment before October 31, 1978, and which does not appear on an agenda submitted under paragraph (1) shall be submitted to both such Committees at least 15 calendar days prior to its being published for comment.

(3) No rule or regulation may become effective until after the expiration of the 30-calendar day period beginning on the day after the day on which such rule or regulation is published as final. Any regulation implementing any provision of the Department of Housing and Urban Development Reform Act of 1989 that authorizes the imposition of a civil money penalty may not become effective until after the expiration of a public comment period of not less than 60 days.

(4) The provisions of paragraphs (2) and (3) may be waived upon the written request of the Secretary, if agreed to by the Chairmen and Ranking Minority Members of both Committees.

(5), (6) Repealed. Pub. L. 101–235, title I, §123(4), Dec. 15, 1989, 103 Stat. 2021.

(7) The Secretary shall include with each rule or regulation required to be transmitted to the Committees under this subsection a detailed summary of all changes required by the Office of Management and Budget that prohibit, modify, postpone, or disapprove such rule or regulation in whole or part.

(p) Cost-benefit analysis of field reorganizations; requirements, contents, etc.

A plan for the reorganization of any regional, area, insuring, or other field office of the Department of Housing and Urban Development may take effect only upon the expiration of 90 days after publication in the Federal Register of a cost-benefit analysis of the effect of the plan on each office involved. Such cost-benefit analysis shall include, but not be limited to—

(1) an estimate of cost savings supported by background information detailing the source and substantiating the amount of the savings;

(2) an estimate of the additional cost which will result from the reorganization;

(3) a study of the impact on the local economy; and

(4) an estimate of the effect of the reorganization on the availability, accessibility, and quality of services provided for recipients of those services,

where any of the above factors cannot be quantified, the Secretary shall provide a statement on the nature and extent of those factors in the cost-benefit analysis.

(q) Waiver of regulations

(1) Any waiver of regulations of the Department shall be in writing and shall specify the grounds for approving the waiver.

(2) The Secretary may delegate authority to approve a waiver of a regulation only to an individual of Assistant Secretary rank or equivalent rank, who is authorized to issue the regulation to be waived.

(3) The Secretary shall notify the public of all waivers of regulations approved by the Department. The notification shall be included in a notice in the Federal Register published not less than quarterly. Each notification shall cover the period beginning on the day after the last date covered by the prior notification, and shall—

(A) identify the project, activity, or undertaking involved;

(B) describe the nature of the requirement that has been waived and specify the provision involved;

(C) specify the name and title of the official who granted the waiver request;

(D) include a brief description of the grounds for approval of the waiver; and

(E) state how more information about the waiver and a copy of the request and the approval may be obtained.

(4) Any waiver of a provision of a handbook of the Department shall—

(A) be in writing;

(B) specify the grounds for approving the waiver; and

(C) be maintained in indexed form and made available for public inspection for not less than the 3-year period beginning on the date of the waiver.

(r) Program evaluation and monitoring

(1) For the programs listed in paragraph (2), amounts appropriated under this subsection shall be available to the Secretary for evaluating and monitoring of all such programs (including all aspects of the public housing and section 202 programs) and collecting and maintaining data for such purposes. The Secretary shall expend amounts made available under this subsection in accordance with the need and complexity of evaluating and monitoring each such program and collecting and maintaining data for such purposes.

(2) The programs subject to this subsection shall be the programs authorized under—

(A) titles I [42 U.S.C. 1437 et seq.] and II [1] of the United States Housing Act of 1937;

(B) section 202 of the Housing Act of 1959 [12 U.S.C. 1701q];

(C) section 106 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701x];

(D) the Fair Housing Act [42 U.S.C. 3601 et seq.];

(E) title I [42 U.S.C. 5301 et seq.] and section 810 [1] of the Housing and Community Development Act of 1974;

(F) section 201 of the Housing and Community Development Amendments of 1978 [12 U.S.C. 1715z–1a];

(G) the Congregate Housing Services Act of 1978 [42 U.S.C. 8001 et seq.];

(H) section 222 of the Housing and Urban-Rural Recovery Act of 1983;

(I) section 3616a of this title;

(J) title IV of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11360 et seq.]; and

(K) titles II [42 U.S.C. 12721 et seq.], III, and IV and section 811 [42 U.S.C. 8013] of the Cranston-Gonzalez National Affordable Housing Act.

(3) In conducting evaluations and monitoring pursuant to the authority under this subsection, and collecting and maintaining data pursuant to the authority under this subsection, the Secretary shall determine any need for additional staff and funding relating to evaluating and monitoring the programs under paragraph (2) and collecting and maintaining data for such purposes.

(4)(A) The Secretary may provide for evaluation and monitoring under this subsection and collecting and maintaining data for such purposes directly or by grants, contracts, or interagency agreements. Not more than 50 percent of the amounts made available under paragraph (1) may be used for grants, contracts, or interagency agreements.

(B) Any amounts not used for grants, contracts, or interagency agreements under subparagraph (A) shall be used in a manner that increases and strengthens the ability of the Department to monitor and evaluate the programs under paragraph (2) and to collect and maintain data for such purposes through officers and employees of the Department.

(5) There are authorized to be appropriated to carry out this subsection such sums as may be necessary for fiscal year 1993 and fiscal year 1994. Such amounts shall remain available until expended.

(s) Authorization of appropriations; allocations for staff and training

(1) Notwithstanding any other provision of law, there is authorized to be appropriated for salaries and expenses to carry out the purposes of this section $988,000,000 for fiscal year 1993 and $1,029,496,000 for fiscal year 1994.

(2) Of the amounts authorized to be appropriated by this section, $96,000,000 shall be available for each of the fiscal years 1993 and 1994, which amounts shall be used to provide staff in regional, field, or zone offices of the Department of Housing and Urban Development to review, process, approve, and service applications for mortgage insurance under title II of the National Housing Act [12 U.S.C. 1707 et seq.] for housing consisting of 5 or more dwelling units.

(3) Of the amounts authorized to be appropriated to carry out this section, not less than $5,000,000 of such amount shall be available for each fiscal year exclusively for the purposes of providing ongoing training and capacity building for Department personnel.

(t) Training regarding issues relating to grandparent-headed and relative-headed families

The Secretary shall ensure that all personnel employed in field offices of the Department who have responsibilities for administering the housing assistance program under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) or the supportive housing program under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), and an appropriate number of personnel in the headquarters office of the Department who have responsibilities for those programs, have received adequate training regarding how covered families (as that term is defined in section 202 of the LEGACY Act of 2003) can be served by existing affordable housing programs.

(Pub. L. 89–174, §7, Sept. 9, 1965, 79 Stat. 669; Pub. L. 90–284, title VIII, §808(b)(2), Apr. 11, 1968, 82 Stat. 84; Pub. L. 90–448, title VIII, §807(d), Aug. 1, 1968, 82 Stat. 544; Pub. L. 91–609, title I, §120(c), title IX, §§905, 906, Dec. 31, 1970, 84 Stat. 1775, 1809, 1811; Pub. L. 94–375, §§17(d), 21, Aug. 3, 1976, 90 Stat. 1077; Pub. L. 95–557, title III, §§316, 324, title IX, §908, Oct. 31, 1978, 92 Stat. 2099, 2103, 2129; Pub. L. 96–399, title III, §334(a), Oct. 8, 1980, 94 Stat. 1653; Pub. L. 98–479, title I, §104(b), Oct. 17, 1984, 98 Stat. 2225; Pub. L. 100–242, title V, §563(a), Feb. 5, 1988, 101 Stat. 1944; Pub. L. 101–235, title I, §§106, 123, 124, 141, Dec. 15, 1989, 103 Stat. 2000, 2021, 2022, 2030; Pub. L. 101–625, title IX, §954(a), Nov. 28, 1990, 104 Stat. 4420; Pub. L. 102–550, title IX, §§902(b), (c), 929, Oct. 28, 1992, 106 Stat. 3867, 3887; Pub. L. 103–233, title I, §104, Apr. 11, 1994, 108 Stat. 363; Pub. L. 105–362, title VII, §701(a), Nov. 10, 1998, 112 Stat. 3287; Pub. L. 106–400, §2, Oct. 30, 2000, 114 Stat. 1675; Pub. L. 108–186, title II, §204, Dec. 16, 2003, 117 Stat. 2691.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original "this Act", meaning Pub. L. 89–174, Sept. 9, 1965, 79 Stat. 667, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3531 of this title and Tables.

For establishment of the working capital fund, referred to in subsec. (f), see section 3535a of this title.

The National Housing Act, referred to in subsecs. (m) and (s)(2), is act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to chapter 13 (§1701 et seq.) of Title 12, Banks and Banking. Title II of the Act is classified principally to subchapter II (§1707 et seq.) of chapter 13 of Title 12. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

The Housing and Urban Development Act of 1965, referred to in subsec. (m), is Pub. L. 89–117, Aug. 10, 1965, 79 Stat. 451. Title I of the Housing and Urban Development Act of 1965 enacted sections 1421b, 1466 of this title, and sections 1701q, 1701s, 1735g, 1735h of Title 12, amended sections 1402, 1422, 1451, 1465 of this title, sections 1715c, 1715l, 1715n, 1717 of Title 12, and section 1816 [now 3732] of Title 38, Veterans' Benefits, and enacted provisions set out as notes under section 1466 of this title and section 1701q of Title 12. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 12 and Tables.

The Department of Housing and Urban Development Reform Act of 1989, referred to in subsec. (o)(3), is Pub. L. 101–235, Dec. 15, 1989, 103 Stat. 1987. For complete classification of this Act to the Code, see Short Title of 1989 Amendment note set out under section 3531 of this title and Tables.

The United States Housing Act of 1937, referred to in subsec. (r)(2)(A), is act Sept. 1, 1937, ch. 896, as

revised generally by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653. Title I of the Act is classified generally to subchapter I (§1437 et seq.) of chapter 8 of this title. Title II of the Act, which was classified generally to subchapter II (§1437aa et seq.) of chapter 8 of this title, was repealed by Pub. L. 104–330, title V, §501(a), Oct. 26, 1996, 110 Stat. 4041. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

The Fair Housing Act, referred to in subsec. (r)(2)(D), is title VIII of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 81, which is classified principally to subchapter I of chapter 45 (§3601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

The Housing and Community Development Act of 1974, referred to in subsec. (r)(2)(E), is Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633. Title I of the Act is classified principally to chapter 69 (§5301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables. Section 810 of the Act which was classified to section 1706e of Title 12, Banks and Banking, was repealed by Pub. L. 101–625, title II, §289(b), Nov. 28, 1990, 104 Stat. 4128.

Section 201 of the Housing and Community Development Amendments of 1978, referred to in subsec. (r)(2)(F), is section 201 of Pub. L. 95–557, title II, Oct. 31, 1978, 92 Stat. 2084, which enacted section 1715z–1a of Title 12, Banks and Banking, and amended section 1715z–1 of Title 12.

The Congregate Housing Services Act of 1978, referred to in subsec. (r)(2)(G), is title IV of Pub. L. 95–557, Oct. 31, 1978, 92 Stat. 2104, which is classified principally to chapter 89 (§8001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 8001 of this title and Tables.

Section 222 of the Housing and Urban-Rural Recovery Act of 1983, referred to in subsec. (r)(2)(H), is section 222 of Pub. L. 98–181, which is set out as a note under section 1701z–6 of Title 12, Banks and Banking.

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (r)(2)(J), is Pub. L. 100–77, July 22, 1987, 101 Stat. 482. Title IV of the Act is classified principally to subchapter IV (§11360 et seq.) of chapter 119 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of this title and Tables.

The Cranston-Gonzalez National Affordable Housing Act, referred to in subsec. (r)(2)(K), is Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4079. Title II of the Act, known as the HOME Investment Partnerships Act, is classified principally to subchapter II (§12721 et seq.) of chapter 130 of this title. Title III of the Act enacted subchapter III (§12851 et seq.) of chapter 130 of this title and sections 1735f–17 and 1735f–18 of Title 12, Banks and Banking, amended sections 1703, 1708, 1709, 1715d, 1715z–20, 1721, and 1735f–9 of Title 12, and enacted provisions set out as notes under sections 1703, 1709, 1713, and 1735f–18 of Title 12. Title IV of the Act, known as the Homeownership and Opportunity Through HOPE Act, enacted subchapter II–A (§1437aaa et seq.) of chapter 8 of this title and subchapter IV (§12871 et seq.) of chapter 130 of this title, amended sections 1437c, 1437f, 1437l, 1437p, 1437r, and 1437s of this title and section 1709 of Title 12, and enacted provisions set out as notes under sections 1437c, 1437aa, and 1437aaa of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

Section 202 of the LEGACY Act of 2003, referred to in subsec. (t), is section 202 of Pub. L. 108–186, which is set out in a note under section 1701q of Title 12, Banks and Banking.

CODIFICATION

In subsec. (c), "the Executive Schedule provided by subchapter II of chapter 53 of title 5" substituted for "the Federal Executive Salary Schedule provided by the Federal Executive Salary Act of 1964" on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Subsec. (d) is comprised of the first sentence of subsec. (d) of section 7 of Pub. L. 89–174. The second sentence of subsec. (d) repealed the second proviso of section 1451(c) of this title.

In subsec. (e), "section 3109 of title 5" substituted for "section 15 of the Act of August 2, 1946" on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5. Prior to the enactment of Title 5, section 15 of the Act of Aug. 2, 1946, was classified to section 55a of former Title 5.

In subsec. (i)(1), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

Section was formerly classified to section 624d of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 1, 1966, 80 Stat. 378.

AMENDMENTS

2003—Subsec. (t). Pub. L. 108–186 added subsec. (t).

2000—Subsec. (r)(2)(J). Pub. L. 106–400 substituted "McKinney-Vento Homeless Assistance Act" for "Stewart B. McKinney Homeless Assistance Act".

1998—Subsec. (r)(5), (6). Pub. L. 105–362 redesignated par. (6) as (5) and struck out former par. (5) which read as follows: "Not later than December 31 of each year, the Secretary shall submit to the Congress a report regarding the use of amounts made available under this subsection during the fiscal year ending on September 30 of that year, including an analysis of the ability of the Department to monitor and evaluate the programs under paragraph (2) and a statement of any needs determined under paragraph (3)."

1994—Subsec. (i)(5). Pub. L. 103–233 struck out before last semicolon "; except that with respect to any mortgage held by the Secretary, the Secretary shall, subject to the availability of amounts provided in appropriation Acts, implement the authority under this paragraph to reduce the interest rate on the mortgage to a rate not less than the rate for recently issued marketable obligations of the Treasury having a comparable maturity if (and to the extent that) such a reduction, when taken together with other actions authorized under the National Housing Act, is necessary to avoid foreclosure on the mortgage; and except that for any mortgage for which the interest rate is reduced pursuant to an appropriation under the preceding clause, if the Secretary determines that the income or ability of the mortgagor to make interest payments has increased, the Secretary may (not more than once for each such mortgage) increase such interest rate to a rate not exceeding the prevailing market rate, as determined by the Secretary".

1992—Subsec. (i)(5). Pub. L. 102–550, §902(b)(1), inserted before semicolon "; except that with respect to any mortgage held by the Secretary, the Secretary shall, subject to the availability of amounts provided in appropriation Acts, implement the authority under this paragraph to reduce the interest rate on the mortgage to a rate not less than the rate for recently issued marketable obligations of the Treasury having a comparable maturity if (and to the extent that) such a reduction, when taken together with other actions authorized under the National Housing Act, is necessary to avoid foreclosure on the mortgage; and except that for any mortgage for which the interest rate is reduced pursuant to an appropriation under the preceding clause, if the Secretary determines that the income or ability of the mortgagor to make interest payments has increased, the Secretary may (not more than once for each such mortgage) increase such interest rate to a rate not exceeding the prevailing market rate, as determined by the Secretary".

Subsec. (i)(6). Pub. L. 102–550, §902(b)(2), inserted before period ", including any provisions relating to the authority or requirements under paragraph (5)".

Subsec. (r)(6). Pub. L. 102–550, §902(c), amended first sentence generally. Prior to amendment, first sentence read as follows: "There is authorized to be appropriated to carry out this subsection $25,000,000 for fiscal year 1991."

Subsec. (s). Pub. L. 102–550, §929, added subsec. (s).

1990—Subsec. (r)(1). Pub. L. 101–625, §954(a)(1), inserted "and collecting and maintaining data for such purposes" before periods at end of first and last sentences.

Subsec. (r)(2)(K). Pub. L. 101–625, §954(a)(2), added subpar. (K).

Subsec. (r)(3). Pub. L. 101–625, §954(a)(3), inserted "and collecting and maintaining data pursuant to the authority under this subsection," after comma and "and collecting and maintaining data for such purposes" before period at end.

Subsec. (r)(4)(A). Pub. L. 101–625, §954(a)(4)(A), inserted "and collecting and maintaining data for such purposes" after "subsection".

Subsec. (r)(4)(B). Pub. L. 101–625, §954(a)(4)(B), inserted "and to collect and maintain data for such purposes" after "paragraph (2)".

1989—Subsec. (e). Pub. L. 101–235, §141, inserted at end "The Secretary is authorized to enter into contracts with private companies for the provision of such managerial support to the Federal Housing Administration as the Secretary determines to be appropriate, including but not limited to the management of insurance risk and the improvement of the delivery of mortgage insurance."

Subsec. (o)(2)(A). Pub. L. 101–235, §123(1), substituted "15-calendar day period beginning on the day" for "first period of 15 calendar days of continuous session of Congress which occurs" and struck out "of continuous session" before "prior to its being published".

Subsec. (o)(2)(B). Pub. L. 101–235, §123(2), struck out "of continuous session of Congress" before "prior to its being published".

Subsec. (o)(3). Pub. L. 101–235, §123(3)(A), substituted "expiration of the 30-calendar day period beginning on the day" for "first period of 30 calendar days of continuous session of Congress which occurs".

Pub. L. 101–235, §123(3)(B), substituted "Any regulation implementing any provision of the Department of Housing and Urban Development Reform Act of 1989 that authorizes the imposition of a civil money penalty

may not become effective until after the expiration of a public comment period of not less than 60 days." for "If within such 30-day period, either Committee has reported out or been discharged from further consideration of a joint resolution of disapproval or other legislation which is intended to modify or invalidate the rule or regulation or any portion thereof, the rule or regulation or portion thereof so addressed shall not become effective for a period of 90 calendar days from the date of Committee action or discharge unless the House to which such Committee reports has rejected such resolution or legislation, in which case the rule or regulation may go into effect only after the expiration of the 30 calendar days described in the first sentence of this paragraph if the other House does not have such a resolution or legislation pending or adopted, and if the requirements of section 553 of title 5 are met."

Subsec. (o)(5). Pub. L. 101–235, §123(4), struck out par. (5) which read as follows: "Congressional inaction on any rule or regulation shall not be deemed an expression of approval of the rule or regulation involved."

Subsec. (o)(6). Pub. L. 101–235, §123(4), struck out par. (6) which read as follows: "For purposes of this subsection—

"(A) continuity of session is broken only by an adjournment of Congress sine die;

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of calendar days of continuous session of Congress; and

"(C) the term 'rule or regulation' does not include the setting of interest rates pursuant to section 235 or 236 of the National Housing Act."

Subsec. (q). Pub. L. 101–235, §106, added subsec. (q).

Subsec. (r). Pub. L. 101–235, §124, added subsec. (r).

1988—Subsec. (o)(7). Pub. L. 100–242 added par. (7).

1984—Subsec. (o)(6)(C). Pub. L. 98–479 substituted "section 235 or 236 of the National Housing Act" for "section 3 of Public Law 90–301".

1980—Subsec. (o)(3). Pub. L. 96–399 substituted "30" for "20" wherever appearing.

1978—Subsec. (n). Pub. L. 95–557, §316, inserted "or facilities, or to assist in establishing, equipping, and operating interagency day care facilities" after "a day care center facility", substituted "any such day care center" for "such a day care center" and inserted provision relating to limited start-up costs in an amount limited to 3 per centum of the first year's operating budget, but not to exceed $3,500.

Subsec. (o). Pub. L. 95–557, §324, added subsec. (o).

Subsec. (p). Pub. L. 95–557, §908, added subsec. (p).

1976—Subsec. (c). Pub. L. 94–375, §17(d), substituted "six" for "seven" in proviso.

Subsec. (n). Pub. L. 94–375, §21, added subsec. (n).

1970—Subsec. (e). Pub. L. 91–609, §906, substituted "for individuals not to exceed the per diem equivalent to the highest rate for grade GS–18 of the General Schedule under section 5332 of title 5" for "not to exceed $100 per diem for individuals".

Subsecs. (h) to (l). Pub. L. 91–609, §905, added subsecs. (h) to (l).

Subsec. (m). Pub. L. 91–609, §120(c), added subsec. (m).

1968—Subsec. (b). Pub. L. 90–448 repealed subsec. (b) which restricted transfer of functions in connection with secondary market operations of the Federal National Mortgage Association.

Subsec. (c). Pub. L. 90–284 increased from six to seven the number of positions in the Department whose compensation may be fixed at annual rate applicable to positions in level V.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96–399, title III, §334(b), Oct. 8, 1980, 94 Stat. 1653, provided that: "The amendment made by subsection (a) [amending this section] shall apply only to rules and regulations which are published as final on or after the date of enactment of this Act [Oct. 8, 1980]."

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–448 effective from and after a date, no more than 120 days following Aug. 1, 1968, as established by the Secretary of Housing and Urban Development, see section 808 of Pub. L. 90–448, set out as an Effective Date note under section 1716b of Title 12, Banks and Banking.

REPORT ON SINGLE FAMILY AND MULTIFAMILY HOMES

Pub. L. 105–276, title V, §591, Oct. 21, 1998, 112 Stat. 2652, provided that:

"(a) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act [Oct. 21, 1998], the Inspector General of the Department of Housing and Urban Development shall submit to the Congress a report, which shall include information relating to—

"(1) with respect to 1- to 4-family dwellings owned by the Department of Housing and Urban Development, on a monthly average basis—

"(A) the total number of units in those dwellings;

"(B) the number and percentage of units in those dwellings that are unoccupied, and their average period of vacancy, and the number and percentage of units in those dwellings that have been unoccupied for more than 1 year, as of that date; and

"(C) the number and percentage of units in those projects that are determined by the Inspector General to be substandard, based on any—

"(i) lack of hot or cold piped water;

"(ii) lack of working toilets;

"(iii) regular and prolonged breakdowns in heating;

"(iv) dangerous electrical problems;

"(v) unsafe hallways or stairways;

"(vi) leaking roofs, windows, or pipes;

"(vii) open holes in walls and ceilings; and

"(viii) indications of rodent infestation; and

"(2) with respect to multifamily housing projects (as that term is defined in section 203 of the Housing and Community Development Amendments of 1978 [12 U.S.C. 1701z–11]) owned by the Department of Housing and Urban Development on a monthly average basis—

"(A) the total number of units in those projects;

"(B) the number and percentage of units in those projects that are unoccupied, and their average period of vacancy, and the number and percentage of units in those projects that have been unoccupied for more than 1 year, as of that date; and

"(C) the number and percentage of units in those projects that are determined by the Inspector General to be substandard, based on any—

"(i) lack of hot or cold piped water;

"(ii) lack of working toilets;

"(iii) regular and prolonged breakdowns in heating;

"(iv) dangerous electrical problems;

"(v) unsafe hallways or stairways;

"(vi) leaking roofs, windows, or pipes;

"(vii) open holes in walls and ceilings; and

"(viii) indications of rodent infestation; and

"(3) the Department's plans and operations to address vacancies and substandard physical conditions described in paragraphs (1) and (2).

"(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act [Oct. 21, 1998]."

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior

to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See sections 1001(2) and 1013 of Title 5, Government Organization and Employees.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

[1] *See References in Text note below.*

§3535a. Working capital fund

There is hereby established in the United States Treasury, pursuant to section 3535(f) of this title, a working capital fund for the Department of Housing and Urban Development (referred to in this paragraph as the "Fund"): *Provided*, That amounts transferred to the Fund under this heading shall be available for Federal shared services used by offices and agencies of the Department, and for such portion of any office or agency's printing, records management, space renovation, furniture, or supply services as the Secretary determines shall be derived from centralized sources made available by the Department to all offices and agencies and funded through the Fund: *Provided further*, That of the amounts made available in this title [1] for salaries and expenses under the headings "Executive Offices", "Administrative Support Offices", "Program Office Salaries and Expenses", and "Government National Mortgage Association", the Secretary shall transfer to the Fund such amounts, to remain available until expended, as are necessary to fund services, specified in the first proviso, for which the appropriation would otherwise have been available, and may transfer not to exceed an additional $10,000,000, in aggregate, from all such appropriations, to be merged with the Fund and to remain available until expended for use for any office or agency: *Provided further*, That amounts in the Fund shall be the only amounts available to each office or agency of the Department for the services, or portion of services, specified in the first proviso: *Provided further*, That with respect to the Fund, the authorities and conditions under this heading shall supplant the authorities and conditions provided under section 3535(f) of this title.

(Pub. L. 114–113, div. L, title II, Dec. 18, 2015, 129 Stat. 2868.)

EDITORIAL NOTES

REFERENCES IN TEXT

This heading, referred to in text, refers to the heading "WORKING CAPITAL FUND" of title II of div. L of the Consolidated Appropriations Act, 2016, Pub. L. 114–113, which is classified to this section.

The amounts made available in this title for salaries and expenses under the headings "Executive Offices", "Administrative Support Offices", "Program Office Salaries and Expenses", and "Government National Mortgage Association", referred to in text, refer to the amounts made available under those headings in title II of div. L of the Consolidated Appropriations Act, 2016, Pub. L. 114–113, which are not classified to the Code.

CODIFICATION

Section was enacted as part of the Consolidated Appropriations Act, 2016, and not as part of the Department of Housing and Urban Development Act which comprises this chapter.

[1] *See References in Text note below.*

§3536. Annual reports

The Secretary shall, as soon as practicable after the end of each calendar year, make a report to the

President for submission to the Congress on the activities of the Department during the preceding calendar year. The report required under this section shall include the reports required under paragraphs (2) and (6) of section 3608(e) of this title, the reports required under subsections (a) and (b) of section 4856 of this title, the report required under section 1701o of title 12, and the report required under section 3533(e)(2) of this title.

(Pub. L. 89–174, §8, Sept. 9, 1965, 79 Stat. 670; Pub. L. 106–569, title XI, §1103(e), Dec. 27, 2000, 114 Stat. 3031.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 624e of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 1, 1966, 80 Stat. 378.

AMENDMENTS

2000—Pub. L. 106–569 inserted at end "The report required under this section shall include the reports required under paragraphs (2) and (6) of section 3608(e) of this title, the reports required under subsections (a) and (b) of section 4856 of this title, the report required under section 1701o of title 12, and the report required under section 3533(e)(2) of this title."

STATUTORY NOTES AND RELATED SUBSIDIARIES

PERFORMANCE GOALS FOR DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Pub. L. 102–550, title IX, §925(a), Oct. 28, 1992, 106 Stat. 3884, provided that:

"(1) IN GENERAL.—The Secretary of the Department of Housing and Urban Development (hereafter in this Act [see Short Title of 1992 Amendment note set out under section 5301 of this title] referred to as the 'Secretary') may establish performance goals for the major programs of the Department of Housing and Urban Development in order to measure progress towards meeting the objectives of national housing policy.

"(2) FORM OF GOALS.—The performance goals referred to in paragraph (1) shall be expressed in terms sufficient to measure progress.

"(3) REPORT.—The Secretary shall include in the Secretary's annual report to the Congress a description of the progress made in attaining the performance goals for each program, citing the results achieved in each program for the previous year.

"(4) FAILURE TO MEET GOALS.—If a performance standard or goal has not been met, the description under paragraph (3) shall include an explanation of why the goal was not met, propose plans for achieving the performance goal, and recommend any legislative or regulatory changes necessary for achievement of the goal."

ANNUAL REPORT ON CHARACTERISTICS OF FAMILIES IN ASSISTED HOUSING

Pub. L. 100–242, title I, §166, Feb. 5, 1988, 101 Stat. 1864, as amended by Pub. L. 101–625, title IX, §954(b), Nov. 28, 1990, 104 Stat. 4420, provided that:

"(a) IN GENERAL.—The Secretary of Housing and Urban Development shall include in the annual report under section 8 of the Housing and Urban Development Act [probably means section 8 of the Department of Housing and Urban Development Act, 42 U.S.C. 3536] descriptions of the characteristics of families assisted under each of the following programs of assistance: public housing, section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] (other than subsection (o) of such section), section 8(o) of the United States Housing Act of 1937, and section 202 of the Housing Act of 1959 [12 U.S.C. 1701q].

"(b) SPECIFIC REQUIREMENTS.—The descriptions required in subsection (a) shall include information with respect to—

"(1) family size, including the number of children;

"(2) amount and sources of family income;

"(3) the age, race, and sex of family members; and

"(4) whether the head of the family (or the spouse of such person) is a member of the armed forces.

"(c) COLLECTION AND MAINTENANCE OF DATA.—The Secretary shall collect and maintain data necessary to carry out the purposes of this section and shall coordinate such efforts, to the greatest extent

possible, with activities and responsibilities under section 8 of the Department of Housing and Urban Development Act [42 U.S.C. 3536]."

§3536a. Report on interagency family economic empowerment strategies

The Secretary of Housing and Urban Development, in consultation with the Secretary of Labor, shall submit a report to the Congress annually that describes—

(1) any interagency strategies of such Departments that are designed to improve family economic empowerment by linking housing assistance with essential supportive services, such as employment counseling and training, financial education and growth, childcare, transportation, meals, youth recreational activities, and other supportive services; and

(2) any actions taken in the preceding year to carry out such strategies and the extent of progress achieved by such actions.

(Pub. L. 114–201, title VI, §601, July 29, 2016, 130 Stat. 812.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Housing Opportunity Through Modernization Act of 2016, and not as part of the Department of Housing and Urban Development Act which comprises this chapter.

§3537. Separability

Notwithstanding any other evidence of the intent of Congress, it is hereby declared to be the intent of Congress that if any provision of this chapter, or the application thereof to any persons or circumstances, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this chapter or its application to other persons and circumstances, but shall be confined in its operation to the provision of this chapter, or the application thereof to the persons and circumstances, directly involved in the controversy in which such judgment shall have been rendered.

(Pub. L. 89–174, §10, Sept. 9, 1965, 79 Stat. 671.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 89–174, Sept. 9, 1965, 79 Stat. 667, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3531 of this title and Tables.

CODIFICATION

Section was formerly classified to section 624f of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 1, 1966, 80 Stat. 378.

§3537a. Prohibition of advance disclosure of funding decisions

(a) Prohibited actions

During any selection process, no officer or employee of the Department of Housing and Urban Development shall knowingly disclose any covered selection information regarding such selection, directly or indirectly, to any person other than a person authorized by the Secretary to receive such information.

(b) Administrative remedies

If the Secretary receives or obtains information providing a reasonable basis to believe that a violation of subsection (a) has occurred, the Secretary shall—

(1) in the case of a selection that has not been made, determine whether to terminate the selection process or take other appropriate actions; and

(2) in the case of a selection that has been made, determine whether to—

(A) void or rescind the selection, subject to review and determination on the record after opportunity for a hearing;

(B) impose sanctions upon the violating applicant selected, subject to review and determination on the record after opportunity for a hearing;

(C) permit the violating applicant selected to continue to participate in the program; or

(D) take any other actions that the Secretary considers appropriate.

(c) Civil money penalties

(1) In general

Whenever any employee of the Department knowingly and materially violates the prohibition in subsection (a), the Secretary may impose a civil money penalty on the employee in accordance with the provisions of this subsection. This penalty shall be in addition to any other available civil remedy or any available criminal penalty and may be imposed whether or not the Secretary takes other disciplinary actions.

(2) Amount

The amount of the penalty, as determined by the Secretary, may not exceed $10,000 for each violation.

(3) Agency procedures

(A) Establishment

The Secretary shall establish standards and procedures governing the imposition of civil money penalties under this subsection. The standards and procedures—

(i) shall provide for the Secretary or other official of the Department to make the determination to impose a penalty or to use an administrative entity to make the determination;

(ii) shall provide for the imposition of a penalty only after the employee has been given an opportunity for a hearing on the record; and

(iii) may provide for review of any determination or order, or interlocutory ruling, arising from a hearing.

(B) Final orders

If no hearing is requested within 15 days of receipt of the notice of opportunity for hearing, the imposition of the penalty shall constitute a final and unappealable order. If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order. If the Secretary does not review the determination or order within 90 days of the issuance of the determination or order, the determination or order shall be final.

(C) Factors in determining amount of penalty

In determining the amount of a penalty under paragraph (2), consideration shall be given to such factors as the gravity of the offense, any history of prior disclosures of information on pending funding decisions made after December 15, 1989, ability to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary may determine in regulations to be appropriate.

(D) Reviewability of imposition of a penalty

The Secretary's determination or order imposing a penalty under paragraph (1) shall not be subject to review, except as provided in paragraph (4).

(4) Judicial review of agency determination

(A) In general

After exhausting all administrative remedies established by the Secretary under paragraph (3)(A), an employee against whom the Secretary has imposed a civil money penalty under paragraph (1) may obtain a review of the penalty and such ancillary issues (such as any administrative sanctions under 24 C.F.R. part 25) as may be addressed in the notice of determination to impose a penalty under paragraph (3)(A)(i) in the appropriate court of appeals of the United States, by filing in such court, within 20 days after the entry of such order or determination, a written petition praying that the Secretary's order or determination be modified or be set aside in whole or in part.

(B) Objections not raised in hearing

The court shall not consider any objection that was not raised in the hearing conducted pursuant to paragraph (3)(A) unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection. If any party demonstrates to the satisfaction of the court that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at the hearing, the court shall remand the matter to the Secretary for consideration of such additional evidence.

(C) Scope of review

The decisions, findings, and determinations of the Secretary shall be reviewed pursuant to section 706 of title 5.

(D) Order to pay penalty

Notwithstanding any other provision of law, in any such review, the court shall have the power to order payment of the penalty imposed by the Secretary.

(5) Action to collect penalty

If any employee fails to comply with the Secretary's determination or order imposing a civil money penalty under paragraph (1), after the determination or order is no longer subject to review as provided by paragraphs (3)(A) and (4), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against the employee and such other relief as may be available. The monetary judgment may, in the court's discretion, include the attorneys' fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the Secretary's determination or order imposing the penalty shall not be subject to review.

(6) Settlement by Secretary

The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this subsection.

(7) Deposit of penalties

The Secretary shall deposit all civil money penalties collected under this subsection into miscellaneous receipts of the Treasury.

(d) Criminal penalties

Whoever willfully violates subsection (a) by making a disclosure prohibited by subsection (a) to any applicant, or any officer, employee, representative, agent, or consultant of any applicant, shall be imprisoned not more than 5 years, or fined in accordance with title 18, or both.

(e) Definitions

For purposes of this section:

(1) Applicant

The term "applicant" means any applicant or candidate that is being considered for receiving

assistance.

(2) Assistance

The term "assistance" means any grant, loan, subsidy, guarantee, or other financial assistance under a program administered by the Secretary that provides by statute, regulation, or otherwise for the competitive distribution of such assistance. The term does not include any mortgage insurance provided under a program administered by the Secretary.

(3) Covered selection information

The term "covered selection information" means—

(A) any information that is contained in any application or request for assistance, or any information regarding the decision of the Secretary to make available assistance or other information that is determined by the Secretary to be information that is not generally available to the public (not including program requirements and timing of the decision to make assistance available); and

(B) any information that is required by statute, regulation, or order to be confidential.

(4) Knowingly

The term "knowingly" means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

(5) Selection

The term "selection" means the determination of which applicants for assistance are to receive assistance under the program.

(6) Selection process

The term "selection process" means the period with respect to a selection for assistance that begins with the development, preparation, and issuance of a solicitation or request for applications for the assistance and concludes with the selection of recipients of assistance, and includes the evaluation of applications.

(f) Regulations

The Secretary shall issue such regulations as the Secretary deems appropriate to implement this section.

(g) Applicability

This section shall apply only with respect to violations that occur on or after December, 15, 1989.

(Pub. L. 89–174, §12, as added Pub. L. 101–235, title I, §103, Dec. 15, 1989, 103 Stat. 1995.)

§3537b. Repealed. Pub. L. 104–65, §11(b)(1), Dec. 19, 1995, 109 Stat. 701

Section, Pub. L. 89–174, §13, as added Pub. L. 101–235, title I, §112, Dec. 15, 1989, 103 Stat. 2016; amended Pub. L. 102–550, title IX, §926, Oct. 28, 1992, 106 Stat. 3885, related to registration of and reports by persons spending money to influence Department decisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1996, except as otherwise provided, see section 24 of Pub. L. 104–65, set out as an Effective Date note under section 1601 of Title 2, The Congress.

§3537c. Prohibition of lump-sum payments

In providing relocation assistance in connection with any program administered by the Department of Housing and Urban Development, the Secretary may not make lump-sum payments to any

displaced residential tenant, except where necessary to cover—

(1) moving expenses;

(2) a downpayment on the purchase of a replacement residence, including a condominium unit or membership in a cooperative housing association; or

(3) any incidental expenses related to paragraph (1) or (2).

(Pub. L. 89–174, §14, as added Pub. L. 102–550, title IX, §922, Oct. 28, 1992, 106 Stat. 3884.)

§3538. Rescheduling and refinancing of Federal loans

The Secretary of Housing and Urban Development is authorized to refinance any note or other obligation which is held by him in connection with any loan made by the Department of Housing and Urban Development or its predecessor in interest, or which is included within the revolving fund for liquidating programs established by the Independent Offices Appropriation Act of 1955 [12 U.S.C. 1701g–5], where he finds such refinancing necessary because of the loss, destruction, or damage (as a result of a major disaster) to property or facilities securing such obligations. The Secretary may authorize a suspension in the payment of principal and interest charges on, and an additional extension in the maturity of, any such loan for a period not to exceed five years if he determines that such action is necessary to avoid severe financial hardship.

(Pub. L. 91–606, title II, §236(b), Dec. 31, 1970, 84 Stat. 1754.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Independent Offices Appropriation Act of 1955, referred to in text, is act June 24, 1954, ch. 359, 68 Stat. 272. Provisions of the act which established the revolving fund for liquidating programs are classified to section 1701g–5 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was not enacted as part of the Department of Housing and Urban Development Act which comprises this chapter.

Section was formerly classified to section 4455(b) of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as an Effective Date of 1970 Amendment note under section 165 of Title 26, Internal Revenue Code.

§3539. Housing and Urban Development Disaster Assistance Fund

The Secretary of Housing and Urban Development is authorized to establish a fund and to transfer to such fund from appropriations or funds available to the Department of Housing and Urban Development, such amounts as may be necessary to provide disaster assistance for which the Secretary has been requested by the President to make resources available pursuant to the authority of the Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.].

(Pub. L. 92–383, title IV, §406, Aug. 14, 1972, 86 Stat. 553; 1973 Reorg. Plan No. 1, §§1, 3(a)(1), eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089; Ex. Ord. No. 11749, §2(1), Dec. 10, 1973, 38 F.R. 34177; Ex. Ord. No. 12148, §4–201, July 20, 1979, 44 F.R. 43239; Pub. L. 100–707, title I, §109(s), Nov. 23, 1988, 102 Stat. 4710.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Disaster Relief and Emergency Assistance Act, referred to in text, is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, known as the Robert T. Stafford Disaster Relief and Emergency Assistance Act, which is classified principally to chapter 68 (§5121 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

CODIFICATION

Section was not enacted as part of the Department of Housing and Urban Development Act which comprises this chapter.

Section was formerly classified to section 4413a of this title.

AMENDMENTS

1988—Pub. L. 100–707 substituted "Disaster Relief and Emergency Assistance Act" for "Disaster Relief Act of 1970 (84 Stat. 1744)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

"President" substituted in text for "Director of the Office of Emergency Preparedness" pursuant to section 1 of Reorganization Plan No. 1 of 1973, eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089, set out in the Appendix to Title 5, Government Organization and Employees.

Previously, functions of Director of Office of Emergency Preparedness under Disaster Relief Act of 1970, transferred to President by Reorg. Plan No. 1 of 1973, had been transferred to Secretary of Housing and Urban Development by Ex. Ord. No. 11749, Dec. 10, 1973, 38 F.R. 34177, which superseded Ex. Ord. No. 11725, June 27, 1973, 38 F.R. 17175, which had provided for a similar transfer to Secretary of Housing and Urban Development. Both of these Executive Orders were subsequently revoked, see Delegation of Functions note below.

Office of Emergency Preparedness [formerly Office of Emergency Planning], including offices of Director, Deputy Director, Assistant Directors, and Regional Directors, abolished and functions vested by law in Office of Emergency Preparedness or Director of Office of Emergency Preparedness transferred to President of United States by sections 1 and 3(a)(1) of Reorg. Plan No. 1 of 1973, eff. July 1, 1973, set out in the Appendix to Title 5, Government Organization and Employees.

DELEGATION OF FUNCTIONS

Functions of President under Disaster Relief Act of 1970 delegated to Secretary of Homeland Security by section 4–201 of Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, as amended, set out as a note under section 5195 of this title. Sections 5–112 and 5–113 of Ex. Ord. No. 12148, revoked Ex. Ord. Nos. 11725 and 11749, respectively, which had previously transferred President's functions under Disaster Relief Act of 1970 to Secretary of Housing and Urban Development. See Transfer of Functions note above.

§3539a. Department of Housing and Urban Development Nonrecurring Expenses Fund

There is hereby established in the Treasury of the United States a fund to be known as the "Department of Housing and Urban Development Nonrecurring Expenses Fund" (the Fund): *Provided*, That unobligated balances of expired discretionary funds appropriated for this or any succeeding fiscal year from the General Fund of the Treasury to the Department of Housing and Urban Development by this or any other Act may be transferred (not later than the end of the fifth fiscal year after the last fiscal year for which such funds are available for the purposes for which they were appropriated) into the Fund: *Provided further*, That amounts deposited in the Fund shall be available until expended, in addition to such other funds as may be available for such purposes, for capital needs of the Department, including facilities infrastructure and information technology infrastructure, subject to approval by the Office of Management and Budget: *Provided further*, That amounts in the Fund may be obligated only after the House and Senate Committees on Appropriations are notified at least 15 days in advance of the planned use of funds.

(Pub. L. 118–42, div. F, title II, §235, Mar. 9, 2024, 138 Stat. 384.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Department of Housing and Urban Development Appropriations Act, 2024, and also as part of the Consolidated Appropriations Act, 2024, and not as part of the Department of Housing and Urban Development Act which comprises this chapter.

§3540. Repealed. Pub. L. 100–242, title IV, §420, Feb. 5, 1988, 101 Stat. 1913

Section, Pub. L. 95–128, title IX, §904, Oct. 12, 1977, 91 Stat. 1149, required annual publication of prototype housing costs for one- to four-family dwelling units.

§3541. Paperwork reduction

(a) Declaration of policy

The Congress finds and declares—

(1) that various departments, agencies, and instrumentalities of the Federal Government with responsibilities involving housing and housing finance programs, require, approve, use or otherwise employ a variety of different forms as residential mortgages (or deeds of trust or similar security instruments) as notes secured by those mortgages, and for applications, appraisals and other purposes, and that such duplication of forms constitutes a paperwork burden that adds to the costs imposed on the Nation's homeowners and home buyers;

(2) that unnecessary paperwork impairs the effectiveness of Federal housing and housing finance programs;

(3) that both single-family and multi-family programs are affected; and

(4) that simplification of paperwork imposed by Federal housing and housing finance programs would contribute to achieving the Nation's housing goals by reducing housing costs.

(b) Uniform legal and other forms for use by agencies in housing programs

(1) Not later than October 1, 1980, the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Secretary of Veterans Affairs shall, consistent with provisions of law governing the conduct of housing programs, employ in their respective programs—

(A) uniform single-family and multi-family note and mortgage forms;

(B) a uniform application form for mortgage approval and commitment for mortgage insurance;

(C) a uniform form for computation of the monthly net effective income of applicants;

(D) a uniform property appraisal form;

(E) a uniform settlement statement which shall satisfy the requirements of the Real Estate Settlement Procedures Act of 1974 [12 U.S.C. 2601 et seq.]; and

(F) such other consolidated or simplified forms, particularly those which solicit identical or nearly identical information from the same persons in the conduct of two or more such programs, the consolidation or simplification of which the Secretaries of Housing and Urban Development and Agriculture and the Secretary of Veterans Affairs mutually agree would contribute to a reduction in the paperwork and regulatory burden of such programs.

(2) The Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Secretary of Veterans Affairs shall, consistent with provisions of law governing their respective programs, provide by regulation for the elimination of forms which solicit information which is already available from other available sources through indexing or other means of identifying such forms.

(3) Each agency referred to in subsection (b) may employ riders, addenda, or similar forms of modification agreements to adapt such uniform forms to its respective programs and policies, consistent with the goals of minimizing the use and extent of such modification agreements and maximizing the suitability of such forms for the use of all participants, public and private.

(c) Coordination and reports by Director of Office of Management and Budget

The Director of the Office of Management and Budget shall coordinate and monitor the development and implementation by Federal departments and agencies of the efforts required by subsection (b) and shall report to the Congress on such development and implementation and with respect to any provisions of law which unnecessarily prevent such departments and agencies from carrying out the provisions of this section as part of each report required under Public Law 93–556. Such report shall include an estimate of the reduction of the level of paperwork burden hours of the affected agencies as allocated by the Office of Management and Budget.

(Pub. L. 95–557, title IX, §905, Oct. 31, 1978, 92 Stat. 2126; Pub. L. 96–153, title III, §328, Dec. 21, 1979, 93 Stat. 1121; Pub. L. 98–479, title II, §204(n)(4), Oct. 17, 1984, 98 Stat. 2234; Pub. L. 102–54, §13(q)(10), June 13, 1991, 105 Stat. 281.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Real Estate Settlement Procedures Act of 1974, referred to in subsec. (b)(1)(E), is Pub. L. 93–533, Dec. 22, 1974, 88 Stat. 1724, which is classified principally to chapter 27 (§2601 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 12 and Tables.

Public Law 93–556, referred to in subsec. (c), is Pub. L. 93–556, Dec. 27, 1974, 88 Stat. 1789, which is set out as a note under section 3501 of Title 44, Public Printing and Documents.

CODIFICATION

Section was not enacted as part of the Department of Housing and Urban Development Act which comprises this chapter.

AMENDMENTS

1991—Subsec. (b)(1), (2). Pub. L. 102–54 substituted "Secretary of Veterans Affairs" for "Administrator of Veterans' Affairs" wherever appearing.

1984—Subsec. (b)(1)(E). Pub. L. 98–479 inserted "of 1974" after "Act".

1979—Subsec. (a). Pub. L. 96–153 reenacted subsec. (a) without change.

Subsec. (b). Pub. L. 96–153 substituted, in provision preceding par. (1)(A), "Not later than October 1, 1980, the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Administrator of Veterans' Affairs shall, consistent with provisions of law governing the conduct of housing programs," for "Insofar as it is practicable and to the extent that such action would result in a reduction in paperwork and regulatory burden, the Department of Housing and Urban Development and the Veterans' Administration shall", inserted reference to Secretary of Agriculture in par. (1)(F), added par. (2), redesignated former par. (2) as (3), and struck out former par. (3), which authorized the President to require the Farmers Home

Administration and Administrator of the Farmers Home Administration to comply with the requirements of this section if such compliance would contribute to a reduction in the paperwork and regulatory burden of housing and housing finance programs administered by that agency.

Subsec. (c). Pub. L. 96–153 inserted provision requiring the reports to include an estimate of the reduction of the level of paperwork burden hours of the affected agencies as allocated by the Office of Management and Budget.

§3542. Public notice and comment regarding demonstration programs not expressly authorized in law

(a) No demonstration program not expressly authorized in law may be commenced by the Secretary of Housing and Urban Development until (1) a description of such demonstration program is published in the Federal Register, which description may be included in a notice of funding availability; and (2) there expires a period of sixty calendar days following the date of such publication, during which period the Secretary shall fully consider any public comments submitted with respect to such demonstration program.

(b) Nothing in this section may be considered to authorize the conducting of any demonstration program by the Secretary of Housing and Urban Development.

(Pub. L. 98–181, title I [title IV, §470], Nov. 30, 1983, 97 Stat. 1237.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Supplemental Appropriations Act, 1984, and not as part of the Department of Housing and Urban Development Act which comprises this chapter.

§3543. Preventing fraud and abuse in Department of Housing and Urban Development programs

(a) Disclosure of social security account number

As a condition of initial or continuing eligibility for participation in any program of the Department of Housing and Urban Development involving loans, grants, interest or rental assistance of any kind, or mortgage or loan insurance, and to ensure that the level of benefits provided under such programs is proper, the Secretary of Housing and Urban Development may require that an applicant or participant (including members of the household of an applicant or participant) disclose his or her social security account number or employer identification number to the Secretary.

(b) Definitions

For purposes of this section, the terms "applicant" and "participant" shall have such meanings as the Secretary of Housing and Urban Development by regulation shall prescribe. Such terms shall not include persons whose involvement is only in their official capacity, such as State or local government officials or officers of lending institutions.

(Pub. L. 100–242, title I, §165, Feb. 5, 1988, 101 Stat. 1864.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Housing and Community Development Act of 1987, and not as part of the Department of Housing and Urban Development Act which comprises this chapter.

§3544. Preventing fraud and abuse in housing and urban development programs

(a) Definitions

As used in this section:

(1) Secretary

The term "Secretary" means the Secretary of Housing and Urban Development.

(2) Applicant; participant

The terms "applicant" and "participant" shall have such meanings as the Secretary by regulation shall prescribe, except that such terms shall include members of an applicant's or participant's household, and such terms shall not include persons whose involvement is only in their official capacity, such as State or local government officials and officers of lending institutions.

(3) Public housing agency

The term "public housing agency" means any agency described in section 3(b)(6) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)(6)].

(4) Program of the Department of Housing and Urban Development

The term "program of the Department of Housing and Urban Development" includes Indian housing programs assisted under title II [1] of the United States Housing Act of 1937.

(b) Applicant and participant consent

As a condition of initial or continuing eligibility for participation in any program of the Department of Housing and Urban Development involving initial and periodic review of an applicant's or participant's income, and to assure that the level of benefits provided under the program is correct, the Secretary may require that an applicant or participant—

(1) sign a consent form approved by the Secretary authorizing the Secretary, the public housing agency, or the owner responsible for determining eligibility for or level of benefits to request current or previous employers to verify salary and wage information pertinent to the applicant's or participant's eligibility or level of benefits;

(2) sign a consent form approved by the Secretary authorizing the Secretary or the public housing agency responsible for determining eligibility or level of benefits to request a State agency charged with the administration of the State unemployment law to release wage information with respect to such applicant or participant or information regarding whether such applicant or participant is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received (or to be received) by such applicant or participant;

(3) sign a consent form approved by the Secretary authorizing the Secretary to request the Commissioner of Social Security and the Secretary of the Treasury to release information pursuant to section 6103(l)(7)(D)(ix) of title 26 with respect to such applicant or participant for the sole purpose of the Secretary verifying income information pertinent to the applicant's or participant's eligibility or level of benefits; and

(4) only in the case of an applicant or participant that is a member of a family described in section 3(f)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(f)(2)), sign an agreement under which the applicant or participant agrees to provide to the appropriate public housing agency, or the owner responsible for determining the participant's eligibility or level of benefits, the information required under section 3(f)(1) of such Act [42 U.S.C. 1437a(f)(1)] for the sole purpose of verifying income information pertinent to the applicant's or participant's eligibility or level of benefits, and comply with such agreement.

Except as provided in this subsection, this consent form shall not be used to request taxpayer return information protected by section 6103 of title 26.

(c) Access to records

(1) Omitted

(2) Applicant and participant protections

(A) In order to protect applicants for, and recipients of, benefits under the programs of the Department of Housing and Urban Development from the improper use of information obtained pursuant to the requirements of section 503(i) of this title from the State agency charged with the administration of the State unemployment compensation law, pursuant to section 3(d)(1) of the United States Housing Act of 1937 [42 U.S.C. 1437a(d)(1)] from the applicant or participant, or pursuant to section 6103(l)(7)(D)(ix) of title 26 from the Commissioner of Social Security or the Secretary of the Treasury, officers and employees of the Department of Housing and Urban Development and (in the case of information obtained pursuant to such section 503(i) or 3(d)(1) [42 U.S.C. 1437a(d)(1)]) representatives of public housing agencies may only use such information—

(i) to verify an applicant's or participant's eligibility for or level of benefits; or

(ii) in the case of an owner or public housing agency responsible for determining eligibility for or level of benefits, to inform such owner or public housing agency that an applicant's or participant's eligibility for or level of benefits is uncertain and to request such owner or public housing agency to verify such applicant's or participant's income information.

(B) No Federal, State, or local agency, or public housing agency, or owner responsible for determining eligibility for or level of benefits receiving such information may terminate, deny, suspend, or reduce any benefits of an applicant or participant until such agency or owner has taken appropriate steps to independently verify information relating to—

(i) the amount of the wages, other earnings or income, or unemployment compensation involved,

(ii) whether such applicant or participant actually has (or had) access to such wages, other earnings or income, or benefits for his or her own use, and

(iii) the period or periods when, or with respect to which, the applicant or participant actually received such wages, other earnings or income, or benefits.

(C) Such applicant or participant shall be informed by the agency or owner of the findings made by the agency or owner on the basis of such verified information, and shall be given an opportunity to contest such findings, in the same manner as applies to other information and findings relating to eligibility factors under the program.

(3) Penalty

(A) Any person who knowingly and willfully requests or obtains any information concerning an applicant or participant pursuant to the authority contained in section 503(i) of this title, section 3(d)(1) of the United States Housing Act of 1937 [42 U.S.C. 1437a(d)(1)], or section 6103(l)(7)(D)(ix) of title 26 without consent or agreement, as applicable, pursuant to subsection (b) of this section or under false pretenses, or any person who knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive it, shall be guilty of a misdemeanor and fined not more than $5,000. The term "person" as used in this paragraph shall include an officer or employee of the Department of Housing and Urban Development, an officer or employee of any public housing agency, and any owner responsible for determining eligibility for or level of benefits (or employee thereof).

(B) Any applicant or participant affected by (i) a negligent or knowing disclosure of information referred to in this section, section 503(i) of this title, section 3(d)(1) of the United States Housing Act of 1937 [42 U.S.C. 1437a(d)(1)], or section 6103(l)(7)(D)(ix) of title 26 about such person by an officer or employee of any public housing agency or owner (or employee thereof), which disclosure is not authorized by this section, such section 503(i), such section 3(d)(1) [42 U.S.C. 1437a(d)(1)], such section 6103(l)(7)(D)(ix), or any regulation implementing this section, such section 503(i), such section 3(d)(1) [42 U.S.C. 1437a(d)(1)], or such section 6103(l)(7)(D)(ix), or for which consent, pursuant to subsection (b) of this section, has not been

granted, or (ii) any other negligent or knowing action that is inconsistent with this section, such section 503(i), such section 3(d)(1) [42 U.S.C. 1437a(d)(1)], such section 6103(l)(7)(D)(ix), or any such implementing regulation may bring a civil action for damages and such other relief as may be appropriate against any officer or employee of any public housing agency or owner (or employee thereof) responsible for any such unauthorized action. The district court of the United States in the district in which the affected applicant or participant resides, in which such unauthorized action occurred, or in which the applicant or participant alleged to be responsible for any such unauthorized action resides, shall have jurisdiction in such matters. Appropriate relief that may be ordered by such district courts shall include reasonable attorney's fees and other litigation costs.

(d) Effective date

(1) In general

Except as provided in paragraphs (2) and (3), the provisions of this section shall take effect on September 30, 1989.

(2) Optional early implementation

At the initiative of a State or an agency of the State, and with the approval of the Secretary of Labor, the amendments made by subsection (c)(1) may be made effective in such State on any date before September 30, 1989, which is more than 90 days after November 7, 1988.

(3) Requirements for State agencies

In the case of any State the legislature of which has not been in session for at least 30 calendar days (whether or not consecutive) between November 7, 1988, and September 30, 1989, the amendments made by subsection (c)(1) shall take effect 30 calendar days after the first day on which such legislature is in session on or after September 30, 1989.

(e) Conditions of release of information by third parties

An applicant or participant under any program of the Department of Housing and Urban Development may not be required or requested to consent to the release of information by third parties as a condition of initial or continuing eligibility for participation in the program unless—

(1) the request for consent is made, and the information secured is maintained, in accordance with this section,[2] section 552a of title 5; and

(2) the consent that is requested is appropriately limited, with respect to time and information relevant and necessary to meet the requirements of this section.

(Pub. L. 100–628, title IX, §904, Nov. 7, 1988, 102 Stat. 3259; Pub. L. 102–550, title IX, §903(a), Oct. 28, 1992, 106 Stat. 3867; Pub. L. 103–66, title III, §3003, Aug. 10, 1993, 107 Stat. 338; Pub. L. 105–276, title V, §508(d)(2), Oct. 21, 1998, 112 Stat. 2529; Pub. L. 106–74, title II, §214(b), Oct. 20, 1999, 113 Stat. 1074.)

EDITORIAL NOTES

REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in subsec. (a)(4), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653. Title II of the Act, which was classified generally to subchapter II (§1437aa et seq.) of chapter 8 of this title, was repealed by Pub. L. 104–330, title V, §501(a), Oct. 26, 1996, 110 Stat. 4041. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

The amendments made by subsection (c)(1), referred to in subsec. (d)(2), (3), mean the amendments made by section 904(c)(1) of Pub. L. 100–628, which enacted section 503(i) and amended section 504(a)(2) of this title. See Codification note below.

CODIFICATION

Section is comprised of section 904 of Pub. L. 100–628. Subsec. (c)(1) of section 904 of Pub. L. 100–628 amended sections 503 and 504 of this title.

Section was enacted as part of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988,

and not as part of the Department of Housing and Urban Development Act which comprises this chapter.

AMENDMENTS

1999—Subsec. (b)(4). Pub. L. 106–74 inserted ", or the owner responsible for determining the participant's eligibility or level of benefits," after "appropriate public housing agency" and substituted "verifying income" for "the public housing agency verifying income".

1998—Subsec. (b)(4). Pub. L. 105–276, §508(d)(2)(A), which directed the amendment of subsec. (b) by adding par. (4) at end, was executed by adding par. (4) after par. (3), to reflect the probable intent of Congress.

Subsec. (c)(2)(A). Pub. L. 105–276, §508(d)(2)(B)(i), in introductory provisions, inserted ", pursuant to section 3(d)(1) of the United States Housing Act of 1937 from the applicant or participant," after "unemployment compensation law" and "or 3(d)(1)" after "such section 503(i)".

Subsec. (c)(3)(A). Pub. L. 105–276, §508(d)(2)(B)(ii)(I), (II), in first sentence, inserted ", section 3(d)(1) of the United States Housing Act of 1937," after "503(i) of this title" and "or agreement, as applicable," after "consent".

Subsec. (c)(3)(B). Pub. L. 105–276, §508(d)(2)(B)(ii)(III), (IV), in first sentence, inserted "section 3(d)(1) of the United States Housing Act of 1937," after "503(i) of this title," and "such section 3(d)(1)," after "such section 503(i)," wherever appearing.

1993—Subsec. (a)(4). Pub. L. 103–66, §3003(1), added par. (4).

Subsec. (b). Pub. L. 103–66, §3003(2)(D), in concluding provisions, substituted "Except as provided in this subsection, this" for "This".

Subsec. (b)(3). Pub. L. 103–66, §3003(2)(A)–(C), added par. (3).

Subsec. (c). Pub. L. 103–66, §3003(5), struck out "State employment" after "Access to" in heading.

Subsec. (c)(2)(A). Pub. L. 103–66, §3003(3)(A)(i), in introductory provisions, inserted "or pursuant to section 6103(l)(7)(D)(ix) of title 26 from the Commissioner of Social Security or the Secretary of the Treasury" after "compensation law" and "(in the case of information obtained pursuant to such section 503(i))" before "representatives".

Subsec. (c)(2)(A)(ii). Pub. L. 103–66, §3003(3)(A)(ii), substituted "owner or public housing agency" for "owner" wherever appearing.

Subsec. (c)(2)(B)(i) to (iii). Pub. L. 103–66, §3003(3)(B), substituted "wages, other earnings or income," for "wages" wherever appearing.

Subsec. (c)(3)(A). Pub. L. 103–66, §3003(4)(A), inserted "or section 6103(l)(7)(D)(ix) of title 26 without consent pursuant to subsection (b) of this section or" after "section 503(i) of this title".

Subsec. (c)(3)(B)(i). Pub. L. 103–66, §3003(4)(B)(i), added cl. (i) and struck out former cl. (i) which read as follows: "a negligent or knowing disclosure of information referred to in this section or in section 503(i) of this title about such person by an officer or employee of any public housing agency or owner (or employee thereof), which disclosure is not authorized by this section, such section 503(i), or any regulation implementing this section or such section 503(i), or".

Subsec. (c)(3)(B)(ii). Pub. L. 103–66, §3003(4)(B)(ii), inserted "such section 6103(l)(7)(D)(ix)," after "503(i)".

1992—Subsec. (e). Pub. L. 102–550 added subsec. (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

INCLUSION OF DISASTER HOUSING ASSISTANCE PROGRAM IN CERTAIN FRAUD AND ABUSE PREVENTION MEASURES

Pub. L. 114–201, title V, §501, July 29, 2016, 130 Stat. 811, provided that: "The Disaster Housing Assistance Program administered by the Department of Housing and Urban Development shall be considered a 'program of the Department of Housing and Urban Development' under section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 3544) for the purpose of income verifications."

RELEASE FORMS

Pub. L. 102–550, title IX, §903(b), Oct. 28, 1992, 106 Stat. 3868, directed Secretary of Housing and Urban Development, not later than the expiration of the 180-day period beginning Oct. 28, 1992, to develop a release form that fulfilled the requirements of this section and provided that during the period beginning Oct. 28, 1992, and ending upon implementation of the use of the new form, the benefits provided to an applicant or participant under any program of Department of Housing and Urban Development, or eligibility for such benefits, could not be terminated, denied, suspended, or reduced because of any failure to sign any form authorizing the release of information from any third party, if the applicant or participant otherwise disclosed all financial information relating to the application or recertification.

[1] See References in Text note below.

[2] So in original. The comma probably should be "and".

§3545. HUD accountability

(a) Notice regarding assistance

(1) Publication of notice of availability

The Secretary shall publish in the Federal Register notice of the availability of any assistance under any program or discretionary fund administered by the Secretary.

(2) Publication of application procedures

The Secretary shall publish in the Federal Register a description of the form and procedures by which application for the assistance may be made, and any deadlines relating to the award or allocation of the assistance. Such description shall be designed to help eligible applicants to apply for such assistance.

(3) Publication of selection criteria

Not less than 30 days before any deadline by which applications or requests for assistance under any program or discretionary fund administered by the Secretary must be submitted, the Secretary shall publish in the Federal Register the criteria by which selection for the assistance will be made. Subject to section 1439 of this title, such criteria shall include any objective measures of housing need, project merit, or efficient use of resources that the Secretary determines are appropriate and consistent with the statute under which the assistance is made available.

(4) Documentation of decisions

(A) The Secretary shall award or allocate assistance only in response to a written application in a form approved in advance by the Secretary, except where other award or allocation procedures are specified in statute.

(B) The Secretary shall ensure that documentation and other information regarding each application for assistance is sufficient to indicate the basis on which any award or allocation was made or denied. The preceding sentence shall apply to—

(i) any application for an award or allocation of assistance made by the Secretary to a State, unit of general local government, or other recipient of assistance, and

(ii) any application for a subsequent award or allocation of such assistance by such State, unit of general local government or other recipient.

(C)(i) The Secretary shall notify the public of all funding decisions made by the Department. The Secretary shall require any State or unit of general local government to notify the public of the award or allocation of such funding to subsequent recipients. The notification shall include the following elements for each funding decision:

(I) the name and address of each funding recipient;

(II) the name or other means of identifying the project, activity, or undertaking for each funding recipient;

(III) the dollar amount of the funding for each project, activity, or undertaking;

(IV) the citation to the statutory, regulatory, or other criteria under which the funding decision was made; and

(V) such additional information as the Secretary deems appropriate for a clear and full understanding of the funding decision.

(ii) The notification referred to in clause (i) of this subsection shall be published as a Notice in the Federal Register at least quarterly.

(iii) For purposes of this subparagraph, the term "funding decision" means the decision of the Secretary to make available grants, loans, or any other form of financial assistance to an individual or to an entity, including (but not limited to) a State or local government or agency thereof (including a public housing agency), an Indian tribe, or a nonprofit organization, under any program administered by the Department that provides, by statute, regulation, or otherwise, for the competitive distribution of financial assistance.

(D) The Secretary shall publish a notice in the Federal Register at least annually informing the public of the allocation of assistance under section 1439(d)(1)(A) of this title.

(E) The Secretary shall ensure that each application and all related documentation and other information referred to in subparagraph (B), including each letter of support, is readily available for public inspection for a period of not less than 5 years, beginning not less than 30 days following the date on which the award or allocation is made.

(5) Emergency exception

The Secretary may waive the requirements of paragraphs (1), (2), and (3) if the Secretary determines that the waiver is required for appropriate response to an emergency. Not less than 30 days after providing a waiver under the preceding sentence, the Secretary shall publish in the Federal Register the Secretary's reasons for so doing.

(b) Disclosures by applicants

The Secretary shall require the disclosure of information with respect to any application for assistance within the jurisdiction of the Department for a project application submitted to the Secretary or to any State or unit of general local government by any applicant who has received or, in the determination of the Secretary, can reasonably be expected to receive assistance within the jurisdiction of the Department in excess of $200,000 in the aggregate during any fiscal year or such lower amount as the Secretary may establish by regulation. Such information shall include the following:

(1) Other government assistance

Information regarding any related assistance from the Federal Government, a State, or a unit of general local government, or any agency or instrumentality thereof, that is expected to be made available with respect to the project or activities for which the applicant is seeking assistance. Such related assistance shall include but not be limited to any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance.

(2) Interested parties

The name and pecuniary interest of any person who has a pecuniary interest in the project or activities for which the applicant is seeking assistance. Persons with a pecuniary interest in the project or activity shall include but not be limited to any developers, contractors, and consultants involved in the application for assistance or the planning, development, or implementation of the project or activity. For purposes of this paragraph, residency of an individual in housing for which assistance is being sought shall not, by itself, be considered a pecuniary interest.

(3) Expected sources and uses

A report satisfactory to the Secretary of the expected sources and uses of funds that are to be made available for the project or activity.

(c) Updating of disclosure

During the period when an application is pending or assistance is being provided, the applicant shall update the disclosure required under the previous subsection within 30 days of any substantial change.

(d) Limitation of assistance

The Secretary shall certify that assistance within the jurisdiction of the Department, as such term is defined in subsection (m), except that for purposes of this subsection such term shall not include any mortgage insurance provided pursuant to title II of the National Housing Act (12 U.S.C. 1707 et seq.) [1] to any housing project shall not be more than is necessary to provide affordable housing after taking account of assistance described in subsection (b)(1). The Secretary shall adjust the amount of such assistance awarded or allocated to an applicant to compensate in whole or in part, as the Secretary determines to be appropriate, for any changes reported under subsection (c).

(e) Administrative remedies

If the Secretary receives or obtains information providing a reasonable basis to believe that a violation of subsection (b) or (c) has occurred, the Secretary shall—

(1) in the case of a selection that has not been made, determine whether to terminate the selection process or take other appropriate actions; and

(2) in the case of a selection that has been made, determine whether to—

(A) void or rescind the selection, subject to review and determination on the record after opportunity for a hearing;

(B) impose sanctions upon the violator, including debarment, subject to review and determination on the record after opportunity for a hearing;

(C) recapture any funds that have been disbursed;

(D) permit the violating applicant selected to continue to participate in the program; or

(E) take any other actions that the Secretary considers appropriate.

The Secretary shall publish in the Federal Register a descriptive statement of each determination made and action taken under this subsection.

(f) Civil money penalties

(1) In general

Whenever any person knowingly and materially violates any provision of subsection (b) or (c), the Secretary may impose a civil money penalty on that person in accordance with the provisions of this section. This penalty shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed whether or not the Secretary imposes other administrative sanctions.

(2) Amount of penalty

The amount of the penalty, as determined by the Secretary, may not exceed $10,000 for each violation.

(g) Agency procedures

(1) In general

The Secretary shall establish standards and procedures governing the imposition of civil money penalties under subsection (f). These standards and procedures—

(A) shall provide for the Secretary to make the determination to impose the penalty or to use an administrative entity to make the determination;

(B) shall provide for the imposition of a penalty only after the person has been given an opportunity for a hearing on the record; and

(C) may provide for review by the Secretary of any determination or order, or interlocutory ruling, arising from a hearing.

If no hearing is requested within 15 days of receipt of the notice of opportunity for hearing, the

imposition of the penalty shall constitute a final and unappealable determination. If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order. If the Secretary does not review the determination or order, the determination or order shall be final.

(2) Factors in determining amount of penalty

In determining the amount of a penalty under subsection (f), consideration shall be given to such factors as the gravity of the offense, ability to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary may determine in regulations to be appropriate.

(3) Reviewability of imposition of a penalty

The Secretary's determination or order imposing a penalty under subsection (f) shall not be subject to review, except as provided in subsection (h).

(h) Judicial review of agency determination

(1) In general

After exhausting all administrative remedies established by the Secretary under subsection (g)(1), a person against whom the Secretary has imposed a civil money penalty under subsection (f) may obtain a review of the penalty and such ancillary issues as may be addressed in the notice of determination to impose a penalty under subsection (g)(1)(A) in the appropriate court of appeals of the United States, by filing in such court, within 20 days after the entry of such order or determination, a written petition praying that the order or determination of the Secretary be modified or be set aside in whole or in part.

(2) Objections not raised in hearing

The court shall not consider any objection that was not raised in the hearing conducted pursuant to subsection (g)(1) unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection. If any party demonstrates to the satisfaction of the court that additional evidence not presented at the hearing is material and that there were reasonable grounds for the failure to present such evidence at the hearing, the court shall remand the matter to the Secretary for consideration of such additional evidence.

(3) Scope of review

The decisions, findings, and determinations of the Secretary shall be reviewed pursuant to section 706 of title 5.

(4) Order to pay penalty

Notwithstanding any other provision of law, in any such review, the court shall have the power to order payment of the penalty imposed by the Secretary.

(i) Action to collect penalty

If any person fails to comply with the determination or order of the Secretary imposing a civil money penalty under subsection (f), after the determination or order is no longer subject to review as provided by subsections (g)(1) and (h), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against the person and such other relief as may be available. The monetary judgment may, in the court's discretion, include the attorneys' fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the Secretary's determination or order imposing the penalty shall not be subject to review.

(j) Settlement by Secretary

The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(k) Regulations

The Secretary shall issue such regulations as the Secretary deems appropriate to implement this

section.

(l) Deposit of penalties

The Secretary shall deposit all civil money penalties collected under this section into miscellaneous receipts of the Treasury.

(m) Definitions

For the purpose of this section—

(1) The term "Department" means the Department of Housing and Urban Development.

(2) The term "Secretary" means the Secretary of Housing and Urban Development.

(3) The term "person" means an individual (including a consultant, lobbyist, or lawyer), corporation, company, association, authority, firm, partnership, society, State, local government, or any other organization or group of people.

(4) The term "assistance within the jurisdiction of the Department" includes any contract, grant, loan, cooperative agreement, or other form of assistance, including the insurance or guarantee of a loan, mortgage, or pool of mortgages.

(5) The term "knowingly" means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

(n) Effective date

This section shall take effect on the date specified in regulations implementing this section that are issued by the Secretary after notice and public comment.

(Pub. L. 101–235, title I, §102, Dec. 15, 1989, 103 Stat. 1990; Pub. L. 110–289, div. B, title VIII, §2834(a), July 30, 2008, 122 Stat. 2869.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (d), is act June 27, 1934, ch. 847, 48 Stat. 1246. Title II of the Act is classified generally to subchapter II (§1707 et seq.) of chapter 13 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

CODIFICATION

Section was enacted as part of the Department of Housing and Urban Development Reform Act of 1989, and not as part of the Department of Housing and Urban Development Act which comprises this chapter.

AMENDMENTS

2008—Subsec. (d). Pub. L. 110–289 inserted ", as such term is defined in subsection (m), except that for purposes of this subsection such term shall not include any mortgage insurance provided pursuant to title II of the National Housing Act (12 U.S.C. 1707 et seq.)" after "Department" and "such" after "amount of".

STATUTORY NOTES AND RELATED SUBSIDIARIES

SUBSIDY LAYERING REVIEW

Pub. L. 102–550, title IX, §911, Oct. 28, 1992, 106 Stat. 3875, as amended by Pub. L. 103–233, title III, §308, Apr. 11, 1994, 108 Stat. 379, provided that:

"(a) CERTIFICATION OF SUBSIDY LAYERING COMPLIANCE.—The requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 [42 U.S.C. 3545(d)] may be satisfied in connection with a project receiving assistance under a program that is within the jurisdiction of the Department of Housing and Urban Development and under section 42 of the Internal Revenue Code of 1986 [26 U.S.C. 42] by a certification by a housing credit agency to the Secretary, submitted in accordance with guidelines established by the Secretary, that the combination of assistance within the jurisdiction of the Secretary and other government assistance provided in connection with a property for which assistance is to be provided within the jurisdiction of the Department of Housing and Urban Development and under section 42 of the Internal Revenue Code of 1986 shall not be any greater than is necessary to provide affordable housing.

"(b) IN PARTICULAR.—The guidelines established pursuant to subsection (a) shall—

"(1) require that the amount of equity capital contributed by investors to a project partnership is not less than the amount generally contributed by investors in current market conditions, as determined by the housing credit agency; and

"(2) require that project costs, including developer fees, are within a reasonable range, taking into account project size, project characteristics, project location and project risk factors, as determined by the housing credit agency.

"(c) REVOCATION BY SECRETARY.—If the Secretary determines that a housing credit agency has failed to comply with the guidelines established under subsection (a), the Secretary—

"(1) may inform the housing credit agency that the agency may no longer submit certification of subsidy layering compliance under this section; and

"(2) shall carry out section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 [42 U.S.C. 3545(d)] relating to affected projects allocated a low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986 [26 U.S.C. 42].

"(d) APPLICABILITY.—Section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545(d)) shall apply only to projects for which an application for assistance or insurance was filed after the date of enactment of the Housing and Urban Development Reform Act [probably should be Department of Housing and Urban Development Reform Act of 1989, enacted Dec. 15, 1989]."

[1] *So in original. Probably should be followed by a comma.*

§3545a. Notification of issuance of electronic notice of availability of assistance or funding to be competitively awarded for certain programs or discretionary funds

The Secretary of the Department of Housing and Urban Development shall, for fiscal year 2014 and subsequent fiscal years, notify the public through the Federal Register and other means, as determined appropriate, of the issuance of a notice of the availability of assistance or notice of funding availability (NOFA) for any program or discretionary fund administered by the Secretary that is to be competitively awarded. Notwithstanding any other provision of law, for fiscal year 2014 and subsequent fiscal years, the Secretary may make the NOFA available only on the Internet at the appropriate Government Web site or through other electronic media, as determined by the Secretary.

(Pub. L. 113–76, div. L, title II, §226, Jan. 17, 2014, 128 Stat. 632.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the appropriation act cited as the credit to this section, and not as part of the Department of Housing and Urban Development Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SIMILAR PROVISIONS

Provisions similar to those in this section were contained in the following appropriation acts:
Pub. L. 119–75, div. D, title II, §215, Feb. 3, 2026, 140 Stat. 415.
Pub. L. 118–42, div. F, title II, §216, Mar. 9, 2024, 138 Stat. 378.
Pub. L. 117–328, div. L, title II, §216, Dec. 29, 2022, 136 Stat. 5175.
Pub. L. 117–103, div. L, title II, §216, Mar. 15, 2022, 136 Stat. 759.
Pub. L. 116–260, div. L, title II, §216, Dec. 27, 2020, 134 Stat. 1897.
Pub. L. 116–94, div. H, title II, §216, Dec. 20, 2019, 133 Stat. 3004.
Pub. L. 116–6, div. G, title II, §218, Feb. 15, 2019, 133 Stat. 460.
Pub. L. 115–141, div. L, title II, §219, Mar. 23, 2018, 132 Stat. 1033.
Pub. L. 115–31, div. K, title II, §220, May 5, 2017, 131 Stat. 784.
Pub. L. 114–113, div. L, title II, §221, Dec. 18, 2015, 129 Stat. 2893.

Pub. L. 113–235, div. K, title II, §222, Dec. 16, 2014, 128 Stat. 2754.
Pub. L. 112–55, div. C, title II, §228, Nov. 18, 2011, 125 Stat. 701.
Pub. L. 111–117, div. A, title II, §228, Dec. 16, 2009, 123 Stat. 3103.
Pub. L. 111–8, div. I, title II, §233, Mar. 11, 2009, 123 Stat. 979.

§3546. Use of domestic products

(a) Prohibition against fraudulent use of "Made in America" labels

A person shall not intentionally affix a label bearing the inscription of "Made in America", or any inscription with that meaning, to any product sold in or shipped to the United States, if that product is not a domestic product.

(b) Report

The Secretary of Housing and Urban Development and the Secretary of Agriculture shall each submit, before January 1, 1994, a report to the Congress on procurements of products that are not domestic products.

(c) "Domestic product" defined

For the purposes of this section, the term "domestic product" means a product—

(1) that is manufactured or produced in the United States; and

(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.

(Pub. L. 102–550, title IX, §920, Oct. 28, 1992, 106 Stat. 3883.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Housing and Community Development Act of 1992, and not as part of the Department of Housing and Urban Development Act which comprises this chapter.

§3547. Special projects

(1) In general

(A) Release of funds

In order to assure that the policies of the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds for special projects appropriated under an appropriations Act for the Department of Housing and Urban Development, such as special projects under the head "Annual Contributions for Assisted Housing" in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, and to assure to the public undiminished protection of the environment, the Secretary of Housing and Urban Development may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for the release of funds for particular special projects upon the request of recipients of special projects assistance, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary specify, that would otherwise apply to the Secretary were the Secretary to undertake such special projects as Federal projects.

(B) Implementation

The Secretary shall issue regulations to carry out this section only after consultation with the

Council on Environmental Quality. Such regulations shall—

(i) provide for monitoring of the performance of environmental reviews under this section;

(ii) in the discretion of the Secretary, provide for the provision or facilitation of training for such performance; and

(iii) subject to the discretion of the Secretary, provide for suspension or termination by the Secretary of the assumption under subparagraph (A).

(C) Responsibilities of State or unit of general local government

The Secretary's duty under subparagraph (B) shall not be construed to limit any responsibility assumed by a State or unit of general local government with respect to any particular release of funds under subparagraph (A).

(2) Procedure

The Secretary shall approve the release of funds for projects subject to the procedures authorized by this section only if, not less than 15 days prior to such approval and prior to any commitment of funds to such projects, the recipient submits to the Secretary a request for such release, accompanied by a certification of the State or unit of general local government which meets the requirements of paragraph (3). The Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the releases of funds for special projects to be carried out pursuant thereto which are covered by such certification.

(3) Certification

A certification under the procedures authorized by this section shall—

(A) be in a form acceptable to the Secretary;

(B) be executed by the chief executive officer or other officer of the State or unit of general local government who qualifies under regulations of the Secretary;

(C) specify that the State or unit of general local government under this section has fully carried out its responsibilities as described under paragraph (1); and

(D) specify that the certifying officer—

(i) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to paragraph (1); and

(ii) is authorized and consents on behalf of the State or unit of general local government and himself or herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities as such an official.

(4) Approval by States

In cases in which a unit of general local government carries out the responsibilities described in paragraph (1), the Secretary may permit the State to perform those actions of the Secretary described in paragraph (2) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of paragraph (2).

(Pub. L. 103–233, title III, §305(c), Apr. 11, 1994, 108 Stat. 372.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in pars. (1)(A), (2), and (3)(D)(i), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies

Appropriations Act, 1993, referred to in par. (1)(A), is Pub. L. 102–389, Oct. 6, 1992, 106 Stat. 1571. Provisions under the head "Annual Contributions for Assisted Housing" in title II of the Act appear at 106 Stat. 1582 and are not classified to the Code. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Multifamily Housing Property Disposition Reform Act of 1994, and not as part of the Department of Housing and Urban Development Act which comprises this chapter.

§3548. Semiannual report on contracts and task orders

The Secretary shall submit semi-annually to the Committees on Appropriations a list of all contracts and task orders issued under such contracts in excess of $250,000 which were entered into during the prior 6-month period by the Secretary, the Government National Mortgage Association, and the Office of Federal Housing Enterprise Oversight (or by any officer of the Department of Housing and Urban Development, the Government National Mortgage Association, or the Office of Federal Housing Enterprise Oversight acting in his or her capacity to represent the Secretary or these entities). Each listing shall identify the parties to the contract, the term and amount of the contract, and the subject matter and responsibilities of the parties to the contract.

(Pub. L. 105–18, title II, §10001, June 12, 1997, 111 Stat. 201.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the 1997 Emergency Supplemental Appropriations Act for Recovery from Natural Disasters, and for Overseas Peacekeeping Efforts, Including Those in Bosnia, and not as part of the Department of Housing and Urban Development Act which comprises this chapter.

§3549. Investigation of violations

Notwithstanding any other provision of law, on and after February 20, 2003, the Chief Financial Officer of the Department of Housing and Urban Development shall, in consultation with the Budget Officer, have sole authority to investigate potential or actual violations under the Anti-Deficiency Act (31 U.S.C. 1341 et seq.) and all other statutes and regulations related to the obligation and expenditure of funds made available in this, or any other Act; shall determine whether violations exist; and shall submit final reports on violations to the Secretary, the President, the Office of Management and Budget and the Congress in accordance with applicable statutes and Office of Management and Budget circulars.

(Pub. L. 108–7, div. K, title II, Feb. 20, 2003, 117 Stat. 499.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2003, and also as part of the Consolidated Appropriations Resolution, 2003, and not as part of the Department of Housing and Urban Development Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DUTIES OF CHIEF FINANCIAL OFFICER

Pub. L. 109–115, div. A, title III, Nov. 30, 2005, 119 Stat. 2457, which provided that the Chief Financial Officer establish control of and maintain adequate systems of accounting for appropriations and other available funds as required by 31 U.S.C. 1514, and further provided that, for purposes of funds control and

Anti-Deficiency Act (31 U.S.C. 1341 et seq.) violation determinations, the point of obligation was to be the executed agreement or contract, with certain exceptions, and that the Chief Financial Officer was to appoint and train qualified personnel to conduct investigations, establish guidelines and timeframes for such investigations, prescribe requirements for final reports on violations, and prescribe procedures for conducting investigations of, and reporting on, Anti-Deficiency Act violations, was not repeated in subsequent appropriation acts. Similar provisions were contained in the following prior appropriation acts:

Pub. L. 108–447, div. I, title II, Dec. 8, 2004, 118 Stat. 3312.

Pub. L. 108–199, div. G, title II, Jan. 23, 2004, 118 Stat. 389.

Pub. L. 108–7, div. K, title II, Feb. 20, 2003, 117 Stat. 499, as amended by Pub. L. 108–199, div. G, title II, Jan. 23, 2004, 118 Stat. 389.

§3550. Audit of Department financial statements

For this fiscal year and each fiscal year thereafter, subject to appropriations for that purpose, the Office of Inspector General shall procure and rely upon the services of an independent external auditor(s) to audit the financial statements of the Department of Housing and Urban Development, including the consolidated financial statement and the financial statements of the Federal Housing Administration and the Government National Mortgage Association.

(Pub. L. 116–260, div. L, title II, Dec. 27, 2020, 134 Stat. 1891.)

EDITORIAL NOTES

REFERENCES IN TEXT

This fiscal year, referred to in text, is fiscal year 2021.

CODIFICATION

Section was enacted as part of the Department of Housing and Urban Development Appropriations Act, 2021, and also as part of the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2021, and not as part of the Department of Housing and Urban Development Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SIMILAR PROVISIONS

Provisions similar to this section were contained in the following prior appropriation act:

Pub. L. 116–94, div. H, title II, Dec. 20, 2019, 133 Stat. 2999.

CHAPTER 45—FAIR HOUSING

SUBCHAPTER I—GENERALLY

Sec.

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SUBCHAPTER I—GENERALLY

§3601. Declaration of policy

It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States.

(Pub. L. 90–284, title VIII, §801, Apr. 11, 1968, 82 Stat. 81.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–430, §13(a), Sept. 13, 1988, 102 Stat. 1636, provided that: "This Act and the amendments made by this Act [see Short Title of 1988 Amendment note below] shall take effect on the 180th day beginning after the date of the enactment of this Act [Sept. 13, 1988]."

SHORT TITLE OF 1995 AMENDMENT

Pub. L. 104–76, §1, Dec. 28, 1995, 109 Stat. 787, provided that: "This Act [amending section 3607 of this title] may be cited as the 'Housing for Older Persons Act of 1995'."

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–430, §1, Sept. 13, 1988, 102 Stat. 1619, provided that: "This Act [enacting sections 3610 to 3614a of this title, amending sections 3602, 3604 to 3608, 3615 to 3619, and 3631 of this title and sections 2341 and 2342 of Title 28, Judiciary and Judicial Procedure, repealing former sections 3610 to 3613 of this title, and enacting provisions set out as notes under this section and section 3602 of this title] may be cited as the 'Fair Housing Amendments Act of 1988'."

SHORT TITLE

Section 1 of Pub. L. 90–284, as added by Pub. L. 100–430, §2, Sept. 13, 1988, 102 Stat. 1619, provided: "That this Act [enacting this chapter, sections 231 to 233, 245, 2101, and 2102 of Title 18, Crimes and Criminal Procedure, and sections 1301 to 1303, 1311, 1312, 1321 to 1326, 1331, and 1341 of Title 25, Indians, amending sections 1973j, 3533, 3535 of this title, and sections 241, 242, and 1153 of Title 18, enacting provisions set out as notes under sections 231 and 245 of Title 18, and repealing provisions set out as notes under section 1360 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'Civil Rights Act of 1968'."

Section 800 of Pub. L. 90–284, title VIII, as added by Pub. L. 100–430, §4, Sept. 13, 1988, 102 Stat. 1619, provided that: "This title [enacting this subchapter and amending sections 3533 and 3535 of this title] may be

cited as the 'Fair Housing Act'."

SEPARABILITY

Pub. L. 100–430, §14, Sept. 13, 1988, 102 Stat. 1636, provided that: "If any provision of this Act [see Short Title of 1988 Amendment note above] or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby."

DISCLAIMER OF PREEMPTIVE EFFECT ON OTHER ACTS

Pub. L. 100–430, §12, Sept. 13, 1988, 102 Stat. 1636, provided that: "Nothing in the Fair Housing Act [this subchapter] as amended by this Act [see Short Title of 1988 Amendment note above] limits any right, procedure, or remedy available under the Constitution or any other Act of the Congress not so amended."

INITIAL RULEMAKING

Pub. L. 100–430, §13(b), Sept. 13, 1988, 102 Stat. 1636, provided that: "In consultation with other appropriate Federal agencies, the Secretary shall, not later than the 180th day after the date of the enactment of this Act [Sept. 13, 1988], issue rules to implement title VIII [this subchapter] as amended by this Act [see Short Title of 1988 Amendment note above]. The Secretary shall give public notice and opportunity for comment with respect to such rules."

FEDERALLY PROTECTED ACTIVITIES; PENALTIES

Penalties for violations respecting federally protected activities not applicable to and not affecting activities under this subchapter, see section 101(b) of Pub. L. 90–284, set out as a note under section 245 of Title 18, Crimes and Criminal Procedure.

§3602. Definitions

As used in this subchapter—

(a) "Secretary" means the Secretary of Housing and Urban Development.

(b) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(c) "Family" includes a single individual.

(d) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under title 11, receivers, and fiduciaries.

(e) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(f) "Discriminatory housing practice" means an act that is unlawful under section 3604, 3605, 3606, or 3617 of this title.

(g) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States.

(h) "Handicap" means, with respect to a person—

(1) a physical or mental impairment which substantially limits one or more of such person's major life activities,

(2) a record of having such an impairment, or

(3) being regarded as having such an impairment,

but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 802 of title 21).

(i) "Aggrieved person" includes any person who—

(1) claims to have been injured by a discriminatory housing practice; or

(2) believes that such person will be injured by a discriminatory housing practice that is about to occur.

(j) "Complainant" means the person (including the Secretary) who files a complaint under section 3610 of this title.

(k) "Familial status" means one or more individuals (who have not attained the age of 18 years) being domiciled with—

(1) a parent or another person having legal custody of such individual or individuals; or

(2) the designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

(l) "Conciliation" means the attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent, and the Secretary.

(m) "Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation.

(n) "Respondent" means—

(1) the person or other entity accused in a complaint of an unfair housing practice; and

(2) any other person or entity identified in the course of investigation and notified as required with respect to respondents so identified under section 3610(a) of this title.

(o) "Prevailing party" has the same meaning as such term has in section 1988 of this title.

(Pub. L. 90–284, title VIII, §802, Apr. 11, 1968, 82 Stat. 81; Pub. L. 95–598, title III, §331, Nov. 6, 1978, 92 Stat. 2679; Pub. L. 100–430, §5, Sept. 13, 1988, 102 Stat. 1619.)

EDITORIAL NOTES

AMENDMENTS

1988—Subsec. (f). Pub. L. 100–430, §5(a), substituted "3606, or 3617" for "or 3606".

Subsecs. (h) to (o). Pub. L. 100–430, §5(b), added subsecs. (h) to (o).

1978—Subsec. (d). Pub. L. 95–598 substituted "trustees in cases under title 11" for "trustees in bankruptcy".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–430 effective on 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100–430, set out as a note under section 3601 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95–598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

TRANSVESTISM

Section 6(b)(3) of Pub. L. 100–430 provided that: "For the purposes of this Act [see Short Title of 1988 Amendment note set out under section 3601 of this title] as well as chapter 16 of title 29 of the United States Code [29 U.S.C. 701 et seq.], neither the term 'individual with handicaps' nor the term 'handicap' shall apply to an individual solely because that individual is a transvestite."

§3603. Effective dates of certain prohibitions

(a) Application to certain described dwellings

Subject to the provisions of subsection (b) and section 3607 of this title, the prohibitions against discrimination in the sale or rental of housing set forth in section 3604 of this title shall apply:

(1) Upon enactment of this subchapter, to—

(A) dwellings owned or operated by the Federal Government;

(B) dwellings provided in whole or in part with the aid of loans, advances, grants, or contributions made by the Federal Government, under agreements entered into after November 20, 1962, unless payment due thereon has been made in full prior to April 11, 1968;

(C) dwellings provided in whole or in part by loans insured, guaranteed, or otherwise secured by the credit of the Federal Government, under agreements entered into after November 20, 1962, unless payment thereon has been made in full prior to April 11, 1968: *Provided*, That nothing contained in subparagraphs (B) and (C) of this subsection shall be applicable to dwellings solely by virtue of the fact that they are subject to mortgages held by an FDIC or FSLIC institution; and

(D) dwellings provided by the development or the redevelopment of real property purchased, rented, or otherwise obtained from a State or local public agency receiving Federal financial assistance for slum clearance or urban renewal with respect to such real property under loan or grant contracts entered into after November 20, 1962.

(2) After December 31, 1968, to all dwellings covered by paragraph (1) and to all other dwellings except as exempted by subsection (b).

(b) Exemptions

Nothing in section 3604 of this title (other than subsection (c)) shall apply to—

(1) any single-family house sold or rented by an owner: *Provided*, That such private individual owner does not own more than three such single-family houses at any one time: *Provided further*, That in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period: *Provided further*, That such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time: *Provided further*, That after December 31, 1969, the sale or rental of any such single-family house shall be excepted from the application of this subchapter only if such house is sold or rented (A) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person and (B) without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of section 3604(c) of this title; but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

(2) rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(c) Business of selling or renting dwellings defined

For the purposes of subsection (b), a person shall be deemed to be in the business of selling or renting dwellings if—

(1) he has, within the preceding twelve months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or

(2) he has, within the preceding twelve months, participated as agent, other than in the sale of his own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein, or

(3) he is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

(Pub. L. 90–284, title VIII, §803, Apr. 11, 1968, 82 Stat. 82.)

§3604. Discrimination in the sale or rental of housing and other prohibited practices

As made applicable by section 3603 of this title and except as exempted by sections 3603(b) and 3607 of this title, it shall be unlawful—

(a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin.

(b) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, familial status, or national origin.

(c) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination.

(d) To represent to any person because of race, color, religion, sex, handicap, familial status, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status, or national origin.

(f)(1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of—

(A) that buyer or renter,[1]

(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(C) any person associated with that buyer or renter.

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of—

(A) that person; or

(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(C) any person associated with that person.

(3) For purposes of this subsection, discrimination includes—

(A) a refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.[2]

(B) a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or

(C) in connection with the design and construction of covered multifamily dwellings for first occupancy after the date that is 30 months after September 13, 1988, a failure to design and construct those dwellings in such a manner that—

(i) the public use and common use portions of such dwellings are readily accessible to and

usable by handicapped persons;

(ii) all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

(iii) all premises within such dwellings contain the following features of adaptive design:

(I) an accessible route into and through the dwelling;

(II) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

(III) reinforcements in bathroom walls to allow later installation of grab bars; and

(IV) usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

(4) Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as "ANSI A117.1") suffices to satisfy the requirements of paragraph (3)(C)(iii).

(5)(A) If a State or unit of general local government has incorporated into its laws the requirements set forth in paragraph (3)(C), compliance with such laws shall be deemed to satisfy the requirements of that paragraph.

(B) A State or unit of general local government may review and approve newly constructed covered multifamily dwellings for the purpose of making determinations as to whether the design and construction requirements of paragraph (3)(C) are met.

(C) The Secretary shall encourage, but may not require, States and units of local government to include in their existing procedures for the review and approval of newly constructed covered multifamily dwellings, determinations as to whether the design and construction of such dwellings are consistent with paragraph (3)(C), and shall provide technical assistance to States and units of local government and other persons to implement the requirements of paragraph (3)(C).

(D) Nothing in this subchapter shall be construed to require the Secretary to review or approve the plans, designs or construction of all covered multifamily dwellings, to determine whether the design and construction of such dwellings are consistent with the requirements of paragraph 3(C).

(6)(A) Nothing in paragraph (5) shall be construed to affect the authority and responsibility of the Secretary or a State or local public agency certified pursuant to section 3610(f)(3) of this title to receive and process complaints or otherwise engage in enforcement activities under this subchapter.

(B) Determinations by a State or a unit of general local government under paragraphs (5)(A) and (B) shall not be conclusive in enforcement proceedings under this subchapter.

(7) As used in this subsection, the term "covered multifamily dwellings" means—

(A) buildings consisting of 4 or more units if such buildings have one or more elevators; and

(B) ground floor units in other buildings consisting of 4 or more units.

(8) Nothing in this subchapter shall be construed to invalidate or limit any law of a State or political subdivision of a State, or other jurisdiction in which this subchapter shall be effective, that requires dwellings to be designed and constructed in a manner that affords handicapped persons greater access than is required by this subchapter.

(9) Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

(Pub. L. 90–284, title VIII, §804, Apr. 11, 1968, 82 Stat. 83; Pub. L. 93–383, title VIII, §808(b)(1), Aug. 22, 1974, 88 Stat. 729; Pub. L. 100–430, §§6(a)–(b)(2), (e), 15, Sept. 13, 1988, 102 Stat. 1620, 1622, 1623, 1636.)

EDITORIAL NOTES

AMENDMENTS

1988—Pub. L. 100–430, §6(e), inserted "and other prohibited practices" in section catchline.

Subsecs. (a), (b). Pub. L. 100–430, §6(b)(2), inserted "familial status," after "sex,".

Subsecs. (c) to (e). Pub. L. 100–430, §6(b)(1), inserted "handicap, familial status," after "sex,".

Subsec. (f). Pub. L. 100–430, §6(a), added subsec. (f).

Subsec. (f)(3)(A). Pub. L. 100–430, §15, which directed the substitution of "except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted." for the period at the end of subpar. (A) was executed by making the substitution for a semicolon as the probable intent of Congress because subpar. (A) ended with a semicolon, not a period.

1974—Pub. L. 93–383 inserted ", sex" after "religion" wherever appearing in cls. (a) to (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–430 effective on 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100–430, set out as a note under section 3601 of this title.

[1] *So in original. The comma probably should be a semicolon.*

[2] *So in original. The period probably should be a semicolon.*

§3605. Discrimination in residential real estate-related transactions

(a) In general

It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

(b) "Residential real estate-related transaction" defined

As used in this section, the term "residential real estate-related transaction" means any of the following:

(1) The making or purchasing of loans or providing other financial assistance—

(A) for purchasing, constructing, improving, repairing, or maintaining a dwelling; or

(B) secured by residential real estate.

(2) The selling, brokering, or appraising of residential real property.

(c) Appraisal exemption

Nothing in this subchapter prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status.

(Pub. L. 90–284, title VIII, §805, Apr. 11, 1968, 82 Stat. 83; Pub. L. 93–383, title VIII, §808(b)(2), Aug. 22, 1974, 88 Stat. 729; Pub. L. 100–430, §6(c), Sept. 13, 1988, 102 Stat. 1622.)

EDITORIAL NOTES

AMENDMENTS

1988—Pub. L. 100–430 amended section generally. Prior to amendment, section read as follows: "After December 31, 1968, it shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, sex, or national origin of such person or of any

person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given: *Provided*, That nothing contained in this section shall impair the scope or effectiveness of the exception contained in section 3603(b) of this title."

1974—Pub. L. 93–383 inserted ", sex" after "religion".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–430 effective on 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100–430, set out as a note under section 3601 of this title.

§3606. Discrimination in the provision of brokerage services

After December 31, 1968, it shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, handicap, familial status, or national origin.

(Pub. L. 90–284, title VIII, §806, Apr. 11, 1968, 82 Stat. 84; Pub. L. 93–383, title VIII, §808(b)(3), Aug. 22, 1974, 88 Stat. 729; Pub. L. 100–430, §6(b)(1), Sept. 13, 1988, 102 Stat. 1622.)

EDITORIAL NOTES

AMENDMENTS

1988—Pub. L. 100–430 inserted "handicap, familial status," after "sex,".

1974—Pub. L. 93–383 inserted ", sex" after "religion".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–430 effective on 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100–430, set out as a note under section 3601 of this title.

§3607. Religious organization or private club exemption

(a) Nothing in this subchapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this subchapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(b)(1) Nothing in this subchapter limits the applicability of any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this subchapter regarding familial status apply with respect to housing for older persons.

(2) As used in this section, "housing for older persons" means housing—

(A) provided under any State or Federal program that the Secretary determines is specifically

designed and operated to assist elderly persons (as defined in the State or Federal program); or

(B) intended for, and solely occupied by, persons 62 years of age or older; or

(C) intended and operated for occupancy by persons 55 years of age or older, and—

(i) at least 80 percent of the occupied units are occupied by at least one person who is 55 years of age or older;

(ii) the housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subparagraph; and

(iii) the housing facility or community complies with rules issued by the Secretary for verification of occupancy, which shall—

(I) provide for verification by reliable surveys and affidavits; and

(II) include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of clause (ii). Such surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such verification.

(3) Housing shall not fail to meet the requirements for housing for older persons by reason of:

(A) persons residing in such housing as of September 13, 1988, who do not meet the age requirements of subsections [1] (2)(B) or (C): *Provided*, That new occupants of such housing meet the age requirements of subsections [1] (2)(B) or (C); or

(B) unoccupied units: *Provided*, That such units are reserved for occupancy by persons who meet the age requirements of subsections [1] (2)(B) or (C).

(4) Nothing in this subchapter prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in section 802 of title 21.

(5)(A) A person shall not be held personally liable for monetary damages for a violation of this subchapter if such person reasonably relied, in good faith, on the application of the exemption under this subsection relating to housing for older persons.

(B) For the purposes of this paragraph, a person may only show good faith reliance on the application of the exemption by showing that—

(i) such person has no actual knowledge that the facility or community is not, or will not be, eligible for such exemption; and

(ii) the facility or community has stated formally, in writing, that the facility or community complies with the requirements for such exemption.

(Pub. L. 90–284, title VIII, §807, Apr. 11, 1968, 82 Stat. 84; Pub. L. 100–430, §6(d), Sept. 13, 1988, 102 Stat. 1622; Pub. L. 104–76, §§2, 3, Dec. 28, 1995, 109 Stat. 787.)

EDITORIAL NOTES

CODIFICATION

September 13, 1988, referred to in subsec. (b)(3)(A), was in the original "the date of enactment of this Act", which was translated as meaning the date of enactment of Pub. L. 100–430, which enacted subsec. (b) of this section, to reflect the probable intent of Congress.

AMENDMENTS

1995—Subsec. (b)(2)(C). Pub. L. 104–76, §2, amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "intended and operated for occupancy by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the Secretary shall develop regulations which require at least the following factors:

"(i) the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and

"(ii) that at least 80 percent of the units are occupied by at least one person 55 years of age or older per unit; and

"(iii) the publication of, and adherence to, policies and procedures which demonstrate an intent by the

owner or manager to provide housing for persons 55 years of age or older."
Subsec. (b)(5). Pub. L. 104–76, §3, added par. (5).
1988—Pub. L. 100–430 designated existing provisions as subsec. (a) and added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–430 effective on 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100–430, set out as a note under section 3601 of this title.

REGULATIONS

Pub. L. 102–550, title IX, §919, Oct. 28, 1992, 106 Stat. 3883, provided that: "The Secretary of Housing and Urban Development shall, not later than 180 days after the date of the enactment of this Act [Oct. 28, 1992], make rules defining what are 'significant facilities and services especially designed to meet the physical or social needs of older persons' required under section 807(b)(2) of the Fair Housing Act [42 U.S.C. 3607(b)(2)] to meet the definition of the term 'housing for older persons' in such section."

[1] *So in original. Probably should be "paragraph".*

§3608. Administration

(a) Authority and responsibility

The authority and responsibility for administering this Act shall be in the Secretary of Housing and Urban Development.

(b) Assistant Secretary

The Department of Housing and Urban Development shall be provided an additional Assistant Secretary.

(c) Delegation of authority; appointment of administrative law judges; location of conciliation meetings; administrative review

The Secretary may delegate any of his functions, duties, and powers to employees of the Department of Housing and Urban Development or to boards of such employees, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter under this subchapter. The person to whom such delegations are made with respect to hearing functions, duties, and powers shall be appointed and shall serve in the Department of Housing and Urban Development in compliance with sections 3105, 3344, 5372, and 7521 of title 5. Insofar as possible, conciliation meetings shall be held in the cities or other localities where the discriminatory housing practices allegedly occurred. The Secretary shall by rule prescribe such rights of appeal from the decisions of his administrative law judges to other administrative law judges or to other officers in the Department, to boards of officers or to himself, as shall be appropriate and in accordance with law.

(d) Cooperation of Secretary and executive departments and agencies in administration of housing and urban development programs and activities to further fair housing purposes

All executive departments and agencies shall administer their programs and activities relating to housing and urban development (including any Federal agency having regulatory or supervisory authority over financial institutions) in a manner affirmatively to further the purposes of this subchapter and shall cooperate with the Secretary to further such purposes.

(e) Functions of Secretary

The Secretary of Housing and Urban Development shall—

(1) make studies with respect to the nature and extent of discriminatory housing practices in representative communities, urban, suburban, and rural, throughout the United States;

(2) publish and disseminate reports, recommendations, and information derived from such studies, including an annual report to the Congress—

(A) specifying the nature and extent of progress made nationally in eliminating discriminatory housing practices and furthering the purposes of this subchapter, obstacles remaining to achieving equal housing opportunity, and recommendations for further legislative or executive action; and

(B) containing tabulations of the number of instances (and the reasons therefor) in the preceding year in which—

(i) investigations are not completed as required by section 3610(a)(1)(B) of this title;

(ii) determinations are not made within the time specified in section 3610(g) of this title; and

(iii) hearings are not commenced or findings and conclusions are not made as required by section 3612(g) of this title;

(3) cooperate with and render technical assistance to Federal, State, local, and other public or private agencies, organizations, and institutions which are formulating or carrying on programs to prevent or eliminate discriminatory housing practices;

(4) cooperate with and render such technical and other assistance to the Community Relations Service as may be appropriate to further its activities in preventing or eliminating discriminatory housing practices;

(5) administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of this subchapter; and

(6) annually report to the Congress, and make available to the public, data on the race, color, religion, sex, national origin, age, handicap, and family characteristics of persons and households who are applicants for, participants in, or beneficiaries or potential beneficiaries of, programs administered by the Department to the extent such characteristics are within the coverage of the provisions of law and Executive orders referred to in subsection (f) which apply to such programs (and in order to develop the data to be included and made available to the public under this subsection, the Secretary shall, without regard to any other provision of law, collect such information relating to those characteristics as the Secretary determines to be necessary or appropriate).

(f) Provisions of law applicable to Department programs

The provisions of law and Executive orders to which subsection (e)(6) applies are—

(1) title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.];

(2) this subchapter;

(3) section 794 of title 29;

(4) the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.];

(5) the Equal Credit Opportunity Act [15 U.S.C. 1691 et seq.];

(6) section 1982 of this title;

(7) section 637(a) of title 15;

(8) section 1735f–5 of title 12;

(9) section 5309 of this title;

(10) section 1701u of title 12;

(11) Executive orders 11063, 11246, 11625, 12250, 12259, and 12432; and

(12) any other provision of law which the Secretary specifies by publication in the Federal Register for the purpose of this subsection.

(Pub. L. 90–284, title VIII, §808, Apr. 11, 1968, 82 Stat. 84; Pub. L. 95–251, §3, Mar. 27, 1978, 92 Stat. 184; Pub. L. 95–454, title VIII, §801(a)(3)(J), Oct. 13, 1978, 92 Stat. 1222; Pub. L. 100–430, §7, Sept. 13, 1988, 102 Stat. 1623.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (a), means Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 73, known as the Civil Rights Act of 1968. For complete classification of this Act to the Code, see Tables.

The Civil Rights Act of 1964, referred to in subsec. (f)(1), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. 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.

The Age Discrimination Act of 1975, referred to in subsec. (f)(4), is title III of Pub. L. 94–135, Nov. 28, 1975, 78 Stat. 728, which is classified generally to chapter 76 (§6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

The Equal Credit Opportunity Act, referred to in subsec. (f)(5), is title VII of Pub. L. 90–321, as added by Pub. L. 93–495, title V, §503, Oct. 28, 1974, 88 Stat. 1521, which is classified generally to subchapter IV (§1691 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

The Executive orders referred to in subsec. (f)(11) are set out as notes under sections of the Code as follows:

Ex. Ord. No. 11063: 42 U.S.C. 1982,
Ex. Ord. No. 11246: 42 U.S.C. 2000e,
Ex. Ord. No. 11625: 15 U.S.C. 631,
Ex. Ord. No. 12250: 42 U.S.C. 2000d–1, and
Ex. Ord. No. 12432: 15 U.S.C. 631.

Ex. Ord. No. 12259, referred to in subsec. (f)(11), was set out below, prior to revocation by Ex. Ord. No. 12892, Jan. 17, 1994, 59 F.R. 2939, set out below.

CODIFICATION

The second sentence of subsec. (b) of this section has been omitted as it amended sections 3533(a) and 3535(c) of this title.

AMENDMENTS

1988—Subsec. (d). Pub. L. 100–430, §7(a), inserted "(including any Federal agency having regulatory or supervisory authority over financial institutions)" after "urban development".

Subsec. (e)(2). Pub. L. 100–430, §7(b)(1)(A), inserted provisions relating to annual report to Congress.

Subsec. (e)(6). Pub. L. 100–430, §7(b)(1)(B)–(D), added par. (6).

Subsec. (f). Pub. L. 100–430, §7(b)(2), added subsec. (f).

1978—Subsec. (c). Pub. L. 95–251 substituted "administrative law judges" for "hearing examiners".

Pub. L. 95–454 substituted "5372" for "5362".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–430 effective on 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100–430, set out as a note under section 3601 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective on first day of first applicable pay period beginning on or after 90th day after Oct. 13, 1978, see section 801(a)(4)(A) of Pub. L. 95–454, set out as an Effective Date note under section 5361 of Title 5, Government Organization and Employees.

TREATMENT OF OCCUPANCY STANDARDS

Pub. L. 105–276, title V, §589, Oct. 21, 1998, 112 Stat. 2651, provided that:

"(a) ESTABLISHMENT OF POLICY.—Not later than 60 days after the date of the enactment of this Act [Oct. 21, 1998], the Secretary of Housing and Urban Development shall publish a notice in the Federal Register for effect that takes effect upon publication and provides that the specific and unmodified standards provided in the March 20, 1991, Memorandum from the General Counsel of the Department of Housing and Urban Development to all Regional Counsel shall be the policy of the Department of Housing and Urban Development with respect to complaints of discrimination under the Fair Housing Act (42 U.S.C. 3601 et seq.) on the basis of familial status which involve an occupancy standard established by a housing provider.

"(b) PROHIBITION OF NATIONAL STANDARD.—The Secretary of Housing and Urban Development

shall not directly or indirectly establish a national occupancy standard."

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 12259

Ex. Ord. No. 12259, Dec. 31, 1980, 46 F.R. 1253, which related to leadership and coordination by Secretary of Housing and Urban Development of fair housing programs and activities in Federal programs, was revoked by Ex. Ord. No. 12892, §6–607, Jan. 17, 1994, 59 F.R. 2939, set out below.

EX. ORD. NO. 12892. LEADERSHIP AND COORDINATION OF FAIR HOUSING IN FEDERAL PROGRAMS: AFFIRMATIVELY FURTHERING FAIR HOUSING

Ex. Ord. No. 12892, Jan. 17, 1994, 59 F.R. 2939, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in accordance with the Fair Housing Act, as amended (42 U.S.C. 3601 *et seq*.) ("Act"), in order to affirmatively further fair housing in all Federal programs and activities relating to housing and urban development throughout the United States, it is hereby ordered as follows:

SECTION 1. *Administration of Programs and Activities Relating to Housing and Urban Development.*

1–101. Section 808(d) of the Act, as amended [42 U.S.C. 3608(d)], provides that all executive departments and agencies shall administer their programs and activities relating to housing and urban development (including any Federal agency having regulatory or supervisory authority over financial institutions) in a manner affirmatively to further the purposes of the Act and shall cooperate with the Secretary of Housing and Urban Development to further such purposes.

1–102. As used in this order, the phrase "programs and activities" shall include programs and activities operated, administered, or undertaken by the Federal Government; grants; loans; contracts; insurance; guarantees; and Federal supervision or exercise of regulatory responsibility (including regulatory or supervisory authority over financial institutions).

SEC. 2. *Responsibilities of Executive Agencies.*

2–201. The primary authority and responsibility for administering the programs and activities relating to housing and urban development affirmatively to further fair housing is vested in the Secretary of Housing and Urban Development.

2–202. The head of each executive agency is responsible for ensuring that its programs and activities relating to housing and urban development are administered in a manner affirmatively to further the goal of fair housing as required by section 808 of the Act [42 U.S.C. 3608] and for cooperating with the Secretary of Housing and Urban Development, who shall be responsible for exercising leadership in furthering the purposes of the Act.

2–203. In carrying out the responsibilities in this order, the head of each executive agency shall take appropriate steps to require that all persons or other entities who are applicants for, or participants in, or who are supervised or regulated under, agency programs and activities relating to housing and urban development shall comply with this order.

2–204. Upon receipt of a complaint alleging facts that may constitute a violation of the Act or upon receipt of information from a consumer compliance examination or other information suggesting a violation of the Act, each executive agency shall forward such facts or information to the Secretary of Housing and Urban Development for processing under the Act. Where such facts or information indicate a possible pattern or practice of discrimination in violation of the Act, they also shall be forwarded to the Attorney General. The authority of the Federal depository institution regulatory agencies to take appropriate action under their statutory authority remains unaffected.

SEC. 3. *President's Fair Housing Council.*

3–301. There is hereby established an advisory council entitled the "President's Fair Housing Council" ("Council"). The Council shall be chaired by the Secretary of Housing and Urban Development and shall consist of the Secretary of Health and Human Services, the Secretary of Transportation, the Secretary of Education, the Secretary of Labor, the Secretary of Defense, the Secretary of Agriculture, the Secretary of Veterans Affairs, the Secretary of the Treasury, the Attorney General, the Secretary of the Interior, the Chair of the Federal Reserve, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Chair of the Federal Deposit Insurance Corporation, and such other officials of executive departments and agencies as the President may, from time to time, designate.

3–302. The President's Fair Housing Council shall review the design and delivery of Federal programs and activities to ensure that they support a coordinated strategy to affirmatively further fair housing. The Council shall propose revisions to existing programs or activities, develop pilot programs and activities, and propose

new programs and activities to achieve its goals.

3–303. In support of cooperative efforts among all executive agencies, the Secretary of Housing and Urban Development shall:

(a) cooperate with, and render assistance to, the heads of all executive agencies in the formulation of policies and procedures to implement this order and to provide information and guidance on the affirmative administration of programs and activities relating to housing and urban development and the protection of the rights accorded by the Act; and

(b) develop memoranda of understanding and any necessary implementing procedures among executive agencies designed to provide for consultation and the coordination of Federal efforts to further fair housing through the affirmative administration of programs and activities relating to housing and urban development, including coordination of the investigation of complaints or other information referred to the Secretary as required by section 2–204 of this order that would constitute a violation of the Act or, where relevant, other Federal laws. Existing memoranda of understanding shall remain in effect until superseded.

3–304. In connection with carrying out functions under this order, the Secretary of Housing and Urban Development is authorized to request from any executive agency such information and assistance as the Secretary deems necessary. Each agency shall furnish such information to the extent permitted by law and, to the extent practicable, provide assistance to the Secretary.

SEC. 4. *Specific Responsibilities.*

4–401. In implementing the responsibilities under sections 2–201, 2–202, 2–203, and section 3 of this order, the Secretary of Housing and Urban Development shall, to the extent permitted by law:

(a) promulgate regulations in consultation with the Department of Justice and Federal banking agencies regarding programs and activities of executive agencies related to housing and urban development that shall:

(1) describe the functions, organization, and operations of the President's Fair Housing Council;

(2) describe the types of programs and activities defined in section 1–102 of this order that are subject to the order;

(3) describe the responsibilities and obligations of executive agencies in ensuring that programs and activities are administered and executed in a manner that furthers fair housing;

(4) describe the responsibilities and obligations of applicants, participants, and other persons and entities involved in housing and urban development programs and activities affirmatively to further the goal of fair housing; and

(5) describe a method to identify impediments in programs or activities that restrict fair housing choice and implement incentives that will maximize the achievement of practices that affirmatively further fair housing.

(b) coordinate executive agency implementation of the requirements of this order and issue standards and procedures regarding:

(1) the administration of programs and activities relating to housing and urban development in a manner affirmatively to further fair housing; and

(2) the cooperation of executive agencies in furtherance of the Secretary of Housing and Urban Development's authority and responsibility under the Act.

4–402. Within 180 days of the publication of final regulations by the Secretary of Housing and Urban Development under section 4–401 of this order, the head of each executive agency shall publish proposed regulations providing for the administration of programs and activities relating to housing and urban development in a manner affirmatively to further fair housing, consistent with the Secretary of Housing and Urban Development's regulations, and with the standards and procedures issued pursuant to section 4–401(b) of this order. As soon as practicable thereafter, each executive agency shall issue its final regulations. All executive agencies shall formally submit all such proposed and final regulations, and any related issuances or standards, to the Secretary of Housing and Urban Development at least 30 days prior to public announcement.

4–403. The Secretary of Housing and Urban Development shall review proposed regulations and standards prepared pursuant to section 4–402 of this order to ensure conformity with the purposes of the Act and consistency among the operations of the various executive agencies and shall provide comments to executive agencies with respect thereto on a timely basis.

4–404. In addition to promulgating the regulations described in section 4–401 of this order, the Secretary of Housing and Urban Development shall promulgate regulations describing the nature and scope of coverage and the conduct prohibited, including mortgage lending discrimination and property insurance discrimination.

SEC. 5. *Administrative Enforcement.*

5–501. The head of each executive agency shall be responsible for enforcement of this order and, unless prohibited by law, shall cooperate and provide records, data, and documentation in connection with any other agency's investigation of compliance with provisions of this order.

5–502. If any executive agency concludes that any person or entity (including any State or local public agency) applying for or participating in, or supervised or regulated under, a program or activity relating to housing and urban development has not complied with this order or any applicable rule, regulation, or procedure issued or adopted pursuant to this order, it shall endeavor to end and remedy such violation by informal means, including conference, conciliation, and persuasion. An executive agency need not pursue informal resolution of matters where similar efforts made by another executive agency have been unsuccessful, except where otherwise required by law. In the event of failure of such informal means, the executive agency, in conformity with rules, regulations, procedures, or policies issued or adopted by it pursuant to section 4 of this order hereof, shall impose such sanctions as may be authorized by law. To the extent authorized by law, such sanctions may include:

(a) cancellation or termination of agreements or contracts with such person, entity, or any State or local public agency;

(b) refusal to extend any further aid under any program or activity administered by it and affected by this order until it is satisfied that the affected person, entity, or State or local public agency will comply with the rules, regulations, and procedures issued or adopted pursuant to this order;

(c) refusal to grant supervisory or regulatory approval to such person, entity, or State or local public agency under any program or activity administered by it that is affected by this order or revoke such approval if previously given; and

(d) any other action as may be appropriate under law.

5–503. Findings of any violation under section 5–502 of this order shall be promptly reported by the head of each executive agency to the Secretary of Housing and Urban Development and the Attorney General. The Secretary of Housing and Urban Development shall forward this information to all other executive agencies.

5–504. Any executive agency shall also consider invoking appropriate sanctions against any person or entity where any other executive department or agency has initiated action against that person or entity pursuant to section 5–502 of this order, where the Secretary of Housing and Urban Development has issued a charge against such person or entity that has not been resolved, or where the Attorney General has filed a civil action in Federal Court against such person or entity.

5–505. Each executive agency shall consult with the Secretary of Housing and Urban Development, and the Attorney General where a civil action in Federal Court has been filed, regarding agency actions to invoke sanctions under the Act. The Department of Housing and Urban Development, the Department of Justice, and Federal banking agencies shall develop and coordinate appropriate policies and procedures for taking action under their respective authorities. Each decision to invoke sanctions and the reasons therefor shall be documented and shall be provided to the Secretary of Housing and Urban Development and, where appropriate, to the Attorney General in a timely manner.

SEC. 6. *General Provisions.*

6–601. Nothing in this order shall limit the authority of the Attorney General to provide for the coordinated enforcement of nondiscrimination requirements in Federal assistance programs under Executive Order No. 12250 [42 U.S.C. 2000d–1 note].

6–602. All provisions of regulations, guidelines, and procedures proposed to be issued by executive agencies pursuant to this order that implement nondiscrimination requirements of laws covered by Executive Order No. 12250 [42 U.S.C. 2000d–1 note] shall be submitted to the Attorney General for review in accordance with that Executive order. In addition, the Secretary shall consult with the Attorney General regarding all regulations and procedures proposed to be issued under sections 4–401 and 4–402 of this order to assure consistency with coordinated Federal efforts to enforce nondiscrimination requirements in programs of Federal financial assistance pursuant to Executive Order No. 12250.

6–603. Nothing in this order shall affect the authority and responsibility of the Attorney General to commence any civil action authorized by the Act.

6–604. (a) Part IV and sections 501 and 503 of Executive Order No. 11063 [42 U.S.C. 1982 note] are revoked. The activities and functions of the President's Committee on Equal Opportunity in Housing described in that Executive order shall be performed by the Secretary of Housing and Urban Development.

(b) Sections 101 and 502(a) of Executive Order No. 11063 are revised to apply to discrimination because of "race, color, religion (creed), sex, disability, familial status or national origin." All executive agencies shall revise regulations, guidelines, and procedures issued pursuant to Part II of Executive Order No. 11063 to reflect this amendment to coverage.

(c) Section 102 of Executive Order No. 11063 is revised by deleting the term "Housing and Home Finance Agency" and inserting in lieu thereof the term "Department of Housing and Urban Development."

6–605. Nothing in this order shall affect any requirement imposed under the Equal Credit Opportunity Act (15 U.S.C. 1691 *et seq*.), the Home Mortgage Disclosure Act (12 U.S.C. 2801 *et seq*.) or the Community

Reinvestment Act (12 U.S.C. 2901 *et seq*.).

6–606. Nothing in this order shall limit the authority of the Federal banking agencies to carry out their responsibilities under current law or regulations.

6–607. Executive Order No. 12259 is hereby revoked.

SEC. 7. *Report.*

7–701. The Secretary of Housing and Urban Development shall submit to the President an annual report commenting on the progress that the Department of Housing and Urban Development and other executive agencies have made in carrying out requirements and responsibilities under this Executive order. The annual report may be consolidated with the annual report on the state of fair housing required by section 808(e)(2) of the Act [42 U.S.C. 3608(e)(2)].

WILLIAM J. CLINTON.

FEDERAL LEADERSHIP OF FAIR HOUSING

Memorandum of President of the United States, Jan. 17, 1994, 59 F.R. 8513, provided:

Memorandum for the Heads of Executive Departments and Agencies

On April 11, 1968, one week after the assassination of the great civil rights leader Martin Luther King, Jr., the Fair Housing Act [42 U.S.C. 3601 et seq.] was enacted (1) to prohibit discrimination in housing, and (2) to direct the Secretary of Housing and Urban Development to affirmatively further fair housing in Federal housing and urban development programs. Twenty-five years later, despite a strengthening of the Fair Housing Act 5 years ago, hundreds of acts of housing discrimination occur in our Nation each day.

Americans of every income level, seeking to live where they choose, feel the weight of discrimination because of the color of their skin, their race, their religion, their gender, their country of origin, or because they are disabled or have children.

An increasing body of evidence indicates that barriers to fair housing are pervasive. Forty percent of all families move every 5 years. This statistic is significant given the results of a recent study, commissioned by the Department of Housing and Urban Development (HUD), which found that more than half of the African Americans and Latinos seeking to rent or buy a home are treated differently than whites with the same qualifications. Moreover, based upon Home Mortgage Disclosure Act [12 U.S.C. 2801 et seq.] data, the number of minority persons who are rejected when attempting to obtain loans to purchase homes is two to three times higher than it is for nonminorities in almost every metropolitan area of this country.

Racial and ethnic segregation, both in the private housing market and in public and assisted housing, has been well documented. Despite legislation (the Fair Housing Act) and Executive action (Executive Order No. 11063 [42 U.S.C. 1982 note]), the divisive impact of housing segregation persists in metropolitan areas all across this country. Too many lower income and minority Americans face barriers to housing outside of central cities. Segregation in housing and schools deprives too many of our children and youth of an opportunity to enter the marketplace or work on an equal footing. For too many families, our cities are no longer the launching pads for economic self-sufficiency and upward mobility that they have been for countless immigrants and minorities since the country's birth. And many Americans who are better off abandon the cities.

The resulting decline in the very heart of too many of our metropolitan areas threatens all of us: the health of our dynamic regional economies—the very lifeblood of future national economic growth and higher living standards for all of us and all of our children—is placed at risk.

We can do better. We can start by making sure that our own Federal policies and programs across all of our agencies support the fair housing and equal opportunity goals to which all Americans are committed. If all of our executive agencies affirmatively further fair housing in the design of their policies and administration of their programs relating to housing and urban development, a truly nondiscriminatory housing market will be closer to achievement.

By an Executive Order [Ex. Ord. No. 12892, set out above] ("the Order") I am issuing today and this memorandum, I am addressing those needs. The Secretary of Housing and Urban Development and, where appropriate, the Attorney General—the officials with the primary responsibility for the enforcement of Federal fair housing laws—will take the lead in developing and coordinating measures to carry out the purposes of this Order.

Through this Order, I am first expanding Executive Order No. 11063 to provide protection against discrimination in programs of Federal insurance or guaranty to persons who are disabled and to families with children.

Second, I am revoking the old Executive Order No. 12259 entitled "Leadership and Coordination of Fair Housing in Federal Programs." The new Executive order reflects the expanded authority of the Secretary of Housing and Urban Development and I am directing him to take stronger measures to provide leadership and

coordination in affirmatively furthering fair housing in Federal programs.

Third, I ask the heads of departments and agencies, including the Federal banking agencies, to cooperate with the Secretary of Housing and Urban Development in identifying ways to structure agency programs and activities to affirmatively further fair housing and to promptly negotiate memoranda of understanding with him to accomplish that goal.

Further, I direct the Secretary of Housing and Urban Development to review all of HUD's programs to assure that they truly provide equal opportunity and promote economic self-sufficiency for those who are beneficiaries and recipients of those programs.

I also direct the Secretary to review HUD's programs to assure that they contain the maximum incentives to affirmatively further fair housing and to eliminate barriers to free choice where they continue to exist. This review shall include Federally assisted housing, Federally insured housing and other housing and housing related programs, including those of the Government National Mortgage Association and the Federal Housing Administration.

Today, I am establishing a new Cabinet-level organization to focus the cooperative efforts of all agencies on fair housing. The President's Fair Housing Council will be chaired by the Secretary of Housing and Urban Development and will consist of the Secretary of Health and Human Services, the Secretary of Transportation, the Secretary of Education, the Secretary of Labor, the Secretary of Defense, the Secretary of Agriculture, the Secretary of Veterans Affairs, the Secretary of the Treasury, the Attorney General, the Secretary of the Interior, the Chair of the Federal Reserve, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, and the Chair of the Federal Deposit Insurance Corporation.

The President's Fair Housing Council shall review the design and delivery of Federal programs and activities to ensure that they support a coordinated strategy to affirmatively further fair housing. The Council shall propose revisions to existing programs or activities, develop pilot programs and activities, and propose new programs and activities to achieve its goals.

I direct the Secretary of Housing and Urban Development and the President's Fair Housing Council to develop a pilot program to be implemented in selected metropolitan areas. This initiative will promote fair housing choice by helping inner-city families to move to suburban neighborhoods and by making the central city more attractive to those who have left it. I direct the members of the Council to undertake a demonstration program that will reinvent the way assisted housing is offered to applicants, will break down jurisdictional barriers in housing opportunities, and will promote the use of subsidies that diminish residential segregation, and will combine these initiatives with refined educational incentives aimed at improving the effectiveness of inner-city schools. I am directing that transportation alternatives be considered along with targeted social service and job training programs as part of the support necessary to create a one-stop, metropolitan area-wide fair housing opportunity pilot program that will effectively offer Federally assisted housing, Federally insured housing, and private market housing within a metropolitan area to all residents of the area. The pilot program should call upon realtors, mortgage lenders, housing providers, and local governments, among others, to assist in expanding housing choices.

To address the findings of recent studies, I hereby direct the Secretary of Housing and Urban Development and the Attorney General and, where appropriate, the heads of the Federal banking agencies to exercise national leadership to end discrimination in mortgage lending, the secondary mortgage market, and property insurance practices. The Secretary is directed to issue regulations to define discriminatory practices in these areas and the Secretary and the Attorney General are directed to aggressively enforce the laws prohibiting these practices.

In each of these areas, I direct the Secretary of Housing and Urban Development to take the lead with the other Federal agencies in working to gain the voluntary cooperation, participation, and expertise of all of those in private industry, the States and localities who can assist in achieving the Nation's fair housing goals.

The Secretary of Housing and Urban Development is authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

REDRESSING OUR NATION'S AND THE FEDERAL GOVERNMENT'S HISTORY OF DISCRIMINATORY HOUSING PRACTICES AND POLICIES

Memorandum of President of the United States, Jan. 26, 2021, 86 F.R. 7487, provided:

Memorandum for the Secretary of Housing and Urban Development

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Background and Policy*. Diverse and inclusive communities strengthen our democracy. But our Nation's history has been one of great struggle toward this ideal. During the 20th century, Federal, State,

and local governments systematically implemented racially discriminatory housing policies that contributed to segregated neighborhoods and inhibited equal opportunity and the chance to build wealth for Black, Latino, Asian American and Pacific Islander, and Native American families, and other underserved communities. Ongoing legacies of residential segregation and discrimination remain ever-present in our society. These include a racial gap in homeownership; a persistent undervaluation of properties owned by families of color; a disproportionate burden of pollution and exposure to the impacts of climate change in communities of color; and systemic barriers to safe, accessible, and affordable housing for people of color, immigrants, individuals with disabilities, and lesbian, gay, bisexual, transgender, gender non-conforming, and queer (LGBTQ+) individuals.

Throughout much of the 20th century, the Federal Government systematically supported discrimination and exclusion in housing and mortgage lending. While many of the Federal Government's housing policies and programs expanded homeownership across the country, many knowingly excluded Black people and other persons of color, and promoted and reinforced housing segregation. Federal policies contributed to mortgage redlining and lending discrimination against persons of color.

The creation of the Interstate Highway System, funded and constructed by the Federal Government and State governments in the 20th century, disproportionately burdened many historically Black and low-income neighborhoods in many American cities. Many urban interstate highways were deliberately built to pass through Black neighborhoods, often requiring the destruction of housing and other local institutions. To this day, many Black neighborhoods are disconnected from access to high-quality housing, jobs, public transit, and other resources.

The Federal Government must recognize and acknowledge its role in systematically declining to invest in communities of color and preventing residents of those communities from accessing the same services and resources as their white counterparts. The effects of these policy decisions continue to be felt today, as racial inequality still permeates land-use patterns in most U.S. cities and virtually all aspects of housing markets.

The Congress enacted the Fair Housing Act [42 U.S.C. 3601 et seq.] more than 50 years ago to lift barriers that created separate and unequal neighborhoods on the basis of race, ethnicity, and national origin. Since then, however, access to housing and the creation of wealth through homeownership have remained persistently unequal in the United States. Many neighborhoods are as racially segregated today as they were in the middle of the 20th century. People of color are overrepresented among those experiencing homelessness. In addition, people of color disproportionately bear the burdens of exposure to air and water pollution, and growing risks of housing instability from climate crises like extreme heat, flooding, and wildfires. And the racial wealth gap is wider than it was when the Fair Housing Act was enacted, driven in part by persistent disparities in access to homeownership. Although Federal fair housing laws were expanded to include protections for individuals with disabilities, a lack of access to affordable and integrated living options remains a significant problem.

The Federal Government has a critical role to play in overcoming and redressing this history of discrimination and in protecting against other forms of discrimination by applying and enforcing Federal civil rights and fair housing laws. It can help ensure that fair and equal access to housing opportunity exists for all throughout the United States. This goal is consistent with the Fair Housing Act, which imposes on Federal departments and agencies the duty to "administer their programs and activities relating to housing and urban development . . . in a manner affirmatively to further" fair housing (42 U.S.C. 3608(d)). This is not only a mandate to refrain from discrimination but a mandate to take actions that undo historic patterns of segregation and other types of discrimination and that afford access to long-denied opportunities.

Accordingly, it is the policy of my Administration that the Federal Government shall work with communities to end housing discrimination, to provide redress to those who have experienced housing discrimination, to eliminate racial bias and other forms of discrimination in all stages of home-buying and renting, to lift barriers that restrict housing and neighborhood choice, to promote diverse and inclusive communities, to ensure sufficient physically accessible housing, and to secure equal access to housing opportunity for all.

SEC. 2. *Examining Recent Regulatory Actions*. The Secretary of Housing and Urban Development (HUD) shall, as soon as practicable, take all steps necessary to examine the effects of the August 7, 2020, rule entitled "Preserving Community and Neighborhood Choice" (codified at parts 5, 91, 92, 570, 574, 576, and 903 of title 24, Code of Federal Regulations), including the effect that repealing the July 16, 2015, rule entitled "Affirmatively Furthering Fair Housing" has had on HUD's statutory duty to affirmatively further fair housing. The Secretary shall also, as soon as practicable, take all steps necessary to examine the effects of the September 24, 2020, rule entitled "HUD's Implementation of the Fair Housing Act's Disparate Impact Standard" (codified at part 100 of title 24, Code of Federal Regulations), including the effect that amending the February 15, 2013, rule entitled "Implementation of the Fair Housing Act's Discriminatory Effects

Standard" has had on HUD's statutory duty to ensure compliance with the Fair Housing Act. Based on that examination, the Secretary shall take any necessary steps, as appropriate and consistent with applicable law, to implement the Fair Housing Act's requirements that HUD administer its programs in a manner that affirmatively furthers fair housing and HUD's overall duty to administer the Act (42 U.S.C. 3608(a)) including by preventing practices with an unjustified discriminatory effect.

SEC. 3. *General Provisions*. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) You are authorized and directed to publish this memorandum in the *Federal Register*.

J.R. BIDEN, JR.

§3608a. Collection of certain data

(a) In general

To assess the extent of compliance with Federal fair housing requirements (including the requirements established under title VI of Public Law 88–352 [42 U.S.C. 2000d et seq.] and title VIII of Public Law 90–284 [42 U.S.C. 3601 et seq.]), the Secretary of Agriculture shall collect, not less than annually, data on the racial and ethnic characteristics of persons eligible for, assisted, or otherwise benefiting under each community development, housing assistance, and mortgage and loan insurance and guarantee program administered by such Secretary. Such data shall be collected on a building by building basis if the Secretary determines such collection to be appropriate.

(b) Reports to Congress

The Secretary of Agriculture shall include in the annual report of such Secretary to the Congress a summary and evaluation of the data collected by such Secretary under subsection (a) during the preceding year.

(Pub. L. 100–242, title V, §562, Feb. 5, 1988, 101 Stat. 1944; Pub. L. 104–66, title I, §1071(e), Dec. 21, 1995, 109 Stat. 720.)

EDITORIAL NOTES

REFERENCES IN TEXT

Public Law 88–352, referred to in subsec. (a), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, known as the Civil Rights Act of 1964. 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.

Title VIII of Public Law 90–284, referred to in subsec. (a), is title VIII of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 81, known as the Fair Housing Act, which is classified principally to subchapter I (§3601 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

CODIFICATION

Section was enacted as part of the Housing and Community Development Act of 1987, and not as part of title VIII of Pub. L. 90–284, popularly known as the Fair Housing Act, which comprises this subchapter.

AMENDMENTS

1995—Subsec. (a). Pub. L. 104–66, §1071(e)(1), struck out "the Secretary of Housing and Urban Development and" before "the Secretary of Agriculture", "each" before "collect, not less than annually", and

"involved" before "determines such collection".

Subsec. (b). Pub. L. 104–66, §1071(e)(2), substituted "The" for "The Secretary of Housing and Urban Development and the" before "Secretary of Agriculture" and struck out "each" before "include in the".

§3609. Education and conciliation; conferences and consultations; reports

Immediately after April 11, 1968, the Secretary shall commence such educational and conciliatory activities as in his judgment will further the purposes of this subchapter. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this subchapter and his suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement. He may pay per diem, travel, and transportation expenses for persons attending such conferences as provided in section 5703 of title 5. He shall consult with State and local officials and other interested parties to learn the extent, if any, to which housing discrimination exists in their State or locality, and whether and how State or local enforcement programs might be utilized to combat such discrimination in connection with or in place of, the Secretary's enforcement of this subchapter. The Secretary shall issue reports on such conferences and consultations as he deems appropriate.

(Pub. L. 90–284, title VIII, §809, Apr. 11, 1968, 82 Stat. 85.)

§3610. Administrative enforcement; preliminary matters

(a) Complaints and answers

(1)(A)(i) An aggrieved person may, not later than one year after an alleged discriminatory housing practice has occurred or terminated, file a complaint with the Secretary alleging such discriminatory housing practice. The Secretary, on the Secretary's own initiative, may also file such a complaint.

(ii) Such complaints shall be in writing and shall contain such information and be in such form as the Secretary requires.

(iii) The Secretary may also investigate housing practices to determine whether a complaint should be brought under this section.

(B) Upon the filing of such a complaint—

(i) the Secretary shall serve notice upon the aggrieved person acknowledging such filing and advising the aggrieved person of the time limits and choice of forums provided under this subchapter;

(ii) the Secretary shall, not later than 10 days after such filing or the identification of an additional respondent under paragraph (2), serve on the respondent a notice identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations of respondents under this subchapter, together with a copy of the original complaint;

(iii) each respondent may file, not later than 10 days after receipt of notice from the Secretary, an answer to such complaint; and

(iv) the Secretary shall make an investigation of the alleged discriminatory housing practice and complete such investigation within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), unless it is impracticable to do so.

(C) If the Secretary is unable to complete the investigation within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), the Secretary shall notify the complainant and respondent in writing of the reasons for not doing so.

(D) Complaints and answers shall be under oath or affirmation, and may be reasonably and fairly amended at any time.

(2)(A) A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent

upon written notice, under paragraph (1), to such person, from the Secretary.

(B) Such notice, in addition to meeting the requirements of paragraph (1), shall explain the basis for the Secretary's belief that the person to whom the notice is addressed is properly joined as a respondent.

(b) Investigative report and conciliation

(1) During the period beginning with the filing of such complaint and ending with the filing of a charge or a dismissal by the Secretary, the Secretary shall, to the extent feasible, engage in conciliation with respect to such complaint.

(2) A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant, and shall be subject to approval by the Secretary.

(3) A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Any such arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief.

(4) Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Secretary determines that disclosure is not required to further the purposes of this subchapter.

(5)(A) At the end of each investigation under this section, the Secretary shall prepare a final investigative report containing—

(i) the names and dates of contacts with witnesses;

(ii) a summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;

(iii) a summary description of other pertinent records;

(iv) a summary of witness statements; and

(v) answers to interrogatories.

(B) A final report under this paragraph may be amended if additional evidence is later discovered.

(c) Failure to comply with conciliation agreement

Whenever the Secretary has reasonable cause to believe that a respondent has breached a conciliation agreement, the Secretary shall refer the matter to the Attorney General with a recommendation that a civil action be filed under section 3614 of this title for the enforcement of such agreement.

(d) Prohibitions and requirements with respect to disclosure of information

(1) Nothing said or done in the course of conciliation under this subchapter may be made public or used as evidence in a subsequent proceeding under this subchapter without the written consent of the persons concerned.

(2) Notwithstanding paragraph (1), the Secretary shall make available to the aggrieved person and the respondent, at any time, upon request following completion of the Secretary's investigation, information derived from an investigation and any final investigative report relating to that investigation.

(e) Prompt judicial action

(1) If the Secretary concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this subchapter, the Secretary may authorize a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint under this section. Upon receipt of such an authorization, the Attorney General shall promptly commence and maintain such an action. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with the Federal Rules of Civil Procedure. The commencement of a civil action under this subsection does not affect the initiation or continuation of administrative proceedings under this section and section 3612 of this title.

(2) Whenever the Secretary has reason to believe that a basis may exist for the commencement of proceedings against any respondent under sections 3614(a) and 3614(c) of this title or for proceedings by any governmental licensing or supervisory authorities, the Secretary shall transmit

the information upon which such belief is based to the Attorney General, or to such authorities, as the case may be.

(f) Referral for State or local proceedings

(1) Whenever a complaint alleges a discriminatory housing practice—

(A) within the jurisdiction of a State or local public agency; and

(B) as to which such agency has been certified by the Secretary under this subsection;

the Secretary shall refer such complaint to that certified agency before taking any action with respect to such complaint.

(2) Except with the consent of such certified agency, the Secretary, after that referral is made, shall take no further action with respect to such complaint unless—

(A) the certified agency has failed to commence proceedings with respect to the complaint before the end of the 30th day after the date of such referral;

(B) the certified agency, having so commenced such proceedings, fails to carry forward such proceedings with reasonable promptness; or

(C) the Secretary determines that the certified agency no longer qualifies for certification under this subsection with respect to the relevant jurisdiction.

(3)(A) The Secretary may certify an agency under this subsection only if the Secretary determines that—

(i) the substantive rights protected by such agency in the jurisdiction with respect to which certification is to be made;

(ii) the procedures followed by such agency;

(iii) the remedies available to such agency; and

(iv) the availability of judicial review of such agency's action;

are substantially equivalent to those created by and under this subchapter.

(B) Before making such certification, the Secretary shall take into account the current practices and past performance, if any, of such agency.

(4) During the period which begins on September 13, 1988, and ends 40 months after September 13, 1988, each agency certified (including an agency certified for interim referrals pursuant to 24 CFR 115.11, unless such agency is subsequently denied recognition under 24 CFR 115.7) for the purposes of this subchapter on the day before September 13, 1988, shall for the purposes of this subsection be considered certified under this subsection with respect to those matters for which such agency was certified on September 13, 1988. If the Secretary determines in an individual case that an agency has not been able to meet the certification requirements within this 40-month period due to exceptional circumstances, such as the infrequency of legislative sessions in that jurisdiction, the Secretary may extend such period by not more than 8 months.

(5) Not less frequently than every 5 years, the Secretary shall determine whether each agency certified under this subsection continues to qualify for certification. The Secretary shall take appropriate action with respect to any agency not so qualifying.

(g) Reasonable cause determination and effect

(1) The Secretary shall, within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), determine based on the facts whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, unless it is impracticable to do so, or unless the Secretary has approved a conciliation agreement with respect to the complaint. If the Secretary is unable to make the determination within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), the Secretary shall notify the complainant and respondent in writing of the reasons for not doing so.

(2)(A) If the Secretary determines that reasonable cause exists to believe that a discriminatory

housing practice has occurred or is about to occur, the Secretary shall, except as provided in subparagraph (C), immediately issue a charge on behalf of the aggrieved person, for further proceedings under section 3612 of this title.

(B) Such charge—

(i) shall consist of a short and plain statement of the facts upon which the Secretary has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur;

(ii) shall be based on the final investigative report; and

(iii) need not be limited to the facts or grounds alleged in the complaint filed under subsection (a).

(C) If the Secretary determines that the matter involves the legality of any State or local zoning or other land use law or ordinance, the Secretary shall immediately refer the matter to the Attorney General for appropriate action under section 3614 of this title, instead of issuing such charge.

(3) If the Secretary determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Secretary shall promptly dismiss the complaint. The Secretary shall make public disclosure of each such dismissal.

(4) The Secretary may not issue a charge under this section regarding an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress or a State law, seeking relief with respect to that discriminatory housing practice.

(h) Service of copies of charge

After the Secretary issues a charge under this section, the Secretary shall cause a copy thereof, together with information as to how to make an election under section 3612(a) of this title and the effect of such an election, to be served—

(1) on each respondent named in such charge, together with a notice of opportunity for a hearing at a time and place specified in the notice, unless that election is made; and

(2) on each aggrieved person on whose behalf the complaint was filed.

(Pub. L. 90–284, title VIII, §810, as added Pub. L. 100–430, §8(2), Sept. 13, 1988, 102 Stat. 1625.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (e)(1), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

PRIOR PROVISIONS

A prior section 3610, Pub. L. 90–284, title VIII, §810, Apr. 11, 1968, 82 Stat. 85, related to enforcement, prior to repeal by Pub. L. 100–430, §8(2).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100–430, set out as an Effective Date of 1988 Amendment note under section 3601 of this title.

§3611. Subpoenas; giving of evidence

(a) In general

The Secretary may, in accordance with this subsection, issue subpoenas and order discovery in aid of investigations and hearings under this subchapter. Such subpoenas and discovery may be ordered to the same extent and subject to the same limitations as would apply if the subpoenas or discovery

were ordered or served in aid of a civil action in the United States district court for the district in which the investigation is taking place.

(b) Witness fees

Witnesses summoned by a subpoena under this subchapter shall be entitled to the same witness and mileage fees as witnesses in proceedings in United States district courts. Fees payable to a witness summoned by a subpoena issued at the request of a party shall be paid by that party or, where a party is unable to pay the fees, by the Secretary.

(c) Criminal penalties

(1) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if it is in such person's power to do so, in obedience to the subpoena or other lawful order under subsection (a), shall be fined not more than $100,000 or imprisoned not more than one year, or both.

(2) Any person who, with intent thereby to mislead another person in any proceeding under this subchapter—

(A) makes or causes to be made any false entry or statement of fact in any report, account, record, or other document produced pursuant to subpoena or other lawful order under subsection (a);

(B) willfully neglects or fails to make or to cause to be made full, true, and correct entries in such reports, accounts, records, or other documents; or

(C) willfully mutilates, alters, or by any other means falsifies any documentary evidence;

shall be fined not more than $100,000 or imprisoned not more than one year, or both.

(Pub. L. 90–284, title VIII, §811, as added Pub. L. 100–430, §8(2), Sept. 13, 1988, 102 Stat. 1628.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3611, Pub. L. 90–284, title VIII, §811, Apr. 11, 1968, 82 Stat. 87, related to evidence, prior to repeal by Pub. L. 100–430, §8(2).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100–430, set out as an Effective Date of 1988 Amendment note under section 3601 of this title.

§3612. Enforcement by Secretary

(a) Election of judicial determination

When a charge is filed under section 3610 of this title, a complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed, may elect to have the claims asserted in that charge decided in a civil action under subsection (o) in lieu of a hearing under subsection (b). The election must be made not later than 20 days after the receipt by the electing person of service under section 3610(h) of this title or, in the case of the Secretary, not later than 20 days after such service. The person making such election shall give notice of doing so to the Secretary and to all other complainants and respondents to whom the charge relates.

(b) Administrative law judge hearing in absence of election

If an election is not made under subsection (a) with respect to a charge filed under section 3610 of this title, the Secretary shall provide an opportunity for a hearing on the record with respect to a charge issued under section 3610 of this title. The Secretary shall delegate the conduct of a hearing

under this section to an administrative law judge appointed under section 3105 of title 5. The administrative law judge shall conduct the hearing at a place in the vicinity in which the discriminatory housing practice is alleged to have occurred or to be about to occur.

(c) Rights of parties

At a hearing under this section, each party may appear in person, be represented by counsel, present evidence, cross-examine witnesses, and obtain the issuance of subpoenas under section 3611 of this title. Any aggrieved person may intervene as a party in the proceeding. The Federal Rules of Evidence apply to the presentation of evidence in such hearing as they would in a civil action in a United States district court.

(d) Expedited discovery and hearing

(1) Discovery in administrative proceedings under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the need of all parties to obtain relevant evidence.

(2) A hearing under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the needs and rights of the parties to obtain a fair hearing and a complete record.

(3) The Secretary shall, not later than 180 days after September 13, 1988, issue rules to implement this subsection.

(e) Resolution of charge

Any resolution of a charge before a final order under this section shall require the consent of the aggrieved person on whose behalf the charge is issued.

(f) Effect of trial of civil action on administrative proceedings

An administrative law judge may not continue administrative proceedings under this section regarding any alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress or a State law, seeking relief with respect to that discriminatory housing practice.

(g) Hearings, findings and conclusions, and order

(1) The administrative law judge shall commence the hearing under this section no later than 120 days following the issuance of the charge, unless it is impracticable to do so. If the administrative law judge is unable to commence the hearing within 120 days after the issuance of the charge, the administrative law judge shall notify the Secretary, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing of the reasons for not doing so.

(2) The administrative law judge shall make findings of fact and conclusions of law within 60 days after the end of the hearing under this section, unless it is impracticable to do so. If the administrative law judge is unable to make findings of fact and conclusions of law within such period, or any succeeding 60-day period thereafter, the administrative law judge shall notify the Secretary, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing of the reasons for not doing so.

(3) If the administrative law judge finds that a respondent has engaged or is about to engage in a discriminatory housing practice, such administrative law judge shall promptly issue an order for such relief as may be appropriate, which may include actual damages suffered by the aggrieved person and injunctive or other equitable relief. Such order may, to vindicate the public interest, assess a civil penalty against the respondent—

(A) in an amount not exceeding $10,000 if the respondent has not been adjudged to have committed any prior discriminatory housing practice;

(B) in an amount not exceeding $25,000 if the respondent has been adjudged to have committed one other discriminatory housing practice during the 5-year period ending on the date of the filing of this charge; and

(C) in an amount not exceeding $50,000 if the respondent has been adjudged to have committed 2 or more discriminatory housing practices during the 7-year period ending on the date of the filing of this charge;

except that if the acts constituting the discriminatory housing practice that is the object of the charge are committed by the same natural person who has been previously adjudged to have committed acts constituting a discriminatory housing practice, then the civil penalties set forth in subparagraphs (B) and (C) may be imposed without regard to the period of time within which any subsequent discriminatory housing practice occurred.

(4) No such order shall affect any contract, sale, encumbrance, or lease consummated before the issuance of such order and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the charge filed under this subchapter.

(5) In the case of an order with respect to a discriminatory housing practice that occurred in the course of a business subject to a licensing or regulation by a governmental agency, the Secretary shall, not later than 30 days after the date of the issuance of such order (or, if such order is judicially reviewed, 30 days after such order is in substance affirmed upon such review)—

(A) send copies of the findings of fact, conclusions of law, and the order, to that governmental agency; and

(B) recommend to that governmental agency appropriate disciplinary action (including, where appropriate, the suspension or revocation of the license of the respondent).

(6) In the case of an order against a respondent against whom another order was issued within the preceding 5 years under this section, the Secretary shall send a copy of each such order to the Attorney General.

(7) If the administrative law judge finds that the respondent has not engaged or is not about to engage in a discriminatory housing practice, as the case may be, such administrative law judge shall enter an order dismissing the charge. The Secretary shall make public disclosure of each such dismissal.

(h) Review by Secretary; service of final order

(1) The Secretary may review any finding, conclusion, or order issued under subsection (g). Such review shall be completed not later than 30 days after the finding, conclusion, or order is so issued; otherwise the finding, conclusion, or order becomes final.

(2) The Secretary shall cause the findings of fact and conclusions of law made with respect to any final order for relief under this section, together with a copy of such order, to be served on each aggrieved person and each respondent in the proceeding.

(i) Judicial review

(1) Any party aggrieved by a final order for relief under this section granting or denying in whole or in part the relief sought may obtain a review of such order under chapter 158 of title 28.

(2) Notwithstanding such chapter, venue of the proceeding shall be in the judicial circuit in which the discriminatory housing practice is alleged to have occurred, and filing of the petition for review shall be not later than 30 days after the order is entered.

(j) Court enforcement of administrative order upon petition by Secretary

(1) The Secretary may petition any United States court of appeals for the circuit in which the discriminatory housing practice is alleged to have occurred or in which any respondent resides or transacts business for the enforcement of the order of the administrative law judge and for appropriate temporary relief or restraining order, by filing in such court a written petition praying that such order be enforced and for appropriate temporary relief or restraining order.

(2) The Secretary shall file in court with the petition the record in the proceeding. A copy of such petition shall be forthwith transmitted by the clerk of the court to the parties to the proceeding before the administrative law judge.

(k) Relief which may be granted

(1) Upon the filing of a petition under subsection (i) or (j), the court may—

(A) grant to the petitioner, or any other party, such temporary relief, restraining order, or other order as the court deems just and proper;

(B) affirm, modify, or set aside, in whole or in part, the order, or remand the order for further

proceedings; and

(C) enforce such order to the extent that such order is affirmed or modified.

(2) Any party to the proceeding before the administrative law judge may intervene in the court of appeals.

(3) No objection not made before the administrative law judge shall be considered by the court, unless the failure or neglect to urge such objection is excused because of extraordinary circumstances.

(l) Enforcement decree in absence of petition for review

If no petition for review is filed under subsection (i) before the expiration of 45 days after the date the administrative law judge's order is entered, the administrative law judge's findings of fact and order shall be conclusive in connection with any petition for enforcement—

(1) which is filed by the Secretary under subsection (j) after the end of such day; or

(2) under subsection (m).

(m) Court enforcement of administrative order upon petition of any person entitled to relief

If before the expiration of 60 days after the date the administrative law judge's order is entered, no petition for review has been filed under subsection (i), and the Secretary has not sought enforcement of the order under subsection (j), any person entitled to relief under the order may petition for a decree enforcing the order in the United States court of appeals for the circuit in which the discriminatory housing practice is alleged to have occurred.

(n) Entry of decree

The clerk of the court of appeals in which a petition for enforcement is filed under subsection (l) or (m) shall forthwith enter a decree enforcing the order and shall transmit a copy of such decree to the Secretary, the respondent named in the petition, and to any other parties to the proceeding before the administrative law judge.

(o) Civil action for enforcement when election is made for such civil action

(1) If an election is made under subsection (a), the Secretary shall authorize, and not later than 30 days after the election is made the Attorney General shall commence and maintain, a civil action on behalf of the aggrieved person in a United States district court seeking relief under this subsection. Venue for such civil action shall be determined under chapter 87 of title 28.

(2) Any aggrieved person with respect to the issues to be determined in a civil action under this subsection may intervene as of right in that civil action.

(3) In a civil action under this subsection, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may grant as relief any relief which a court could grant with respect to such discriminatory housing practice in a civil action under section 3613 of this title. Any relief so granted that would accrue to an aggrieved person in a civil action commenced by that aggrieved person under section 3613 of this title shall also accrue to that aggrieved person in a civil action under this subsection. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court shall not award such relief if that aggrieved person has not complied with discovery orders entered by the court.

(p) Attorney's fees

In any administrative proceeding brought under this section, or any court proceeding arising therefrom, or any civil action under this section, the administrative law judge or the court, as the case may be, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the extent provided by section 504 of title 5 or by section 2412 of title 28.

(Pub. L. 90–284, title VIII, §812, as added Pub. L. 100–430, §8(2), Sept. 13, 1988, 102 Stat. 1629.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Rules of Evidence, referred to in subsec. (c), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

PRIOR PROVISIONS

A prior section 3612, Pub. L. 90–284, title VIII, §812, Apr. 11, 1968, 82 Stat. 88, related to enforcement by private persons, prior to repeal by Pub. L. 100–430, §8(2).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100–430, set out as an Effective Date of 1988 Amendment note under section 3601 of this title.

§3613. Enforcement by private persons

(a) Civil action

(1)(A) An aggrieved person may commence a civil action in an appropriate United States district court or State court not later than 2 years after the occurrence or the termination of an alleged discriminatory housing practice, or the breach of a conciliation agreement entered into under this subchapter, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice or breach.

(B) The computation of such 2-year period shall not include any time during which an administrative proceeding under this subchapter was pending with respect to a complaint or charge under this subchapter based upon such discriminatory housing practice. This subparagraph does not apply to actions arising from a breach of a conciliation agreement.

(2) An aggrieved person may commence a civil action under this subsection whether or not a complaint has been filed under section 3610(a) of this title and without regard to the status of any such complaint, but if the Secretary or a State or local agency has obtained a conciliation agreement with the consent of an aggrieved person, no action may be filed under this subsection by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such complaint except for the purpose of enforcing the terms of such an agreement.

(3) An aggrieved person may not commence a civil action under this subsection with respect to an alleged discriminatory housing practice which forms the basis of a charge issued by the Secretary if an administrative law judge has commenced a hearing on the record under this subchapter with respect to such charge.

(b) Appointment of attorney by court

Upon application by a person alleging a discriminatory housing practice or a person against whom such a practice is alleged, the court may—

(1) appoint an attorney for such person; or

(2) authorize the commencement or continuation of a civil action under subsection (a) without the payment of fees, costs, or security, if in the opinion of the court such person is financially unable to bear the costs of such action.

(c) Relief which may be granted

(1) In a civil action under subsection (a), if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff actual and punitive damages, and subject to subsection (d), may grant as relief, as the court deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order (including an order enjoining the defendant from engaging in such practice or ordering such affirmative action as may be appropriate).

(2) In a civil action under subsection (a), the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the same extent as a private person.

(d) Effect on certain sales, encumbrances, and rentals

Relief granted under this section shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrancer, or tenant, without actual notice of the filing of a complaint with the Secretary or civil action under this subchapter.

(e) Intervention by Attorney General

Upon timely application, the Attorney General may intervene in such civil action, if the Attorney General certifies that the case is of general public importance. Upon such intervention the Attorney General may obtain such relief as would be available to the Attorney General under section 3614(e) of this title in a civil action to which such section applies.

(Pub. L. 90–284, title VIII, §813, as added Pub. L. 100–430, §8(2), Sept. 13, 1988, 102 Stat. 1633.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3613, Pub. L. 90–284, title VIII, §813, Apr. 11, 1968, 82 Stat. 88, related to enforcement by Attorney General by bringing civil action requesting preventive relief, prior to repeal by Pub. L. 100–430, §8(2).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100–430, set out as an Effective Date of 1988 Amendment note under section 3601 of this title.

§3614. Enforcement by Attorney General

(a) Pattern or practice cases

Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this subchapter, or that any group of persons has been denied any of the rights granted by this subchapter and such denial raises an issue of general public importance, the Attorney General may commence a civil action in any appropriate United States district court.

(b) On referral of discriminatory housing practice or conciliation agreement for enforcement

(1)(A) The Attorney General may commence a civil action in any appropriate United States district court for appropriate relief with respect to a discriminatory housing practice referred to the Attorney General by the Secretary under section 3610(g) of this title.

(B) A civil action under this paragraph may be commenced not later than the expiration of 18 months after the date of the occurrence or the termination of the alleged discriminatory housing practice.

(2)(A) The Attorney General may commence a civil action in any appropriate United States district court for appropriate relief with respect to breach of a conciliation agreement referred to the Attorney General by the Secretary under section 3610(c) of this title.

(B) A civil action may be commenced under this paragraph not later than the expiration of 90 days after the referral of the alleged breach under section 3610(c) of this title.

(c) Enforcement of subpoenas

The Attorney General, on behalf of the Secretary, or other party at whose request a subpoena is issued, under this subchapter, may enforce such subpoena in appropriate proceedings in the United States district court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(d) Relief which may be granted in civil actions under subsections (a) and (b)

(1) In a civil action under subsection (a) or (b), the court—

(A) may award such preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of this subchapter as is necessary to assure the full enjoyment of the rights granted by this subchapter;

(B) may award such other relief as the court deems appropriate, including monetary damages to persons aggrieved; and

(C) may, to vindicate the public interest, assess a civil penalty against the respondent—

(i) in an amount not exceeding $50,000, for a first violation; and

(ii) in an amount not exceeding $100,000, for any subsequent violation.

(2) In a civil action under this section, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the extent provided by section 2412 of title 28.

(e) Intervention in civil actions

Upon timely application, any person may intervene in a civil action commenced by the Attorney General under subsection (a) or (b) which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person or a conciliation agreement to which such person is a party. The court may grant such appropriate relief to any such intervening party as is authorized to be granted to a plaintiff in a civil action under section 3613 of this title.

(Pub. L. 90–284, title VIII, §814, as added Pub. L. 100–430, §8(2), Sept. 13, 1988, 102 Stat. 1634.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3614, Pub. L. 90–284, title VIII, §814, Apr. 11, 1968, 82 Stat. 88, related to expedition of court proceedings under section 3612 or 3613 of this title, prior to repeal by Pub. L. 98–620, title IV, §402(40), Nov. 8, 1984, 98 Stat. 3360.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100–430, set out as an Effective Date of 1988 Amendment note under section 3601 of this title.

§3614–1. Incentives for self-testing and self-correction

(a) Privileged information

(1) Conditions for privilege

A report or result of a self-test (as that term is defined by regulation of the Secretary) shall be considered to be privileged under paragraph (2) if any person—

(A) conducts, or authorizes an independent third party to conduct, a self-test of any aspect of a residential real estate related lending transaction of that person, or any part of that transaction, in order to determine the level or effectiveness of compliance with this subchapter by that person; and

(B) has identified any possible violation of this subchapter by that person and has taken, or is taking, appropriate corrective action to address any such possible violation.

(2) Privileged self-test

If a person meets the conditions specified in subparagraphs (A) and (B) of paragraph (1) with respect to a self-test described in that paragraph, any report or results of that self-test—

(A) shall be privileged; and

(B) may not be obtained or used by any applicant, department, or agency in any—

(i) proceeding or civil action in which one or more violations of this subchapter are alleged; or

(ii) examination or investigation relating to compliance with this subchapter.

(b) Results of self-testing

(1) In general

No provision of this section may be construed to prevent an aggrieved person, complainant, department, or agency from obtaining or using a report or results of any self-test in any proceeding or civil action in which a violation of this subchapter is alleged, or in any examination or investigation of compliance with this subchapter if—

(A) the person to whom the self-test relates or any person with lawful access to the report or the results—

(i) voluntarily releases or discloses all, or any part of, the report or results to the aggrieved person, complainant, department, or agency, or to the general public; or

(ii) refers to or describes the report or results as a defense to charges of violations of this subchapter against the person to whom the self-test relates; or

(B) the report or results are sought in conjunction with an adjudication or admission of a violation of this subchapter for the sole purpose of determining an appropriate penalty or remedy.

(2) Disclosure for determination of penalty or remedy

Any report or results of a self-test that are disclosed for the purpose specified in paragraph (1)(B)—

(A) shall be used only for the particular proceeding in which the adjudication or admission referred to in paragraph (1)(B) is made; and

(B) may not be used in any other action or proceeding.

(c) Adjudication

An aggrieved person, complainant, department, or agency that challenges a privilege asserted under this section may seek a determination of the existence and application of that privilege in—

(1) a court of competent jurisdiction; or

(2) an administrative law proceeding with appropriate jurisdiction.

(Pub. L. 90–284, title VIII, §814A, as added Pub. L. 104–208, div. A, title II, §2302(b)(1), Sept. 30, 1996, 110 Stat. 3009–421.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Privilege provided for in this section applicable to self-test conducted before, on, or after effective date of regulations prescribed under section 2302(b)(2) of Pub. L. 104–208, set out below, with certain exception, see section 2302(c) of Pub. L. 104–208, set out as a note under section 1691c–1 of Title 15, Commerce and Trade.

REGULATIONS

Pub. L. 104–208, div. A, title II, §2302(b)(2), Sept. 30, 1996, 110 Stat. 3009–423, provided that:

"(A) IN GENERAL.—Not later than 6 months after the date of enactment of this Act [Sept. 30, 1996], in consultation with the Board and after providing notice and an opportunity for public comment, the Secretary of Housing and Urban Development shall prescribe final regulations to implement section 814A of the Fair Housing Act [42 U.S.C. 3614–1], as added by this section.

"(B) SELF-TEST.—

"(i) DEFINITION.—The regulations prescribed by the Secretary under subparagraph (A) shall include a definition of the term "self-test" for purposes of section 814A of the Fair Housing Act, as added by this section.

"(ii) REQUIREMENT FOR SELF-TEST.—The regulations prescribed by the Secretary under subparagraph (A) shall specify that a self-test shall be sufficiently extensive to constitute a determination of the level and effectiveness of the compliance by a person engaged in residential real estate related lending activities with the Fair Housing Act [42 U.S.C. 3601 et seq.].

"(iii) SUBSTANTIAL SIMILARITY TO CERTAIN EQUAL CREDIT OPPORTUNITY ACT REGULATIONS.—The regulations prescribed under subparagraph (A) shall be substantially similar to the regulations prescribed by the Board to carry out section 704A of the Equal Credit Opportunity Act [15 U.S.C. 1691c–1], as added by this section."

§3614a. Rules to implement subchapter

The Secretary may make rules (including rules for the collection, maintenance, and analysis of appropriate data) to carry out this subchapter. The Secretary shall give public notice and opportunity for comment with respect to all rules made under this section.

(Pub. L. 90–284, title VIII, §815, as added Pub. L. 100–430, §8(2), Sept. 13, 1988, 102 Stat. 1635.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 815 of Pub. L. 90–284 was renumbered section 816 and is classified to section 3615 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100–430, set out as an Effective Date of 1988 Amendment note under section 3601 of this title.

INITIAL RULEMAKING

Secretary to issue rules to implement this subchapter as amended by Pub. L. 100–430 not later than the 180th day after Sept. 13, 1988, see section 13(b) of Pub. L. 100–430, set out as a note under section 3601 of this title.

§3615. Effect on State laws

Nothing in this subchapter shall be construed to invalidate or limit any law of a State or political subdivision of a State, or of any other jurisdiction in which this subchapter shall be effective, that grants, guarantees, or protects the same rights as are granted by this subchapter; but any law of a State, a political subdivision, or other such jurisdiction that purports to require or permit any action that would be a discriminatory housing practice under this subchapter shall to that extent be invalid.

(Pub. L. 90–284, title VIII, §816, formerly §815, Apr. 11, 1968, 82 Stat. 89; renumbered §816, Pub. L. 100–430, §8(1), Sept. 13, 1988, 102 Stat. 1625.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 816 of Pub. L. 90–284 was renumbered section 817 and is classified to section 3616 of this title.

§3616. Cooperation with State and local agencies administering fair housing laws; utilization of services and personnel; reimbursement; written

agreements; publication in Federal Register

The Secretary may cooperate with State and local agencies charged with the administration of State and local fair housing laws and, with the consent of such agencies, utilize the services of such agencies and their employees and, notwithstanding any other provision of law, may reimburse such agencies and their employees for services rendered to assist him in carrying out this subchapter. In furtherance of such cooperative efforts, the Secretary may enter into written agreements with such State or local agencies. All agreements and terminations thereof shall be published in the Federal Register.

(Pub. L. 90–284, title VIII, §817, formerly §816, Apr. 11, 1968, 82 Stat. 89; renumbered §817, Pub. L. 100–430, §8(1), Sept. 13, 1988, 102 Stat. 1625.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 817 of Pub. L. 90–284 was renumbered section 818 and is classified to section 3617 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

FAIR HOUSING INITIATIVES PROGRAM

Pub. L. 100–242, title V, §561, Feb. 5, 1988, 101 Stat. 1942, as amended, which established a demonstration program on fair housing initiatives and was formerly set out as a note under this section, was transferred to section 3616a of this title.

§3616a. Fair housing initiatives program

(a) In general

The Secretary of Housing and Urban Development (in this section referred to as the "Secretary") may make grants to, or (to the extent of amounts provided in appropriation Acts) enter into contracts or cooperative agreements with, State or local governments or their agencies, public or private nonprofit organizations or institutions, or other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices, to develop, implement, carry out, or coordinate—

(1) programs or activities designed to obtain enforcement of the rights granted by title VIII of the Act of April 11, 1968 [42 U.S.C. 3601 et seq.] (commonly referred to as the Civil Rights Act of 1968), or by State or local laws that provide rights and remedies for alleged discriminatory housing practices that are substantially equivalent to the rights and remedies provided in such title VIII, through such appropriate judicial or administrative proceedings (including informal methods of conference, conciliation, and persuasion) as are available therefor; and

(2) education and outreach programs designed to inform the public concerning rights and obligations under the laws referred to in paragraph (1).

(b) Private enforcement initiatives

(1) In general

The Secretary shall use funds made available under this subsection to conduct, through contracts with private nonprofit fair housing enforcement organizations, investigations of violations of the rights granted under title VIII of the Civil Rights Act of 1968 [42 U.S.C. 3601 et seq.], and such enforcement activities as appropriate to remedy such violations. The Secretary may enter into multiyear contracts and take such other action as is appropriate to enhance the effectiveness of such investigations and enforcement activities.

(2) Activities

The Secretary shall use funds made available under this subsection to conduct, through contracts with private nonprofit fair housing enforcement organizations, a range of investigative and enforcement activities designed to—

(A) carry out testing and other investigative activities in accordance with subsection (b)(1), including building the capacity for housing investigative activities in unserved or underserved areas;

(B) discover and remedy discrimination in the public and private real estate markets and real estate-related transactions, including, but not limited to, the making or purchasing of loans or the provision of other financial assistance sales and rentals of housing and housing advertising;

(C) carry out special projects, including the development of prototypes to respond to new or sophisticated forms of discrimination against persons protected under title VIII of the Civil Rights Act of 1968 [42 U.S.C. 3601 et seq.];

(D) provide technical assistance to local fair housing organizations, and assist in the formation and development of new fair housing organizations; and

(E) provide funds for the costs and expenses of litigation, including expert witness fees.

(c) Funding of fair housing organizations

(1) In general

The Secretary shall use funds made available under this section to enter into contracts or cooperative agreements with qualified fair housing enforcement organizations, other private nonprofit fair housing enforcement organizations, and nonprofit groups organizing to build their capacity to provide fair housing enforcement, for the purpose of supporting the continued development or implementation of initiatives which enforce the rights granted under title VIII of the Civil Rights Act of 1968 [42 U.S.C. 3601 et seq.], as amended. Contracts or cooperative agreements may not provide more than 50 percent of the operating budget of the recipient organization for any one year.

(2) Capacity enhancement

The Secretary shall use funds made available under this section to help establish, organize, and build the capacity of fair housing enforcement organizations, particularly in those areas of the country which are currently underserved by fair housing enforcement organizations as well as those areas where large concentrations of protected classes exist. For purposes of meeting the objectives of this paragraph, the Secretary may enter into contracts or cooperative agreements with qualified fair housing enforcement organizations. The Secretary shall establish annual goals which reflect the national need for private fair housing enforcement organizations.

(d) Education and outreach

(1) In general

The Secretary, through contracts with one or more qualified fair housing enforcement organizations, other fair housing enforcement organizations, and other nonprofit organizations representing groups of persons protected under title VIII of the Civil Rights Act of 1968 [42 U.S.C. 3601 et seq.], shall establish a national education and outreach program. The national program shall be designed to provide a centralized, coordinated effort for the development and dissemination of fair housing media products, including—

(A) public service announcements, both audio and video;

(B) television, radio and print advertisements;

(C) posters; and

(D) pamphlets and brochures.

The Secretary shall designate a portion of the amounts provided in subsection (g)(4) for a national program specifically for activities related to the annual national fair housing month. The Secretary shall encourage cooperation with real estate industry organizations in the national education and

outreach program. The Secretary shall also encourage the dissemination of educational information and technical assistance to support compliance with the housing adaptability and accessibility guidelines contained in the Fair Housing Act Amendments of 1988.

(2) Regional and local programs

The Secretary, through contracts with fair housing enforcement organizations, other nonprofit organizations representing groups of persons protected under title VIII of the Civil Rights Act of 1968 [42 U.S.C. 3601 et seq.], State and local agencies certified by the Secretary under section 810(f) of the Fair Housing Act [42 U.S.C. 3610(f)], or other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices, shall establish or support education and outreach programs at the regional and local levels.

(3) Community-based programs

The Secretary shall provide funding to fair housing organizations and other nonprofit organizations representing groups of persons protected under title VIII of the Civil Rights Act of 1968, or other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices, to support community-based education and outreach activities, including school, church, and community presentations, conferences, and other educational activities.

(e) Program administration

(1) Not less than 30 days before providing a grant or entering into any contract or cooperative agreement to carry out activities authorized by this section, the Secretary shall submit notification of such proposed grant, contract, or cooperative agreement (including a description of the geographical distribution of such contracts) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

(2) Repealed. Pub. L. 104–66, title I, §1071(d), Dec. 21, 1995, 109 Stat. 720.

(f) Regulations

(1) The Secretary shall issue such regulations as may be necessary to carry out the provisions of this section.

(2) The Secretary shall, for use during the demonstration authorized in this section, establish guidelines for testing activities funded under the private enforcement initiative of the fair housing initiatives program. The purpose of such guidelines shall be to ensure that investigations in support of fair housing enforcement efforts described in subsection (a)(1) shall develop credible and objective evidence of discriminatory housing practices. Such guidelines shall apply only to activities funded under this section, shall not be construed to limit or otherwise restrict the use of facts secured through testing not funded under this section in any legal proceeding under Federal fair housing laws, and shall not be used to restrict individuals or entities, including those participating in the fair housing initiatives program, from pursuing any right or remedy guaranteed by Federal law. Not later than 6 months after the end of the demonstration period authorized in this section,[1] the Secretary shall submit to Congress the evaluation of the Secretary of the effectiveness of such guidelines in achieving the purposes of this section.

(3) Such regulations shall include provisions governing applications for assistance under this section, and shall require each such application to contain—

(A) a description of the assisted activities proposed to be undertaken by the applicant, together with the estimated costs and schedule for completion of such activities;

(B) a description of the experience of the applicant in formulating or carrying out programs to prevent or eliminate discriminatory housing practices;

(C) available information, including studies made by or available to the applicant, indicating the nature and extent of discriminatory housing practices occurring in the general location where the applicant proposes to conduct its assisted activities, and the relationship of such activities to such practices;

(D) an estimate of such other public or private resources as may be available to assist the proposed activities;

(E) a description of proposed procedures to be used by the applicant for monitoring conduct and evaluating results of the proposed activities; and

(F) any additional information required by the Secretary.

(4) Regulations issued under this subsection shall not become effective prior to the expiration of 90 days after the Secretary transmits such regulations, in the form such regulations are intended to be published, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

(5) The Secretary shall not obligate or expend any amount under this section before the effective date of the regulations required under this subsection.

(g) Authorization of appropriations

There are authorized to be appropriated to carry out the provisions of this section,[2] $21,000,000 for fiscal year 1993 and $26,000,000 for fiscal year 1994, of which—

(1) not less than $3,820,000 for fiscal year 1993 and $8,500,000 for fiscal year 1994 shall be for private enforcement initiatives authorized under subsection (b), divided equally between activities specified under subsection (b)(1) and those specified under subsection (b)(2);

(2) not less than $2,230,000 for fiscal year 1993 and $8,500,000 for fiscal year 1994 shall be for qualified fair housing enforcement organizations authorized under subsection (c)(1);

(3) not less than $2,010,000 for fiscal year 1993 and $4,000,000 for fiscal year 1994 shall be for the creation of new fair housing enforcement organizations authorized under subsection (c)(2); and

(4) not less than $2,540,000 for fiscal year 1993 and $5,000,000 for fiscal year 1994 shall be for education and outreach programs authorized under subsection (d), to be divided equally between activities specified under subsection (d)(1) and those specified under subsections (d)(2) and (d)(3).

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

(h) Qualified fair housing enforcement organization

(1) The term "qualified fair housing enforcement organization" means any organization that—

(A) is organized as a private, tax-exempt, nonprofit, charitable organization;

(B) has at least 2 years experience in complaint intake, complaint investigation, testing for fair housing violations and enforcement of meritorious claims; and

(C) is engaged in all the activities listed in paragraph (1)(B) at the time of application for assistance under this section.

An organization which is not solely engaged in fair housing enforcement activities may qualify as a qualified fair housing enforcement organization, provided that the organization is actively engaged in each of the activities listed in subparagraph (B).

(2) The term "fair housing enforcement organization" means any organization that—

(A) meets the requirements specified in paragraph (1)(A);

(B) is currently engaged in the activities specified in paragraph (1)(B);

(C) upon the receipt of funds under this section will become engaged in all of the activities specified in paragraph (1)(B); and

(D) for purposes of funding under subsection (b), has at least 1 year of experience in the activities specified in paragraph (1)(B).

(i) Prohibition on use of funds

None of the funds authorized under this section may be used by the Secretary for purposes of settling claims, satisfying judgments or fulfilling court orders in any litigation action involving either the Department or housing providers funded by the Department. None of the funds authorized under this section may be used by the Department for administrative costs.

(j) Reporting requirements

Not later than 180 days after the close of each fiscal year in which assistance under this section is

furnished, the Secretary shall prepare and submit to the Congress a comprehensive report which shall contain—

(1) a description of the progress made in accomplishing the objectives of this section;

(2) a summary of all the private enforcement activities carried out under this section and the use of such funds during the preceding fiscal year;

(3) a list of all fair housing enforcement organizations funded under this section during the preceding fiscal year, identified on a State-by-State basis;

(4) a summary of all education and outreach activities funded under this section and the use of such funds during the preceding fiscal year; and

(5) any findings, conclusions, or recommendations of the Secretary as a result of the funded activities.

(Pub. L. 100–242, title V, §561, Feb. 5, 1988, 101 Stat. 1942; Pub. L. 101–625, title IX, §953, Nov. 28, 1990, 104 Stat. 4419; Pub. L. 102–550, title IX, §905(b), Oct. 28, 1992, 106 Stat. 3869; Pub. L. 104–66, title I, §1071(d), Dec. 21, 1995, 109 Stat. 720.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Civil Rights Act of 1968, referred to in subsecs. (a)(1), (b)(1), (2)(C), (c)(1), and (d), is Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 73. Title VIII of the Act, known as the Fair Housing Act, is classified principally to subchapter I (§3601 et seq.) of this chapter. For complete classification of these Acts to the Code, see Short Title notes set out under section 3601 of this title and Tables.

The Fair Housing Act Amendments of 1988, referred to in subsec. (d)(1), probably means the Fair Housing Amendments Act of 1988, Pub. L. 100–430, Sept. 13, 1988, 102 Stat. 1619. For complete classification of this Act to the Code, see Short Title of 1988 Amendment note set out under section 3601 of this title and Tables.

The phrase "Not later than 6 months after the end of the demonstration period authorized in this section", referred to in subsec. (f)(2), probably means the end of the demonstration period pursuant to former subsec. (e) of this section, which provided that such period was to end Sept. 30, 1992. However, subsec. (e) was redesignated (h) and struck out by Pub. L. 102–550. See 1992 Amendment notes below.

CODIFICATION

Section was enacted as part of the Housing and Community Development Act of 1987, and not as part of title VIII of Pub. L. 90–284, known as the Fair Housing Act, which comprises this subchapter.

Section was formerly set out as a note under section 3616 of this title.

AMENDMENTS

1995—Subsec. (e)(2). Pub. L. 104–66 struck out par. (2) which read as follows: "The Secretary shall provide to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a quarterly report that summarizes the activities funded under this section and describes the geographical distribution of grants, contracts, or cooperative agreements funded under this section."

1992—Subsecs. (b) to (f). Pub. L. 102–550, §905(b)(1), (2), added subsecs. (b) to (d) and redesignated former subsecs. (b) and (c) as (e) and (f), respectively.

Subsec. (g). Pub. L. 102–550, §905(b)(1), (3), redesignated subsec. (d) as (g) and, in first sentence, substituted "$21,000,000 for fiscal year 1993 and $26,000,000 for fiscal year 1994, of which—" and pars. (1) to (4) for "including any program evaluations, $6,000,000 for fiscal year 1991 and $6,300,000 for fiscal year 1992, of which not more than $3,000,000 in each year shall be for the private enforcement initiative demonstration."

Subsec. (h). Pub. L. 102–550, §905(b)(4), added subsec. (h) and struck out former subsec. (h) which provided that the demonstration period authorized by this section would end Sept. 30, 1992.

Pub. L. 102–550, §905(b)(1), redesignated subsec. (e) as (h).

Subsecs. (i), (j). Pub. L. 102–550, §905(b)(4), added subsecs. (i) and (j).

1990—Subsec. (d). Pub. L. 101–625, §953(a), amended first sentence generally. Prior to amendment, first sentence read as follows: "There are authorized to be appropriated to carry out the provisions of this section, including any program evaluations, $5,000,000 for fiscal year 1988, and $5,000,000 for fiscal year 1989, of which not more than $3,000,000 in each year shall be for the private enforcement initiative demonstration."

Subsec. (e). Pub. L. 101–625, §953(b), substituted "1992" for "1989".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

CONGRESSIONAL FINDINGS

Pub. L. 102–550, title IX, §905(a), Oct. 28, 1992, 106 Stat. 3868, provided that: "The Congress finds that—

"(1) in the past half decade, there have been major legislative and administrative changes in Federal fair housing and fair lending laws and substantial improvements in the Nation's understanding of discrimination in the housing markets;

"(2) in response to evidence of continuing housing discrimination, the Congress passed the Fair Housing Act Amendments of 1988 [probably should be the Fair Housing Amendments Act of 1988, Pub. L. 100–430, see Short Title of 1988 Amendment note set out under section 3601 of this title], to provide for more effective enforcement of fair housing rights through judicial and administrative avenues and to expand the number of protected classes covered under Federal fair housing laws;

"(3) in the Financial Institutions Reform, Recovery and Enforcement Act of 1989 [Pub. L. 101–73, see Short Title of 1989 Amendment note set out under 12 U.S.C. 1811], the Congress expanded the disclosure provisions under the Home Mortgage Disclosure Act [probably should be the Home Mortgage Disclosure Act of 1975; 12 U.S.C. 2801 et seq.] to provide increased information on the mortgage lending patterns of financial institutions;

"(4) in the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.], the Congress provided a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;

"(5) in 1991, data collected under the Home Mortgage Disclosure Act disclosed evidence of pervasive discrimination in the Nation's mortgage lending markets;

"(6) the Housing Discrimination Survey, released by the Department of Housing and Urban Development in 1991, found that Hispanic and African-American homeseekers experience some form of discrimination in at least half of their encounters with sales and rental agents;

"(7) the Fair Housing Initiatives Program should be revised and expanded to reflect the significant changes in the fair housing and fair lending area that have taken place since the Program's initial authorization in the Housing and Community Development Act of 1987 [Pub. L. 100–242, see Short Title of 1988 Amendment note under section 5301 of this title];

"(8) continuing educational efforts by the real estate industry are a useful way to increase understanding by the public of their fair housing rights and responsibilities; and

"(9) the proven efficacy of private nonprofit fair housing enforcement organizations and community-based efforts makes support for these organizations a necessary component of the fair housing enforcement system."

[1] See References in Text note below.

[2] So in original. The comma probably should not appear.

§3617. Interference, coercion, or intimidation

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 3603, 3604, 3605, or 3606 of this title.

(Pub. L. 90–284, title VIII, §818, formerly §817, Apr. 11, 1968, 82 Stat. 89; renumbered §818 and amended Pub. L. 100–430, §§8(1), 10, Sept. 13, 1988, 102 Stat. 1625, 1635.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 818 of Pub. L. 90–284 was renumbered section 819 and is classified to section 3618 of this title.

AMENDMENTS

1988—Pub. L. 100–430 struck out at end "This section may be enforced by appropriate civil action."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–430 effective on the 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100–430, set out as a note under section 3601 of this title.

§3618. Authorization of appropriations

There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this subchapter.

(Pub. L. 90–284, title VIII, §819, formerly §818, Apr. 11, 1968, 82 Stat. 89; renumbered §819, Pub. L. 100–430, §8(1), Sept. 13, 1988, 102 Stat. 1625.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 819 of Pub. L. 90–284 was renumbered section 820 and is classified to section 3619 of this title.

§3619. Separability

If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, the remainder of the subchapter and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

(Pub. L. 90–284, title VIII, §820, formerly §819, Apr. 11, 1968, 82 Stat. 89; renumbered §820, Pub. L. 100–430, §8(1), Sept. 13, 1988, 102 Stat. 1625.)

SUBCHAPTER II—PREVENTION OF INTIMIDATION

§3631. Violations; penalties

Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with—

(a) any person because of his race, color, religion, sex, handicap (as such term is defined in section 3602 of this title), familial status (as such term is defined in section 3602 of this title), or national origin and because he is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling,

or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings; or

(b) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from—

(1) participating, without discrimination on account of race, color, religion, sex, handicap (as such term is defined in section 3602 of this title), familial status (as such term is defined in section 3602 of this title), or national origin, in any of the activities, services, organizations or facilities described in subsection (a); or

(2) affording another person or class of persons opportunity or protection so to participate; or

(c) any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, handicap (as such term is defined in section 3602 of this title), familial status (as such term is defined in section 3602 of this title), or national origin, in any of the activities, services, organizations or facilities described in subsection (a), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate—

shall be fined under title 18 or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire shall be fined under title 18 or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under title 18 or imprisoned for any term of years or for life, or both.

(Pub. L. 90–284, title IX, §901, Apr. 11, 1968, 82 Stat. 89; Pub. L. 93–383, title VIII, §808(b)(4), Aug. 22, 1974, 88 Stat. 729; Pub. L. 100–430, §9, Sept. 13, 1988, 102 Stat. 1635; Pub. L. 103–322, title XXXII, §320103(e), Sept. 13, 1994, 108 Stat. 2110; Pub. L. 104–294, title VI, §604(b)(15), (27), Oct. 11, 1996, 110 Stat. 3507, 3508.)

EDITORIAL NOTES

AMENDMENTS

1996—Pub. L. 104–294, §604(b)(27), substituted "under title 18" for "under this title" wherever appearing in closing provisions.

Pub. L. 104–294, §604(b)(15), made technical amendment to directory language of Pub. L. 103–322, §320103(e). See 1994 Amendment note below.

1994—Pub. L. 103–322, §320103(e)(1), as amended by Pub. L. 104–294, §604(b)(15), which directed amendment in the caption by striking "bodily injury; death;", could not be executed because the words "bodily injury; death;" do not appear in the section catchline in the original.

Pub. L. 103–322, §320103(e)(2)–(7), as amended by Pub. L. 104–294, §604(b)(15), in concluding provisions, substituted "under this title" for "not more than $1,000," before "or imprisoned not more than one year", inserted "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results", substituted "under this title" for "not more than $10,000," before "or imprisoned not more than ten years", inserted "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results", substituted "fined under this title or imprisoned" for "subject to imprisonment" before "for any term of years", and inserted ", or both" before period at end.

1988—Cls. (a), (b)(1), (c). Pub. L. 100–430 inserted ", handicap (as such term is defined in section 3602 of this title), familial status (as such term is defined in section 3602 of this title)," after "sex".

1974—Pub. L. 93–383 inserted ", sex" after "religion" wherever appearing in cls. (a), (b)(1), and (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–430 effective on 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100–430, set out as a note under section 3601 of this title.

FEDERALLY PROTECTED ACTIVITIES; PENALTIES

Penalties for violations respecting federally protected activities not applicable to and not affecting activities under fair housing provisions of subchapter I of this chapter, see section 101(b) of Pub. L. 90–284, set out as a note under section 245 of Title 18, Crimes and Criminal Procedure.

CHAPTER 46—JUSTICE SYSTEM IMPROVEMENT

Sec.
3701, 3702. Repealed or Transferred.

SUBCHAPTER I—OFFICE OF JUSTICE PROGRAMS

3711 to 3716a. Transferred.

SUBCHAPTER II—NATIONAL INSTITUTE OF JUSTICE

3721 to 3724. Repealed or Transferred.

SUBCHAPTER III—BUREAU OF JUSTICE STATISTICS

3731 to 3735. Repealed or Transferred.

SUBCHAPTER IV—ESTABLISHMENT OF BUREAU OF JUSTICE ASSISTANCE

3741 to 3743. Transferred.

SUBCHAPTER V—BUREAU OF JUSTICE ASSISTANCE GRANT PROGRAMS

PART A—EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM

3750 to 3758. Transferred or Omitted.

PART B—DISCRETIONARY GRANTS

SUBPART 1—GRANTS TO PUBLIC AND PRIVATE ENTITIES

3760 to 3762. Repealed.

SUBPART 2—GRANTS TO PUBLIC AGENCIES

3762a, 3762b. Transferred.

SUBPART 3—GENERAL REQUIREMENTS

3763, 3764. Transferred.

SUBPART 4—GRANTS TO PRIVATE ENTITIES

3765. Transferred.

PART C—ADMINISTRATIVE PROVISIONS

3766 to 3766b. Transferred.

SUBCHAPTER VI—CRIMINAL JUSTICE FACILITY CONSTRUCTION: PILOT PROGRAM

3769 to 3769d. Repealed.

SUBCHAPTER VII—FBI TRAINING OF STATE AND LOCAL CRIMINAL JUSTICE PERSONNEL

3771. Transferred.

SUBCHAPTER VIII—ADMINISTRATIVE PROVISIONS

3781 to 3789p. Repealed or Transferred.

SUBCHAPTER IX—DEFINITIONS

3791. Transferred.

SUBCHAPTER X—FUNDING

3793 to 3793c. Repealed or Transferred.

SUBCHAPTER XI—CRIMINAL PENALTIES

3795 to 3795b. Transferred.

SUBCHAPTER XII—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

PART A—DEATH BENEFITS

3796 to 3796c–3. Transferred.

PART B—EDUCATIONAL ASSISTANCE TO DEPENDENTS OF CIVILIAN FEDERAL LAW ENFORCEMENT OFFICERS KILLED OR DISABLED IN LINE OF DUTY

3796d to 3796d–7. Transferred.

SUBCHAPTER XII–A—REGIONAL INFORMATION SHARING SYSTEMS

3796h. Transferred.

SUBCHAPTER XII–B—GRANTS FOR CLOSED-CIRCUIT TELEVISING OF TESTIMONY OF CHILDREN WHO ARE VICTIMS OF ABUSE

3796aa to 3796aa–8. Repealed or Transferred.

SUBCHAPTER XII–C—RURAL DRUG ENFORCEMENT

3796bb, 3796bb–1. Transferred.

SUBCHAPTER XII–D—CRIMINAL CHILD SUPPORT ENFORCEMENT

3796cc to 3796cc–6. Transferred.

SUBCHAPTER XII–E—PUBLIC SAFETY AND COMMUNITY POLICING; "COPS ON THE BEAT"

3796dd to 3796dd–8. Transferred.

SUBCHAPTER XII–F—JUVENILE ACCOUNTABILITY BLOCK GRANTS

3796ee to 3796ee–10. Transferred or Omitted.

SUBCHAPTER XII–G—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR STATE PRISONERS

3796ff to 3796ff–4. Transferred.

SUBCHAPTER XII–H—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

3796gg to 3796gg–11. Repealed, Transferred, or Omitted.

SUBCHAPTER XII–I—GRANTS TO ENCOURAGE ARREST POLICIES AND ENFORCEMENT OF PROTECTION ORDERS

3796hh to 3796hh–5. Repealed or Transferred.

SUBCHAPTER XII–J—MENTAL HEALTH COURTS

3796ii to 3796ii–8. Transferred.

SUBCHAPTER XII–K—FAMILY SUPPORT

3796jj to 3796jj–7. Transferred.

SUBCHAPTER XII–L—DNA IDENTIFICATION GRANTS

3796kk to 3796kk–6. Transferred.

SUBCHAPTER XII–M—MATCHING GRANT PROGRAM FOR LAW ENFORCEMENT ARMOR VESTS

3796ll to 3796ll–3. Transferred.

SUBCHAPTER XIII—TRANSITION; EFFECTIVE DATE; REPEALER

3797. Transferred.

SUBCHAPTER XIV—MATCHING GRANT PROGRAM FOR SCHOOL SECURITY

3797a to 3797e. Repealed, Transferred, or Omitted.

SUBCHAPTER XV—PAUL COVERDELL FORENSIC SCIENCES IMPROVEMENT GRANTS

3797j to 3797*o*. Transferred.

SUBCHAPTER XV–A—MENTAL HEALTH AND DRUG TREATMENT ALTERNATIVES TO INCARCERATION PROGRAMS

3797q. Transferred.

SUBCHAPTER XV–B—GRANTS FOR FAMILY-BASED SUBSTANCE ABUSE TREATMENT

3797s to 3797s–6. Transferred.

SUBCHAPTER XVI—DRUG COURTS

3797u to 3797u–8. Transferred.

SUBCHAPTER XVII—OFFENDER REENTRY AND COMMUNITY SAFETY

3797w to

3797w–2.
Transferred.

SUBCHAPTER XVIII—CRIME FREE RURAL STATE GRANTS

3797y to 3797y–4. Transferred or Omitted.

SUBCHAPTER XIX—ADULT AND JUVENILE COLLABORATION PROGRAM GRANTS

3797aa,
3797aa–1.
Transferred.

SUBCHAPTER XX—CONFRONTING USE OF METHAMPHETAMINE

3797cc to
3797cc–3.
Transferred.

SUBCHAPTER XX–A—LOAN REPAYMENT FOR PROSECUTORS AND PUBLIC DEFENDERS

3797cc–21. Transferred.

SUBCHAPTER XX–B—GRANT PROGRAM TO EVALUATE AND IMPROVE EDUCATIONAL METHODS AT PRISONS, JAILS, AND JUVENILE FACILITIES

3797dd, 3797dd–1. Transferred or Omitted.

SUBCHAPTER XXI—SEX OFFENDER APPREHENSION GRANTS; JUVENILE SEX OFFENDER TREATMENT GRANTS

3797ee,
3797ee–1.
Transferred.

SUBCHAPTER XXII–COMPREHENSIVE OPIOID ABUSE GRANT PROGRAM

3797ff to
3797ff–6.
Transferred.

EDITORIAL NOTES

CODIFICATION

This chapter has been editorially reorganized. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, which comprised the chapter, has been editorially reclassified and renumbered as chapter 101 (§10101 et seq.) of Title 34, Crime Control and Law Enforcement.

§3701. Repealed. Pub. L. 98–473, title II, §602, Oct. 12, 1984, 98 Stat. 2077

Section, Pub. L. 90–351, title I, §100, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1169, set out the Congressional findings, declaration of policy, and statement of purpose for this chapter.

A prior section 3701, Pub. L. 90–351, title I, §100, June 19, 1968, 82 Stat. 197; Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 197; Pub. L. 93–415, title V, §541, Sept. 7, 1974, 88 Stat. 1142; Pub. L. 94–503, title I, §101, Oct. 15, 1976, 90 Stat. 2407, set out the Congressional findings, declaration of policy, and statement of purpose in enacting this chapter, prior to the general amendment of this chapter by Pub. L. 96–157.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 12, 1984, see section 609AA(a) of Pub. L. 98–473, set out as an Effective Date note under section 10101 of Title 34, Crime Control and Law Enforcement.

§3702. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3702 was editorially reclassified as section 10262 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER I—OFFICE OF JUSTICE PROGRAMS

§3711. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3711 was editorially reclassified as section 10101 of Title 34, Crime Control and Law Enforcement.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–322, title XXXII, §320701, Sept. 13, 1994, 108 Stat. 2121, provided that subtitle G of title XXXII of Pub. L. 103–322, which amended former section 3760 of this title and enacted provisions formerly set out as a note under former section 3760 of this title, could be cited as the "Safer Streets and Neighborhoods Act of 1994".

§3712. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3712 was editorially reclassified as section 10102 of Title 34, Crime Control and Law Enforcement.

§3712a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3712a was editorially reclassified as section 10103 of Title 34, Crime Control and Law Enforcement.

§3712b. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3712b was editorially reclassified as section 10104 of Title 34, Crime Control and Law

Enforcement.

§3712c. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3712c was editorially reclassified as section 10105 of Title 34, Crime Control and Law Enforcement.

§3712d. Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 90–351, title I, §105, as added Pub. L. 109–162, title XI, §1158(a), Jan. 5, 2006, 119 Stat. 3114, which related to Office of Audit, Assessment, and Management, was renumbered section 109 of Pub. L. 90–351 by Pub. L. 109–271, §8(e), Aug. 12, 2006, 120 Stat. 766, and transferred to section 3712h of this title.

§3712e. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3712e was editorially reclassified as section 10106 of Title 34, Crime Control and Law Enforcement.

§3712f. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3712f was editorially reclassified as section 10107 of Title 34, Crime Control and Law Enforcement.

§3712g. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3712g was editorially reclassified as section 10108 of Title 34, Crime Control and Law Enforcement.

§3712h. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3712h was editorially reclassified as section 10109 of Title 34, Crime Control and Law Enforcement.

Section was formerly classified to section 3712d of this title prior to renumbering by Pub. L. 109–271 and transfer to this section.

§3713. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3713 was editorially reclassified as section 30101 of Title 34, Crime Control and Law Enforcement.

PRIOR PROVISIONS

A prior section 3713, Pub. L. 90–351, title I, §103, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1170, provided for an Office of Community Anti-Crime Programs, prior to the general amendment of this subchapter by Pub. L. 98–473.

§3713a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3713a was editorially reclassified as section 30103 of Title 34, Crime Control and Law Enforcement.

§3713b. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3713b was editorially reclassified as section 30104 of Title 34, Crime Control and Law Enforcement.

§3713c. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3713c was editorially reclassified as section 30105 of Title 34, Crime Control and Law Enforcement.

§3713d. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3713d was editorially reclassified as section 30106 of Title 34, Crime Control and Law Enforcement.

§3714. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3714 was editorially reclassified as a note under section 603 of Title 6, Domestic Security.

§3714a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3714a was editorially reclassified as section 41508 of Title 34, Crime Control and Law Enforcement.

§3715. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3715, formerly classified as a note under section 3712 of this title, was editorially reclassified as section 10110 of Title 34, Crime Control and Law Enforcement.

§3715a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3715a was editorially reclassified as section 10111 of Title 34, Crime Control and Law Enforcement.

§3716. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3716 was editorially reclassified as section 30503 of Title 34, Crime Control and Law Enforcement.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

Pub. L. 111–84, div. E, §4703(b), Oct. 28, 2009, 123 Stat. 2836, which defined terms, was editorially reclassified as section 30502 of Title 34, Crime Control and Law Enforcement.

§3716a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3716a was editorially reclassified as section 30504 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER II—NATIONAL INSTITUTE OF JUSTICE

§3721. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3721 was editorially reclassified as section 10121 of Title 34, Crime Control and Law Enforcement.

STATUTORY NOTES AND RELATED SUBSIDIARIES

ASSESSING AND REDUCING THREAT TO LAW ENFORCEMENT OFFICERS FROM CRIMINAL USE OF FIREARMS AND AMMUNITION

Pub. L. 104–132, title VIII, §809, Apr. 24, 1996, 110 Stat. 1311, directed the Secretary of the Treasury to conduct a study assessing the threat to law enforcement officers from criminal use of firearms and ammunition, to be presented to Congress by Apr. 24, 1996.

NATIONAL COMMISSION TO SUPPORT LAW ENFORCEMENT

Pub. L. 101–647, title XXXIV, Nov. 29, 1990, 104 Stat. 4918, as amended by Pub. L. 103–322, title XXVI, §260002, Sept. 13, 1994, 108 Stat. 2089, established the National Commission to Support Law Enforcement, to report to Congress on recommendations for changes regarding law enforcement agencies and law enforcement issues on the Federal, State, and local levels no later than Nov. 29, 1990.

Pub. L. 101–515, title II, §211(B), Nov. 5, 1990, 104 Stat. 2122, as amended by Pub. L. 103–322, title XXVI, §260001, Sept. 13, 1994, 108 Stat. 2088; Pub. L. 104–316, title I, §122(m), Oct. 19, 1996, 110 Stat. 3838, known as the National Commission to Support Law Enforcement Act, established a National Commission to Support Law Enforcement to make a similar report to Congress no later than March 31, 1996.

§3722. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3722 was editorially reclassified as section 10122 of Title 34, Crime Control and Law Enforcement.

STATUTORY NOTES AND RELATED SUBSIDIARIES

REPORT ON DRUG-TESTING TECHNOLOGIES

Pub. L. 107–273, div. B, title II, §2201, Nov. 2, 2002, 116 Stat. 1793, required the National Institute of Justice to conduct a study of drug-testing technologies that may be used as alternatives or complements to urinalysis not later than Nov. 2, 2002.

ANTI-STALKING LEGISLATION EVALUATION, MODEL DEVELOPMENT, DISSEMINATION AND REPORT

Pub. L. 102–395, title I, §109(b), Oct. 6, 1992, 106 Stat. 1842, directed Attorney General, acting through Director of National Institute of Justice, to evaluate existing and proposed anti-stalking legislation in the States, develop model anti-stalking legislation that is constitutional and enforceable, prepare and disseminate to State authorities the findings made as a result of such evaluation, and report to Congress the findings and the need or appropriateness of further action by the Federal Government by Sept. 30, 1993.

§3723. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3723 was editorially reclassified as section 10123 of Title 34, Crime Control and Law Enforcement.

§3724. Repealed. Pub. L. 98–473, title II, §604(c), Oct. 12, 1984, 98 Stat. 2079

Section, Pub. L. 90–351, title I, §204, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1174, provided for a National Institute of Justice Advisory Board, including the establishment and composition of the Board, rules respecting organization and procedure, term of office, duties of the Board, and delegation of powers and duties to the Director.

Prior sections 3724 to 3726 were omitted in the general revision of this chapter by Pub. L. 96–157.

Section 3724, Pub. L. 90–351, title I, §204, June 19, 1968, 82 Stat. 199; Pub. L. 91–644, title I, §3(d), Jan. 2, 1971, 84 Stat. 1881; Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 199; Pub. L. 94–503, title I, §106, Oct. 15, 1976, 90 Stat. 2410, related to maximum percentage of Federal grant funds in expenses incurred by States.

Section 3725, Pub. L. 90–351, title I, §205, June 19, 1968, 82 Stat. 199; Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 199; Pub. L. 94–503, title I, §107, Oct. 15, 1976, 90 Stat. 2410, related to allocation of funds and reallocation of unused funds.

Section 3726, Pub. L. 90–351, title I, §206, as added Pub. L. 94–503, title I, §108, Oct. 15, 1976, 90 Stat. 2411, related to advisory review of comprehensive statewide plans by States.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 12, 1984, see section 609AA(a) of Pub. L. 98–473, set out as an Effective Date note under section 10101 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER III—BUREAU OF JUSTICE STATISTICS

§3731. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3731 was editorially reclassified as section 10131 of Title 34, Crime Control and Law Enforcement.

§3732. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3732 was editorially reclassified as section 10132 of Title 34, Crime Control and Law Enforcement.

§3733. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3733 was editorially reclassified as section 10133 of Title 34, Crime Control and Law Enforcement.

§3734. Repealed. Pub. L. 98–473, title II, §605(c), Oct. 12, 1984, 98 Stat. 2080

Section, Pub. L. 90–351, title I, §304, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1178, provided for a Bureau of Justice Statistics Advisory Board, including establishment and composition of Board, rules respecting organization and procedure, term of office, duties and functions of Board, and delegation of powers and duties to Director.

A prior section 3734, Pub. L. 90–351, title I, §304, June 19, 1968, 82 Stat. 202; Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 203; Pub. L. 94–503, title I, §112, Oct. 15, 1976, 90 Stat. 2414, related to plans or applications for financial assistance from local government units, prior to the general revision of this chapter by Pub. L. 96–157.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 12, 1984, see section 609AA(a) of Pub. L. 98–473, set out as an Effective Date note under section 10101 of Title 34, Crime Control and Law Enforcement.

§3735. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3735 was editorially reclassified as section 10134 of Title 34, Crime Control and Law Enforcement.

PRIOR PROVISIONS

Prior sections 3735 to 3739 were omitted in the general amendment of title I of Pub. L. 90–351 by Pub. L. 96–157.

Section 3735, Pub. L. 90–351, title I, §305, June 19, 1968, 82 Stat. 202; Pub. L. 91–644, title I, §4(7), Jan. 2, 1971, 84 Stat. 1883; Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 203, related to reallocation of funds.

Section 3736, Pub. L. 90–351, title I, §306, June 19, 1968, 82 Stat. 202; Pub. L. 91–644, title I, §4(8), Jan. 2, 1971, 84 Stat. 1883; Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 203; Pub. L. 94–503, title I, §113, Oct. 15, 1976, 90 Stat. 2415, related to allocation of funds.

Section 3737, Pub. L. 90–351, title I, §307, June 19, 1968, 82 Stat. 202; Pub. L. 93–83, §2, Aug. 6, 1973,

87 Stat. 204; Pub. L. 94–503, title I, §114, Oct. 15, 1976, 90 Stat. 2415, related to priority programs and projects.

Section 3738, Pub. L. 90–351, title I, §308, as added Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 204; amended Pub. L. 94–503, title I, §115, Oct. 15, 1976, 90 Stat. 2415, related to Administration action upon State plans within prescribed time after date of submission.

Section 3739, Pub. L. 90–351, title I, §309, as added Pub. L. 94–503, title I, §116, Oct. 15, 1976, 90 Stat. 2415, related to assistance and grants to aid State antitrust enforcement.

SUBCHAPTER IV—ESTABLISHMENT OF BUREAU OF JUSTICE ASSISTANCE

EDITORIAL NOTES

PRIOR PROVISIONS

A prior subchapter IV, consisting of sections 3741 to 3748, related to block grants by Bureau of Justice Assistance, prior to repeal by Pub. L. 100–690, title VI, §6091(a), Nov. 18, 1988, 102 Stat. 4328.

Section 3741, Pub. L. 90–351, title I, §401, as added Pub. L. 98–473, title II, §606, Oct. 12, 1984, 98 Stat. 2080; amended Pub. L. 99–570, title I, §1552(b)(1), Oct. 27, 1986, 100 Stat. 3207–46, related to establishment of Bureau of Justice Assistance, appointment of Director, and authority and restrictions with regard to Director.

Section 3742, Pub. L. 90–351, title I, §402, as added Pub. L. 98–473, title II, §606, Oct. 12, 1984, 98 Stat. 2080, related to duties and functions of Director.

Section 3743, Pub. L. 90–351, title I, §403, as added Pub. L. 98–473, title II, §606, Oct. 12, 1984, 98 Stat. 2081, described grant program.

Section 3744, Pub. L. 90–351, title I, §404, as added Pub. L. 98–473, title II, §606, Oct. 12, 1984, 98 Stat. 2082, authorized Bureau to make financial assistance under this subchapter available to States.

Section 3745, Pub. L. 90–351, title I, §405, as added Pub. L. 98–473, title II, §606, Oct. 12, 1984, 98 Stat. 2082, related to applications for assistance and contents of applications.

Section 3746, Pub. L. 90–351, title I, §406, as added Pub. L. 98–473, title II, §606, Oct. 12, 1984, 98 Stat. 2084, related to review of applications.

Section 3747, Pub. L. 90–351, title I, §407, as added Pub. L. 98–473, title II, §606, Oct. 12, 1984, 98 Stat. 2084, related to allocation and distribution of funds.

Section 3748, Pub. L. 90–351, title I, §408, as added Pub. L. 98–473, title II, §606, Oct. 12, 1984, 98 Stat. 2085, related to designation of a State office to prepare applications and administer funds.

Another prior subchapter IV, consisting of sections 3741 to 3745, related to formula grant program, prior to the general amendment of this subchapter by Pub. L. 98–473.

Section 3741, Pub. L. 90–351, title I, §401, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1179, described formula grant program.

Section 3742, Pub. L. 90–351, title I, §402, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1181, related to eligibility provisions for formula grants.

Section 3743, Pub. L. 90–351, title I, §403, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1187, concerned application requirements for formula grants.

Section 3744, Pub. L. 90–351, title I, §404, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1188, provided for review of applications for formula grants.

Section 3745, Pub. L. 90–351, title I, §405, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1189, provided for allocation and distribution of funds for formula grants.

Another prior subchapter IV, consisting of sections 3741 to 3748 and 3750 to 3750d, related to training, education, research, demonstration, and special grants prior to the general amendment of this chapter by Pub. L. 96–157.

Section 3741, Pub. L. 90–351, title I, §401, June 19, 1968, 82 Stat. 203; Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 205, set out the Congressional statement of purposes in making provision for training, education, research, demonstration, and special grants.

Section 3742, Pub. L. 90–351, title I, §402, June 19, 1968, 82 Stat. 203; Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 205; Pub. L. 94–503, title I, §117, Oct. 15, 1976, 90 Stat. 2416, provided for creation of a National Institute of Law Enforcement and Criminal Justice.

Section 3743, Pub. L. 90–351, title I, §403, June 19, 1968, 82 Stat. 203; Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 206, related to limitations on size of grants and contributions requirements for grants.

Section 3744, Pub. L. 90–351, title I, §404, June 19, 1968, 82 Stat. 204; Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 207, provided for Federal Bureau of Investigation law enforcement training programs.

Section 3745, Pub. L. 90–351, title I, §405, June 19, 1968, 82 Stat. 204; Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 207, repealed Law Enforcement Assistance Act of 1965 and provided for funds to continue projects started thereunder.

Section 3746, Pub. L. 90–351, title I, §406, June 19, 1968, 82 Stat. 204; Pub. L. 91–644, title I, §5(1), Jan. 2, 1971, 84 Stat. 1884; Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 207, provided for academic educational assistance.

Section 3747, Pub. L. 90–351, title I, §407, formerly §408, as added Pub. L. 91–644, title I, §5(2), Jan. 2, 1971, 84 Stat. 1885; renumbered §407, Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 209, related to administration of training programs for prosecuting attorneys.

Another prior section 3747, Pub. L. 90–351, title I, §407, as added Pub. L. 91–644, title I, §5(2), Jan. 2, 1971, 84 Stat. 1885, related to Administration law enforcement training program for enforcement personnel, prior to the general amendment of this chapter by section 2 of Pub. L. 93–83.

Section 3748, Pub. L. 90–351, title I, §408, as added Pub. L. 91–644, title I, §5(2), Jan. 2, 1971, 84 Stat. 1885, was renumbered section 407 of Pub. L. 90–351 by Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 209, and was classified to prior section 3747 of this title.

Section 3750, Pub. L. 90–351, title I, §451, as added Pub. L. 91–644, title I, §6(a), Jan. 2, 1971, 84 Stat. 1885; amended Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 209, set out Congressional statement of purpose in providing a system of grants for correctional institutions and facilities.

Section 3750a, Pub. L. 90–351, title I, §452, as added Pub. L. 91–644, title I, §6(a), Jan. 2, 1971, 84 Stat. 1885; amended Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 209, related to applications for grants and their incorporation into comprehensive State plans.

Section 3750b, Pub. L. 90–351, title I, §453, as added Pub. L. 91–644, title I, §6(a), Jan. 2, 1971, 84 Stat. 1886; amended Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 209; Pub. L. 94–503, title I, §118, Oct. 15, 1976, 90 Stat. 2417, set out required contents of an application for a grant for correctional institutions and facilities.

Section 3750c, Pub. L. 90–351, title I, §454, as added Pub. L. 91–644, title I, §6(a), Jan. 2, 1971, 84 Stat. 1886; amended Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 210; Pub. L. 94–237, §4(c)(5)(C), Mar. 19, 1976, 90 Stat. 244, set out guidelines and basic criteria for applicants and grantees.

Section 3750d, Pub. L. 90–351, title I, §455, as added Pub. L. 91–644, title I, §6(a), Jan. 2, 1971, 84 Stat. 1886; amended Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 210; Pub. L. 94–503, title I, §119(a), Oct. 15, 1976, 90 Stat. 2417, related to allocation and reallocation of funds.

§3741. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3741 was editorially reclassified as section 10141 of Title 34, Crime Control and Law Enforcement.

PRIOR PROVISIONS

For prior sections 3741 of this title, see note set out preceding this section.

§3742. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3742 was editorially reclassified as section 10142 of Title 34, Crime Control and Law Enforcement.

PRIOR PROVISIONS

For prior sections 3742 of this title, see note set out preceding section 3741 of this title.

§3743. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3743 was editorially reclassified as section 20143 of Title 34, Crime Control and Law Enforcement.

PRIOR PROVISIONS

For prior sections 3743 of this title, see note set out preceding section 3741 of this title.

SUBCHAPTER V—BUREAU OF JUSTICE ASSISTANCE GRANT PROGRAMS

EDITORIAL NOTES

PRIOR PROVISIONS

A prior subchapter V, consisting of sections 3761 to 3766, related to discretionary grants, prior to repeal by Pub. L. 100–690, title VI, §6091(a), Nov. 18, 1988, 102 Stat. 4328.

Section 3761, Pub. L. 90–351, title I, §501, formerly §601, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1195; renumbered §501 and amended Pub. L. 98–473, title II, §608(a), Oct. 12, 1984, 98 Stat. 2086, related to Congressional statement of purpose regarding discretionary grants.

Section 3762, Pub. L. 90–351, title I, §502, formerly §602, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1195; renumbered §502 and amended Pub. L. 98–473, title II, §608(a), Oct. 12, 1984, 98 Stat. 2086, related to percentage of appropriation for discretionary grant program.

Section 3763, Pub. L. 90–351, title I, §503, formerly §603, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1196; renumbered §503 and amended Pub. L. 98–473, title II, §608(a), Oct. 12, 1984, 98 Stat. 2086, related to procedure for establishing discretionary programs.

Section 3764, Pub. L. 90–351, title I, §504, formerly §604, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1197; renumbered §504 and amended Pub. L. 98–473, title II, §608(b), (f), Oct. 12, 1984, 98 Stat. 2087, related to application requirements for discretionary grants.

Section 3765, Pub. L. 90–351, title I, §505, formerly §605, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1197; renumbered §505 and amended Pub. L. 98–473, title II, §608(c), Oct. 12, 1984, 98 Stat. 2087, related to criteria for award.

Section 3766, Pub. L. 90–351, title I, §506, formerly §606, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1197; renumbered §506 and amended Pub. L. 98–473, title II, §608(d), Oct. 12, 1984, 98 Stat. 2087, related to period for award of discretionary grants.

Another prior subchapter V, consisting of sections 3751 to 3755, related to national priority grants, prior to repeal by Pub. L. 98–473, title II, §607, Oct. 12, 1984, 98 Stat. 2086.

Section 3751, Pub. L. 90–351, title I, §501, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1192, set out Congressional statement of purpose of national priority grants.

Section 3752, Pub. L. 90–351, title I, §502, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1192, prescribed percentage of appropriation for national priority grant program.

Section 3753, Pub. L. 90–351, title I, §503, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1192, prescribed procedure for designating national priority programs, including periodic and joint designations by Director of Office of Justice Assistance, Research, and Statistics and Administrator of Law Enforcement Assistance Administration and requests to outside agencies for suggestions.

Section 3754, Pub. L. 90–351, title I, §504, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1193, prescribed application requirements, including contents of applications, certifications, review by State criminal justice councils, and private nonprofit organizations.

Section 3755, Pub. L. 90–351, title I, §505, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1194, set out criteria for award of national priority grants, including establishment of reasonable requirements, maximum per centum of grant funds, funds reserved or set aside but not used in the fiscal year, and three-year

period for financial aid and assistance and extension or renewal of period.

Another prior subchapter V, consisting of sections 3751 to 3774, related to administrative provisions, prior to the general amendment of this chapter by Pub. L. 96–157.

Section 3751, Pub. L. 90–351, title I, §501, June 19, 1968, 82 Stat. 205; Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 211; Pub. L. 94–503, title I, §120, Oct. 15, 1976, 90 Stat. 2418, related to administrative rules, regulations, and procedures.

Section 3752, Pub. L. 90–351, title I, §502, June 19, 1968, 82 Stat. 205; Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 211, made provision for delegation of functions of Law Enforcement Assistance Administration to other officers of Department of Justice.

Section 3753, Pub. L. 90–351, title I, §503, June 19, 1968, 82 Stat. 205; Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 211, required specific Congressional authorization to transfer functions, powers, and duties of Law Enforcement Assistance Administration within the Department of Justice.

Section 3754, Pub. L. 90–351, title I, §504, June 19, 1968, 82 Stat. 205; Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 211, provided for place for holding of hearings, signing and issuance of subpenas, administering of oaths, the examination of witnesses, and reception of evidence by Administration personnel.

A prior section 505 of Pub. L. 90–351, title I, June 19, 1968, 82 Stat. 205, amended section 5315 of Title 5, Government Organization and Employees.

A prior section 506 of Pub. L. 90–351, title I, June 19, 1968, 82 Stat. 205, amended section 5316 of Title 5, Government Organization and Employees.

Section 3755, Pub. L. 90–351, title I, §507, June 19, 1968, 82 Stat. 205; Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 211; Pub. L. 94–503, title I, §§119(b), 121, Oct. 15, 1976, 90 Stat. 2417, 2418, related to officers, employees, and hearing examiners.

Section 3756, Pub. L. 90–351, title I, §508, June 19, 1968, 82 Stat. 205; Pub. L. 91–644, title I, §7(3), Jan. 2, 1971, 84 Stat. 1887; Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 211, related to use of services, equipment, personnel, and facilities of other Federal agencies.

Section 3757, Pub. L. 90–351, title I, §509, June 19, 1968, 82 Stat. 206; Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 211; Pub. L. 94–503, title I, §122(a), Oct. 15, 1976, 90 Stat. 2418, provided for withholding of payments for noncompliance with certain requirements and for notice and hearing in event of such withholding of payments.

Section 3758, Pub. L. 90–351, title I, §510, June 19, 1968, 82 Stat. 206; Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 212, made provision for administrative proceedings.

Section 3759, Pub. L. 90–351, title I, §511, June 19, 1968, 82 Stat. 206; Pub. L. 90–351, title I, §511, June 19, 1968, 82 Stat. 206; Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 212, provided for judicial review.

Section 3760, Pub. L. 90–351, title I, §512, June 19, 1968, 82 Stat. 207; Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 213, authorized Administration to carry out programs provided for under this chapter during fiscal year ending June 30, 1974, and two succeeding fiscal years, prior to repeal by Pub. L. 94–503, title I, §123, Oct. 15, 1976, 90 Stat. 2419.

Section 3761, Pub. L. 90–351, title I, §513, June 19, 1968, 82 Stat. 207; Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 213, provided for coordination of law enforcement assistance and related Federal programs.

Section 3762, Pub. L. 90–351, title I, §514, June 19, 1968, 82 Stat. 207; Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 213, provided for reimbursement of Federal agencies.

Section 3763, Pub. L. 90–351, title I, §515, June 19, 1968, 82 Stat. 207; Pub. L. 91–644, title I, §7(4), Jan. 2, 1971, 84 Stat. 1887; Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 213; Pub. L. 94–503, title I, §124, Oct. 15, 1976, 90 Stat. 2421, provided for functions, powers, and duties of Law Enforcement Assistance Administration.

Section 3764, Pub. L. 90–351, title I, §516, June 19, 1968, 82 Stat. 207; Pub. L. 91–644, title I, §7(5), Jan. 2, 1971, 84 Stat. 1887; Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 213, provided for making of payments under this chapter.

Section 3765, Pub. L. 90–351, title I, §517, June 19, 1968, 82 Stat. 207; Pub. L. 91–644, title I, §7(6), Jan. 2, 1971, 84 Stat. 1887; Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 213, provided for personnel of Administration.

Section 3766, Pub. L. 90–351, title I, §518, June 19, 1968, 82 Stat. 208; Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 214; Pub. L. 94–503, title I, §122(b), Oct. 15, 1976, 90 Stat. 2418, prohibited certain constructions of provisions of this chapter.

Section 3767, Pub. L. 90–351, title I, §519, June 19, 1968, 82 Stat. 208; Pub. L. 91–644, title I, §7(7), Jan. 2, 1971, 84 Stat. 1888; Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 214; Pub. L. 94–273, §5(5), Apr. 21, 1976, 90 Stat. 377; Pub. L. 94–503, title I, §125, Oct. 15, 1976, 90 Stat. 2422; Pub. L. 95–115, §9(a), Oct. 3, 1977, 91 Stat. 1060, related to annual reports to President and Congress.

Section 3768, Pub. L. 90–351, title I, §520, June 19, 1968, 82 Stat. 208; Pub. L. 90–462, §1, Aug. 8, 1968, 82 Stat. 638; Pub. L. 91–644, title I, §7(8), Jan. 2, 1971, 84 Stat. 1888; Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 214; Pub. L. 93–415, title V, §544, Sept. 7, 1974, 88 Stat. 1142; Pub. L. 94–430, §3, Sept. 29, 1976, 90 Stat. 1348; Pub. L. 94–503, title I, §126, Oct. 15, 1976, 90 Stat. 2423, related to authorization of appropriations.

Section 3769, Pub. L. 90–351, title I, §521, June 19, 1968, 82 Stat. 208; Pub. L. 91–644, title I, §7(9), Jan. 2, 1971, 84 Stat. 1888; Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 215; Pub. L. 94–503, title I, §§127, 128(a), Oct. 15, 1976, 90 Stat. 2424, related to recordkeeping requirements.

A prior section 522 of title I of Pub. L. 90–351, June 19, 1968, 82 Stat. 208, amended section 3334 of this title.

Section 3770, Pub. L. 90–351, title I, §523, as added Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 215, provided for use of unobligated Federal funds for 90 percent of costs.

Section 3771 of this title, Pub. L. 90–351, title I, §524, as added Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 215, related to availability of information for prescribed purposes.

A prior section 525 of title I of Pub. L. 90–351 amended section 484 of former Title 40, Public Buildings, Property, and Works.

Section 3772 of this title, Pub. L. 90–351, title I, §526, as added Pub. L. 93–415, title V, §545, Sept. 7, 1974, 88 Stat. 1143, related to acceptance of volunteer services.

Section 3773 of this title, Pub. L. 90–351, title I, §527, as added Pub. L. 93–415, title V, §545, Sept. 7, 1974, 88 Stat. 1143, related to administration of juvenile delinquency programs by Office of Juvenile Justice and Delinquency Prevention.

Section 3774 of this title, Pub. L. 90–351, title I, §528, as added Pub. L. 93–415, title V, §545, Sept. 7, 1974, 88 Stat. 1143, authorized employment of personnel by Law Enforcement Assistance Administration.

PART A—EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM

EDITORIAL NOTES

PRIOR PROVISIONS

A prior part A, consisting of sections 3751 to 3759, related to the drug control and system improvement grant program, prior to repeal by Pub. L. 109–162, title XI, §1111(a)(1), (d), Jan. 5, 2006, 119 Stat. 3094, 3102, applicable with respect to the first fiscal year beginning after Jan. 5, 2006, and each fiscal year thereafter.

Section 3751, Pub. L. 90–351, title I, §501, as added and amended Pub. L. 100–690, title V, §5104, title VI, §6091(a), Nov. 18, 1988, 102 Stat. 4301, 4329; Pub. L. 101–647, title VI, §601(b), Nov. 29, 1990, 104 Stat. 4823; Pub. L. 103–322, title X, §100003, title XIV, §140004, title XV, §150003, title XXI, §210302(a), Sept. 13, 1994, 108 Stat. 1996, 2032, 2035, 2065; Pub. L. 104–132, title VIII, §822(a), Apr. 24, 1996, 110 Stat. 1317; Pub. L. 106–177, title I, §103, Mar. 10, 2000, 114 Stat. 35; Pub. L. 106–310, div. B, title XXXVI, §3621(b), Oct. 17, 2000, 114 Stat. 1231; Pub. L. 106–561, §2(a), Dec. 21, 2000, 114 Stat. 2787, related to description of drug control and system improvement grant program.

Section 3752, Pub. L. 90–351, title I, §502, as added Pub. L. 100–690, title VI, §6091(a), Nov. 18, 1988, 102 Stat. 4331, related to eligibility of a State for financial assistance.

Section 3753, Pub. L. 90–351, title I, §503, as added Pub. L. 100–690, title VI, §6091(a), Nov. 18, 1988, 102 Stat. 4331; amended Pub. L. 101–649, title V, §507(a), Nov. 29, 1990, 104 Stat. 5050; Pub. L. 102–232, title III, §306(a)(6), Dec. 12, 1991, 105 Stat. 1751; Pub. L. 103–322, title XXI, §210302(b), Sept. 13, 1994, 108 Stat. 2065; Pub. L. 106–546, §8(a), Dec. 19, 2000, 114 Stat. 2734; Pub. L. 106–561, §2(b), Dec. 21, 2000, 114 Stat. 2787; Pub. L. 107–273, div. B, title V, §5001(a), Nov. 2, 2002, 116 Stat. 1813, related to State applications. See section 3752 of this title.

Section 3754, Pub. L. 90–351, title I, §504, as added Pub. L. 100–690, title VI, §6091(a), Nov. 18, 1988, 102 Stat. 4333; amended Pub. L. 101–162, title II, §211, Nov. 21, 1989, 103 Stat. 1006; Pub. L. 101–515, title II, §207, Nov. 5, 1990, 104 Stat. 2119; Pub. L. 101–647, title VI, §601(a), Nov. 29, 1990, 104 Stat. 4823; Pub. L. 102–140, title I, §§108, 109, Oct. 28, 1991, 105 Stat. 794; Pub. L. 103–322, title XV, §150009, Sept. 13, 1994, 108 Stat. 2036; Pub. L. 107–273, div. A, title II, §203(a)(1), Nov. 2, 2002, 116 Stat. 1775, related to grant limitations.

Section 3755, Pub. L. 90–351, title I, §505, as added Pub. L. 100–690, title VI, §6091(a), Nov. 18, 1988, 102 Stat. 4333, related to review of State applications.

Section 3756, Pub. L. 90–351, title I, §506, as added Pub. L. 100–690, title VI, §6091(a), Nov. 18, 1988, 102 Stat. 4334; amended Pub. L. 101–162, title II, §212, Nov. 21, 1989, 103 Stat. 998, 1006; Pub. L. 101–302, title III, §320(c)(1), May 25, 1990, 104 Stat. 248; Pub. L. 101–647, title XVIII, §1804, Nov. 29, 1990, 104 Stat. 4851; Pub. L. 103–322, title XXXIII, §330001(a), Sept. 13, 1994, 108 Stat. 2138; Pub. L. 107–273, div. A, title II, §203(a)(2), Nov. 2, 2002, 116 Stat. 1775, related to allocation and distribution of funds under formula grants. See section 3755(a) of this title.

Section 3757, Pub. L. 90–351, title I, §507, as added Pub. L. 100–690, title VI, §6091(a), Nov. 18, 1988, 102 Stat. 4335, related to designation and purposes of a State office.

Section 3758, Pub. L. 90–351, title I, §508, as added Pub. L. 100–690, title VI, §6091(a), Nov. 18, 1988, 102 Stat. 4335, related to distribution of grants to local government.

Section 3759, Pub. L. 90–351, title I, §509, as added Pub. L. 101–647, title XVIII, §1803(a), Nov. 29, 1990, 104 Stat. 4850; amended Pub. L. 103–159, title I, §106(a), Nov. 30, 1993, 107 Stat. 1543; Pub. L. 103–209, §4(a), Dec. 20, 1993, 107 Stat. 2493, related to improvement of criminal justice records.

§3750. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3750 was editorially reclassified as section 10151 of Title 34, Crime Control and Law Enforcement.

PRIOR PROVISIONS

Prior sections 3750a to 3750d were repealed by Pub. L. 109–162, title XI, §1111(b)(2), (d), Jan. 5, 2006, 119 Stat. 3101, 3102, applicable with respect to the first fiscal year beginning after Jan. 5, 2006, and each fiscal year thereafter.

Section 3750a, Pub. L. 102–519, title I, §130, Oct. 25, 1992, 106 Stat. 3386, related to the purpose of former sections 3750a to 3750d, to supplement the provisions of the Edward Byrne Memorial State and Local Law Enforcement Assistance Program to help States to curb motor vehicle thefts and related violence, and authorization of grants to Anti Car Theft Committees.

Section 3750b, Pub. L. 102–519, title I, §131, Oct. 25, 1992, 106 Stat. 3386, related to application for grants.

Section 3750c, Pub. L. 102–519, title I, §132, Oct. 25, 1992, 106 Stat. 3387, related to award of grants.

Section 3750d, Pub. L. 102–519, title I, §133, Oct. 25, 1992, 106 Stat. 3387, related to authorization of appropriations.

Other prior sections 3750 to 3750d of this title, which comprised a prior part E of title I of Pub. L. 90–351, were omitted in the general amendment of title I of Pub. L. 90–351 by Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1167.

Section 3750, Pub. L. 90–351, title I, §451, as added Pub. L. 91–644, title I, §6(a), Jan. 2, 1971, 84 Stat. 1885; amended Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 209, set out Congressional statement of purpose in providing a system of grants for correctional institutions and facilities.

Section 3750a, Pub. L. 90–351, title I, §452, as added Pub. L. 91–644, title I, §6(a), Jan. 2, 1971, 84 Stat. 1885; amended Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 209, related to applications for grants and their incorporation into comprehensive State plans.

Section 3750b, Pub. L. 90–351, title I, §453, as added Pub. L. 91–644, title I, §6(a), Jan. 2, 1971, 84 Stat. 1886; amended Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 209; Pub. L. 94–503, title I, §118, Oct. 15, 1976, 90 Stat. 2417, set out required contents of an application for a grant for correctional institutions and facilities.

Section 3750c, Pub. L. 90–351, title I, §454, as added Pub. L. 91–644, title I, §6(a), Jan. 2, 1971, 84 Stat. 1886; amended Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 210; Pub. L. 94–237, §4(c)(5)(C), Mar. 19, 1976, 90 Stat. 244, set out guidelines and basic criteria for applicants and grantees.

Section 3750d, Pub. L. 90–351, title I, §455, as added Pub. L. 91–644, title I, §6(a), Jan. 2, 1971, 84 Stat. 1886; amended Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 210; Pub. L. 94–503, title I, §119(a), Oct. 15, 1976, 90 Stat. 2417, related to allocation and reallocation of funds.

§3751. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3751 was editorially reclassified as section 10152 of Title 34, Crime Control and Law Enforcement.

§3752. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3752 was editorially reclassified as section 10153 of Title 34, Crime Control and Law Enforcement.

§3753. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3753 was editorially reclassified as section 10154 of Title 34, Crime Control and Law Enforcement.

§3754. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3754 was editorially reclassified as section 10155 of Title 34, Crime Control and Law Enforcement.

§3755. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3755 was editorially reclassified as section 10156 of Title 34, Crime Control and Law Enforcement.

§3756. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3756 was editorially reclassified as section 10157 of Title 34, Crime Control and Law Enforcement.

§3757. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3757 was editorially reclassified as section 10158 of Title 34, Crime Control and Law Enforcement.

§3758. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 90–351, title I, §509, formerly §508, as added Pub. L. 109–162, title XI, §1111(a)(2)(C), Jan. 5, 2006, 119 Stat. 3101; amended Pub. L. 110–294, §1, July 30, 2008, 122 Stat. 2971; renumbered §509, Pub. L. 117–325, §2(c)(1), Dec. 27, 2022, 136 Stat. 4444, which authorized appropriations for fiscal years 2006 through 2012, was omitted as obsolete.

PRIOR PROVISIONS

For prior sections 3758 and 3759 of this title, see notes set out preceding section 3750 of this title.

PART B—DISCRETIONARY GRANTS

SUBPART 1—GRANTS TO PUBLIC AND PRIVATE ENTITIES

§§3760 to 3762. Repealed. Pub. L. 109–162, title XI, §1111(b)(1), Jan. 5, 2006, 119 Stat. 3101

Section 3760, Pub. L. 90–351, title I, §510, as added Pub. L. 100–690, title VI, §6091(a), Nov. 18, 1988, 102 Stat. 4335; amended Pub. L. 101–647, title XVIII, §1801(a)(2), Nov. 29, 1990, 104 Stat. 4847; Pub. L. 103–322, title XXXII, §320702(a), Sept. 13, 1994, 108 Stat. 2121; Pub. L. 105–277, div. A, §101(b) [title I, §120(a)], Oct. 21, 1998, 112 Stat. 2681–50, 2681–70; Pub. L. 107–273, div. A, title II, §203(a)(3), (4), Nov. 2, 2002, 116 Stat. 1775, related to purposes of grants to public and private entities.

Section 3761, Pub. L. 90–351, title I, §511, as added Pub. L. 100–690, title VI, §6091(a), Nov. 18, 1988, 102 Stat. 4336; amended Pub. L. 101–647, title XVIII, §1801(a)(3), Nov. 29, 1990, 104 Stat. 4847; Pub. L. 107–273, div. A, title II, §203(a)(5), Nov. 2, 2002, 116 Stat. 1775, related to allocation of funds for grants.

Section 3762, Pub. L. 90–351, title I, §512, as added Pub. L. 100–690, title VI, §6091(a), Nov. 18, 1988, 102 Stat. 4336, related to limitation on use of discretionary grant funds.

For prior sections 510 to 512 of Pub. L. 90–351 and prior sections 3760 to 3762 of this title, see notes set out preceding section 3750 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to the first fiscal year beginning after Jan. 5, 2006, and each fiscal year thereafter, see section 1111(d) of Pub. L. 109–162, set out as an Effective Date of 2006 Amendment note set out under section 10151 of Title 34, Crime Control and Law Enforcement.

SUBPART 2—GRANTS TO PUBLIC AGENCIES

§3762a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3762a was editorially reclassified as section 10171 of Title 34, Crime Control and Law Enforcement.

§3762b. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3762b was editorially reclassified as section 10172 of Title 34, Crime Control and Law Enforcement.

SUBPART 3—GENERAL REQUIREMENTS

§3763. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3763 was editorially reclassified as section 10181 of Title 34, Crime Control and Law Enforcement.

§3764. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3764 was editorially reclassified as section 10182 of Title 34, Crime Control and Law Enforcement.

SUBPART 4—GRANTS TO PRIVATE ENTITIES

§3765. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3765 was editorially reclassified as section 10191 of Title 34, Crime Control and Law Enforcement.

PART C—ADMINISTRATIVE PROVISIONS

§3766. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3766 was editorially reclassified as section 10201 of Title 34, Crime Control and Law Enforcement.

§3766a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3766a was editorially reclassified as section 10202 of Title 34, Crime Control and Law Enforcement.

§3766b. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3766b was editorially reclassified as section 10203 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER VI—CRIMINAL JUSTICE FACILITY CONSTRUCTION: PILOT PROGRAM

§§3769 to 3769d. Repealed. Pub. L. 109–162, title XI, §1154(a), Jan. 5, 2006, 119 Stat. 3113

Section 3769, Pub. L. 90–351, title I, §601, as added Pub. L. 98–473, title II, §609, Oct. 12, 1984, 98 Stat. 2088, related to authority for payments.

For prior section 3769, see note set out preceding section 3750 of this title.

A prior section 601 of Pub. L. 90–351 was renumbered section 501 and classified to section 3761 of this title. See note set out preceding section 3750 of this title.

Another prior section 601 of Pub. L. 90–351, title I, June 19, 1968, 82 Stat. 209, was classified to section 3781 of this title and defined terms used in this chapter, prior to the general amendment of this chapter by Pub. L. 96–157. See section 3791 of this title.

Section 3769a, Pub. L. 90–351, title I, §602, as added Pub. L. 98–473, title II, §609, Oct. 12, 1984, 98 Stat. 2088; amended Pub. L. 103–322, title XXXIII, §330001(h)(3), Sept. 13, 1994, 108 Stat. 2139, related to eligibility for assistance.

A prior section 602 of Pub. L. 90–351 was renumbered section 502 and classified to section 3762 of this title. See note set out preceding section 3750 of this title.

Section 3769b, Pub. L. 90–351, title I, §603, as added Pub. L. 98–473, title II, §609, Oct. 12, 1984, 98 Stat.

2088; amended Pub. L. 103–322, title XXXIII, §330001(h)(4), Sept. 13, 1994, 108 Stat. 2139, related to application, approval of application, and payment.

A prior section 603 of Pub. L. 90–351 was renumbered section 503 and classified to section 3763 of this title. See note set out preceding section 3750 of this title.

Section 3769c, Pub. L. 90–351, title I, §605, as added Pub. L. 98–473, title II, §609, Oct. 12, 1984, 98 Stat. 2089; amended Pub. L. 103–322, title XXXIII, §330001(h)(5), Sept. 13, 1994, 108 Stat. 2139, related to recapture of funds from recipient of assistance.

A prior section 605 of Pub. L. 90–351 was renumbered section 505 and classified to section 3765 of this title. See note set out preceding section 3750 of this title.

Section 3769d, Pub. L. 90–351, title I, §606, as added Pub. L. 98–473, title II, §609, Oct. 12, 1984, 98 Stat. 2090; amended Pub. L. 103–322, title XXXIII, §330001(h)(6), Sept. 13, 1994, 108 Stat. 2139, related to a clearinghouse on the construction and modernization of criminal justice facilities.

A prior section 606 of Pub. L. 90–351 was renumbered section 506 and classified to section 3766 of this title. See note set out preceding section 3750 of this title.

For prior section 3770, see note set out preceding section 3750 of this title.

SUBCHAPTER VII—FBI TRAINING OF STATE AND LOCAL CRIMINAL JUSTICE PERSONNEL

§3771. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3771 was editorially reclassified as section 10211 of Title 34, Crime Control and Law Enforcement.

PRIOR PROVISIONS

A prior section 3771, Pub. L. 90–351, title I, §701, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1198, contained Congressional statement of purpose for training and manpower development, prior to the general amendment of this subchapter by Pub. L. 98–473.

For another prior section 3771, see note set out preceding section 3750 of this title.

Prior sections 3772 to 3775 were omitted in the general revision of this subchapter by Pub. L. 98–473, title II, §609A(a), Oct. 12, 1984, 98 Stat. 2090.

Section 3772, Pub. L. 90–351, title I, §702, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1198, provided for a program to train prosecuting attorneys.

A prior section 702 of Pub. L. 90–351, title I, as added Pub. L. 94–430, §2, Sept. 29, 1976, 90 Stat. 1347, provided limits on the payment of public safety officers' death benefits and was classified to former section 3796a of this title, prior to the general amendment of this chapter by Pub. L. 96–157.

Section 3773, Pub. L. 90–351, title I, §703, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1198, provided for a program to train State and local criminal justice personnel.

A prior section 703 of Pub. L. 90–351, as added Pub. L. 94–430, §2, Sept. 29, 1976, 90 Stat. 1347, defined the terms used in the provisions for public safety officers' death benefits and was classified to former section 3796b of this title, prior to the general amendment of this chapter by Pub. L. 96–157.

Section 3774, Pub. L. 90–351, title I, §704, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1199, related to the training of State and local criminal justice personnel by the Federal Bureau of Investigation.

A prior section 704 of Pub. L. 96–351, title I, as added Pub. L. 94–430, §2, Sept. 29, 1976, 90 Stat. 1347, provided for the administration of the program of public safety officers' death benefits and was classified to former section 3796c of this title, prior to the general amendment of this chapter by Pub. L. 96–157.

Section 3775, Pub. L. 90–351, title I, §705, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1199; amended Pub. L. 96–88, title III, §§301(a)(1), 305, title V, §507, Oct. 17, 1979, 93 Stat. 677, 680, 692, authorized a criminal justice education program.

For other prior sections 3772 to 3774, see note set out preceding section 3750 of this title.

SUBCHAPTER VIII—ADMINISTRATIVE PROVISIONS

§3781. Repealed. Pub. L. 98–473, title II, §609B(a), Oct. 12, 1984, 98 Stat. 2091

Section, Pub. L. 90–351, title I, §801, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1201, related to establishment of Office of Justice Assistance, Research, and Statistics.

A prior section 3781, Pub. L. 90–351, title I, §601, June 19, 1968, 82 Stat. 209; 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085; Pub. L. 91–644, title I, §§6(b), 9, Jan. 2, 1971, 84 Stat. 1887, 1888; Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 216; Pub. L. 94–503, title I, §129, Oct. 15, 1976, 90 Stat. 2424, defined the terms used in this subchapter, prior to the general amendment of title I of Pub. L. 90–351 by Pub. L. 96–157. See section 10251 of Title 34, Crime Control and Law Enforcement.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 12, 1984, see section 609AA(a) of Pub. L. 98–473, set out as an Effective Date note under section 10101 of Title 34, Crime Control and Law Enforcement.

§3782. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3782 was editorially reclassified as section 10221 of Title 34, Crime Control and Law Enforcement.

§3783. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3783 was editorially reclassified as section 10222 of Title 34, Crime Control and Law Enforcement.

§3784. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3784 was editorially reclassified as section 10223 of Title 34, Crime Control and Law Enforcement.

§3785. Repealed. Pub. L. 109–162, title XI, §1155(3), Jan. 5, 2006, 119 Stat. 3114

Section, Pub. L. 90–351, title I, §804, formerly §805, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1203; renumbered §804 and amended Pub. L. 98–473, title II, §609B(d), (f), Oct. 12, 1984, 98 Stat. 2093; Pub. L. 103–322, title XXXIII, §330001(h)(9), Sept. 13, 1994, 108 Stat. 2139, related to appellate court review.

Another section 804 of Pub. L. 90–351, title III, June 19, 1968, 82 Stat. 223, is set out as a note under section 2510 of Title 18, Crimes and Criminal Procedure.

A prior section 804 of Pub. L. 90–351 was renumbered section 803 and is classified to section 10223 of Title 34, Crime Control and Law Enforcement.

§3786. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3786 was editorially reclassified as section 10224 of Title 34, Crime Control and Law Enforcement.

PRIOR PROVISIONS

A prior section 3786, Pub. L. 90–351, title I, §806, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1204, contained provisions similar to those in section 10224 of Title 34, Crime Control and Law Enforcement, prior to repeal by section 609B(e) of Pub. L. 98–473.

§3787. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3787 was editorially reclassified as section 10225 of Title 34, Crime Control and Law Enforcement.

PRIOR PROVISIONS

A prior section 3787, Pub. L. 90–351, title I, §807, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1204, contained provisions similar to those in section 10225 of Title 34, Crime Control and Law Enforcement, prior to repeal by section 609B(e) of Pub. L. 98–473.

§3788. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3788 was editorially reclassified as section 10226 of Title 34, Crime Control and Law Enforcement.

PRIOR PROVISIONS

A prior section 3788, Pub. L. 90–351, title I, §810, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1204, contained in part provisions similar to subsec. (a) of section 10226 of Title 34, Crime Control and Law Enforcement, prior to repeal by section 609B(e) of Pub. L. 98–473.

§3789. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3789 was editorially reclassified as section 10227 of Title 34, Crime Control and Law Enforcement.

PRIOR PROVISIONS

A prior section 3789, Pub. L. 90–351, title I, §811, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1205, authorized use of available services, prior to repeal by section 609B(e) of Pub. L. 98–473. See section

10226(b) of Title 34, Crime Control and Law Enforcement.

§§3789a to 3789c. Repealed. Pub. L. 98–473, title II, §609B(e), Oct. 12, 1984, 98 Stat. 2093

Section 3789a, Pub. L. 90–351, title I, §812, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1205, authorized consultations with other Federal, State, and local officials.

Section 3789b, Pub. L. 90–351, title I, §813, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1205, provided for reimbursement authority and authorized use of grants, contracts, or cooperative agreements under chapter 63 of title 31. See section 10226(c) of Title 34, Crime Control and Law Enforcement.

Section 3789c, Pub. L. 90–351, title I, §814, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1205, provided for employment of services of experts and consultants and appointment of advisory committees. See section 10226(d) to (f) of Title 34, Crime Control and Law Enforcement.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 12, 1984, see section 609AA(a) of Pub. L. 98–473, set out as an Effective Date note under section 10101 of Title 34, Crime Control and Law Enforcement.

§3789d. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3789d was editorially reclassified as section 10228 of Title 34, Crime Control and Law Enforcement.

§3789e. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3789e was editorially reclassified as section 10229 of Title 34, Crime Control and Law Enforcement.

§3789f. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3789f was editorially reclassified as section 10230 of Title 34, Crime Control and Law Enforcement.

§3789g. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3789g was editorially reclassified as section 10231 of Title 34, Crime Control and Law Enforcement.

§3789h. Repealed. Pub. L. 98–473, title II, §609B(e), (l), Oct. 12, 1984, 98 Stat. 2093, 2096

Section, Pub. L. 90–351, title I, §819, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1213, authorized acceptance of voluntary services. See section 10226(g) of Title 34, Crime Control and Law Enforcement.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 12, 1984, see section 609AA(a) of Pub. L. 98–473, set out as an Effective Date note under section 10101 of Title 34, Crime Control and Law Enforcement.

§3789i. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3789i was editorially reclassified as section 10232 of Title 34, Crime Control and Law Enforcement.

§3789j. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3789j was editorially reclassified as section 10233 of Title 34, Crime Control and Law Enforcement.

§3789k. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3789k was editorially reclassified as section 10234 of Title 34, Crime Control and Law Enforcement.

§3789*l*. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3789l was editorially reclassified as section 10235 of Title 34, Crime Control and Law

Enforcement.

§3789m. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3789m was editorially reclassified as section 10236 of Title 34, Crime Control and Law Enforcement.

§3789n. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3789n was editorially reclassified as section 10237 of Title 34, Crime Control and Law Enforcement.

§3789*o*. Repealed. Pub. L. 98–473, title II, §609B(e), Oct. 12, 1984, 98 Stat. 2093

Section, Pub. L. 90–351, title I, §826, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1214, required reimbursement of Federal assistance for unused equipment.

§3789p. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3789p was editorially reclassified as section 10238 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER IX—DEFINITIONS

§3791. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3791 was editorially reclassified as section 10251 of Title 34, Crime Control and Law Enforcement.

PRIOR PROVISIONS

A prior section 3791 of this title, Pub. L. 90–351, title I, §651, as added Pub. L. 91–644, title I, §10, Jan. 2, 1971, 84 Stat. 1889; amended Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 218, related to embezzlement, theft, and fraud, prior to the general amendment of title I of Pub. L. 90–351 by Pub. L. 96–157. See section 10271 of this title.

A prior section 3792 of this title, Pub. L. 90–351, title I, §652, as added Pub. L. 91–644, title I, §10, Jan. 2,

1971, 84 Stat. 1889; amended Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 218, related to fraudulent and false statements or entries, prior to the general amendment of title I of Pub. L. 90–351 by Pub. L. 96–157. See section 10272 of this title.

SUBCHAPTER X—FUNDING

§3793. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3793 was editorially reclassified as section 10261 of Title 34, Crime Control and Law Enforcement.

PRIOR PROVISIONS

A prior section 3793, Pub. L. 90–351, title I, §653, as added Pub. L. 91–644, title I, §10, Jan. 2, 1971, 84 Stat. 1889; amended Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 218, subjected the operation of the law enforcement and criminal justice program under this chapter to section 371 of Title 18, Crimes and Criminal Procedure, prior to the general amendment of title I of Pub. L. 90–351 by Pub. L. 96–157. See section 10273 of Title 34, Crime Control and Law Enforcement.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DISSEMINATION OF INFORMATION

Pub. L. 106–386, div. B, title III, §1302(d), Oct. 28, 2000, 114 Stat. 1511, which directed the Attorney General to compile and disseminate information regarding certain projects funded under the Victims of Child Abuse Act of 1990 and the Omnibus Crime Control and Safe Streets Act of 1968, was editorially reclassified and is set out as a note under section 20324 of Title 34, Crime Control and Law Enforcement.

§§3793a, 3793b. Repealed. Pub. L. 98–473, title II, §609D(b), Oct. 12, 1984, 98 Stat. 2097

Section 3793a, Pub. L. 90–351, title I, §1002, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1218, required maintenance of a fund for juvenile delinquency programs consisting of minimum of 19.15 per centum of the appropriations each fiscal year for title I of Pub. L. 90–351.

Another section 1002 of Pub. L. 90–351, title V, June 19, 1968, 82 Stat. 235, is classified as a note under section 7313 of Title 5, Government Organization and Employees.

Section 3793b, Pub. L. 90–351, title I, §1003, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1219, authorized annual appropriations of $25,000,000 for fiscal years ending Sept. 30, 1980, through 1983, for Office of Community Anti-Crime Programs.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 12, 1984, see section 609AA(a) of Pub. L. 98–473, set out as an Effective Date note under section 10101 of Title 34, Crime Control and Law Enforcement.

§3793c. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3793c was editorially reclassified as section 10263 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER XI—CRIMINAL PENALTIES

§3795. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3795 was editorially reclassified as section 10271 of Title 34, Crime Control and Law Enforcement.

PRIOR PROVISIONS

A prior section 3795, Pub. L. 90–351, title I, §670, as added Pub. L. 91–644, title I, §12, Jan. 2, 1971, 84 Stat. 1889; amended Pub. L. 93–83, §2, Aug. 6, 1973, 87 Stat. 218, related to reports to Congress and President, prior to the general amendment of title I of Pub. L. 90–351 by Pub. L. 96–157. See section 10229 of Title 34, Crime Control and Law Enforcement.

§3795a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3795a was editorially reclassified as section 10272 of Title 34, Crime Control and Law Enforcement.

§3795b. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3795b was editorially reclassified as section 10273 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER XII—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

PART A—DEATH BENEFITS

§3796. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796 was editorially reclassified as section 10281 of Title 34, Crime Control and Law Enforcement.

PRIOR PROVISIONS

A prior section 3796, Pub. L. 90–351, title I, §701, as added Pub. L. 94–430, §2, Sept. 29, 1976, 90 Stat. 1346, contained provisions similar to those in section 10281 of Title 34, Crime Control and Law Enforcement, prior to the general amendment of title I of Pub. L. 90–351 by Pub. L. 96–157.

§3796a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796a was editorially reclassified as section 10282 of Title 34, Crime Control and Law Enforcement.

PRIOR PROVISIONS

A prior section 3796a, Pub. L. 90–351, title I, §702, as added Pub. L. 94–430, §2, Sept. 29, 1976, 90 Stat. 1347, contained provisions similar to those in section 10282 of Title 34, Crime Control and Law Enforcement, prior to the general amendment of title I of Pub. L. 90–351 by Pub. L. 96–157.

§3796a–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796a–1 was editorially reclassified as section 10283 of Title 34, Crime Control and Law Enforcement.

§3796b. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796b was editorially reclassified as section 10284 of Title 34, Crime Control and Law Enforcement.

PRIOR PROVISIONS

A prior section 3796b, Pub. L. 90–351, title I, §1203, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1220; amended Pub. L. 98–411, title II, §204(a)(3), Aug. 30, 1984, 98 Stat. 1561; Pub. L. 98–473, title II, §609Z, Oct. 12, 1984, 98 Stat. 2107, contained provisions similar to those in section 10284 of Title 34, Crime Control and Law Enforcement, prior to the general amendment of part L of title I of Pub. L. 90–351 by section 609F of Pub. L. 98–473.

Another prior section 3796b, Pub. L. 90–351, title I, §703, as added Pub. L. 94–430, §2, Sept. 29, 1976, 90 Stat. 1347, contained provisions similar to those in section 10284 of Title 34, Crime Control and Law Enforcement, prior to the general amendment of title I of Pub. L. 90–351 by Pub. L. 96–157.

§3796c. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796c was editorially reclassified as section 10285 of Title 34, Crime Control and Law Enforcement.

PRIOR PROVISIONS

A prior section 3796c, Pub. L. 90–351, title I, §1204, as added Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1221, contained provisions similar to those in section 10285 of Title 34, Crime Control and Law Enforcement, prior to the general amendment of part L of title I of Pub. L. 90–351 by section 609F of Pub. L. 98–473.

Another prior section 3796c, Pub. L. 90–351, title I, §704, as added Pub. L. 94–430, §2, Sept. 29, 1976, 90 Stat. 1347, contained provisions similar to those in section 10285 of Title 34, Crime Control and Law Enforcement, prior to the general amendment of title I of Pub. L. 90–351 by Pub. L. 96–157.

§3796c–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796c–1 was editorially reclassified as section 10286 of Title 34, Crime Control and Law Enforcement.

§3796c–2. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796c–2 was editorially reclassified as section 10287 of Title 34, Crime Control and Law Enforcement.

§3796c–3. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796c–3 was editorially reclassified as section 10288 of Title 34, Crime Control and Law Enforcement.

PART B—EDUCATIONAL ASSISTANCE TO DEPENDENTS OF CIVILIAN FEDERAL LAW ENFORCEMENT OFFICERS KILLED OR DISABLED IN LINE OF DUTY

§3796d. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796d was editorially reclassified as section 10301 of Title 34, Crime Control and Law Enforcement.

§3796d–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796d–1 was editorially reclassified as section 10302 of Title 34, Crime Control and Law Enforcement.

§3796d–2. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796d–2 was editorially reclassified as section 10303 of Title 34, Crime Control and Law Enforcement.

§3796d–3. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796d–3 was editorially reclassified as section 10304 of Title 34, Crime Control and Law Enforcement.

§3796d–4. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796d–4 was editorially reclassified as section 10305 of Title 34, Crime Control and Law Enforcement.

§3796d–5. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796d–5 was editorially reclassified as section 10306 of Title 34, Crime Control and Law Enforcement.

§3796d–6. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796d–6 was editorially reclassified as section 10307 of Title 34, Crime Control and Law Enforcement.

§3796d–7. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796d–7 was editorially reclassified as section 10308 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER XII–A—REGIONAL INFORMATION SHARING SYSTEMS

EDITORIAL NOTES

PRIOR PROVISIONS

A prior subchapter XII–A, consisted of sections 3796h to 3796s, related to grants for law enforcement programs, prior to repeal by Pub. L. 100–690, title VI, §6101(a), Nov. 18, 1988, 102 Stat. 4340. For similar provisions, see subchapter V (§10151 et seq.) of chapter 101 of Title 34, Crime Control and Law Enforcement.

Section 3796h, Pub. L. 90–351, title I, §1301, as added Pub. L. 99–570, title I, §1552(a)(3), Oct. 27, 1986, 100 Stat. 3207–41, authorized Director to provide grants for drug law enforcement programs to eligible States and units of local government.

A prior section 1301 of Pub. L. 90–351 was renumbered section 2501 and is classified to section 10541 of Title 34, Crime Control and Law Enforcement.

Section 3796i, Pub. L. 90–351, title I, §1302, as added Pub. L. 99–570, title I, §1552(a)(3), Oct. 27, 1986, 100 Stat. 3207–41, provided for a description of the drug law enforcement grant program.

Section 3796j, Pub. L. 90–351, title I, §1303, as added Pub. L. 99–570, title I, §1552(a)(3), Oct. 27, 1986, 100 Stat. 3207–42, related to applications to receive drug law enforcement program grants.

Section 3796k, Pub. L. 90–351, title I, §1304, as added Pub. L. 99–570, title I, §1552(a)(3), Oct. 27, 1986, 100 Stat. 3207–43, related to review of applications to receive drug law enforcement program grants.

Section 3796l, Pub. L. 90–351, title I, §1305, as added Pub. L. 99–570, title I, §1552(a)(3), Oct. 27, 1986, 100 Stat. 3207–43, related to allocation and distribution of funds under formula drug law enforcement grants.

Section 3796m, Pub. L. 90–351, title I, §1306, as added Pub. L. 99–570, title I, §1552(a)(3), Oct. 27, 1986, 100 Stat. 3207–44, required each State and unit of local government receiving drug law enforcement grants to report each year to the Director and required Director to report annually to Congress.

Section 3796n, Pub. L. 90–351, title I, §1307, as added Pub. L. 99–570, title I, §1552(a)(3), Oct. 27, 1986, 100 Stat. 3207–44, related to limitations on expenditures of funds, payment of the non-Federal portion in cash, and maintenance of records by States and units of local government.

Section 3796o, Pub. L. 90–351, title I, §1308, as added Pub. L. 99–570, title I, §1552(a)(3), Oct. 27, 1986, 100 Stat. 3207–45, provided for designation of a State office for program administration.

Section 3796p, Pub. L. 90–351, title I, §1309, as added Pub. L. 99–570, title I, §1552(a)(3), Oct. 27, 1986, 100 Stat. 3207–45, provided for discretionary grants for drug law enforcement programs.

Section 3796q, Pub. L. 90–351, title I, §1310, as added Pub. L. 99–570, title I, §1552(a)(3), Oct. 27, 1986, 100 Stat. 3207–45, provided application requirements for discretionary grants.

Section 3796r, Pub. L. 90–351, title I, §1311, as added Pub. L. 99–570, title I, §1552(a)(3), Oct. 27, 1986,

100 Stat. 3207–45, related to allocation of funds for discretionary grants.

Section 3796s, Pub. L. 90–351, title I, §1312, as added Pub. L. 99–570, title I, §1552(a)(3), Oct. 27, 1986, 100 Stat. 3207–46, provided for a limitation on use of discretionary grant funds.

§3796h. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796h was editorially reclassified as section 10321 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER XII–B—GRANTS FOR CLOSED-CIRCUIT TELEVISING OF TESTIMONY OF CHILDREN WHO ARE VICTIMS OF ABUSE

§3796aa. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796aa was editorially reclassified as section 10331 of Title 34, Crime Control and Law Enforcement.

§3796aa–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796aa–1 was editorially reclassified as section 10332 of Title 34, Crime Control and Law Enforcement.

§3796aa–2. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796aa–2 was editorially reclassified as section 10333 of Title 34, Crime Control and Law Enforcement.

§3796aa–3. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796aa–3 was editorially reclassified as section 10334 of Title 34, Crime Control and Law Enforcement.

§3796aa–4. Repealed. Pub. L. 103–322, title IV, §40156(c)(5), Sept. 13, 1994, 108 Stat. 1924

Section, Pub. L. 90–351, title I, §1405, as added Pub. L. 101–647, title II, §241(a)(2), Nov. 29, 1990, 104 Stat. 4811, related to allocation and distribution of funds under formula grants, limitation on use of funds, and waiver of assistance by States.

§3796aa–5. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796aa–5 was editorially reclassified as section 10335 of Title 34, Crime Control and Law Enforcement.

§3796aa–6. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796aa–6 was editorially reclassified as section 10336 of Title 34, Crime Control and Law Enforcement.

§3796aa–7. Repealed. Pub. L. 103–322, title IV, §40156(c)(8), Sept. 13, 1994, 108 Stat. 1924

Section, Pub. L. 90–351, title I, §1408, as added Pub. L. 101–647, title II, §241(a)(2), Nov. 29, 1990, 104 Stat. 4813, directed the chief executive of each participating State to designate a State office for purposes of applying for and administering funds under this subchapter.

§3796aa–8. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796aa–8 was editorially reclassified as section 10337 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER XII–C—RURAL DRUG ENFORCEMENT

§3796bb. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796bb was editorially reclassified as section 10351 of Title 34, Crime Control and Law Enforcement.

§3796bb–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796bb–1 was editorially reclassified as section 10352 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER XII–D—CRIMINAL CHILD SUPPORT ENFORCEMENT

§3796cc. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796cc was editorially reclassified as section 10361 of Title 34, Crime Control and Law Enforcement.

§3796cc–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796cc–1 was editorially reclassified as section 10362 of Title 34, Crime Control and Law Enforcement.

§3796cc–2. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796cc–2 was editorially reclassified as section 10363 of Title 34, Crime Control and Law Enforcement.

§3796cc–3. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796cc–3 was editorially reclassified as section 10364 of Title 34, Crime Control and Law Enforcement.

§3796cc–4. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796cc–4 was editorially reclassified as section 10365 of Title 34, Crime Control and Law Enforcement.

§3796cc–5. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796cc–5 was editorially reclassified as section 10366 of Title 34, Crime Control and Law Enforcement.

§3796cc–6. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796cc–6 was editorially reclassified as section 10367 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER XII–E—PUBLIC SAFETY AND COMMUNITY POLICING; "COPS ON THE BEAT"

§3796dd. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796dd was editorially reclassified as section 10381 of Title 34, Crime Control and Law Enforcement.

§3796dd–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796dd–1 was editorially reclassified as section 10382 of Title 34, Crime Control and Law Enforcement.

§3796dd–2. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796dd–2 was editorially reclassified as section 10383 of Title 34, Crime Control and Law Enforcement.

§3796dd–3. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796dd–3 was editorially reclassified as section 10384 of Title 34, Crime Control and Law Enforcement.

§3796dd–4. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796dd–4 was editorially reclassified as section 10385 of Title 34, Crime Control and Law Enforcement.

§3796dd–5. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796dd–5 was editorially reclassified as section 10386 of Title 34, Crime Control and Law Enforcement.

§3796dd–6. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796dd–6 was editorially reclassified as section 10387 of Title 34, Crime Control and Law Enforcement.

§3796dd–7. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796dd–7 was editorially reclassified as section 10388 of Title 34, Crime Control and Law Enforcement.

§3796dd–8. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796dd–8 was editorially reclassified as section 10389 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER XII–F—JUVENILE ACCOUNTABILITY BLOCK GRANTS

§3796ee. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796ee was editorially reclassified as section 10401 of Title 34, Crime Control and Law Enforcement.

§3796ee–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796ee–1 was editorially reclassified as section 10402 of Title 34, Crime Control and Law Enforcement.

§3796ee–2. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796ee–2 was editorially reclassified as section 10403 of Title 34, Crime Control and Law Enforcement.

§3796ee–3. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796ee–3 was editorially reclassified as section 10404 of Title 34, Crime Control and Law Enforcement.

§3796ee–4. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796ee–4 was editorially reclassified as section 10405 of Title 34, Crime Control and Law Enforcement.

§3796ee–5. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796ee–5 was editorially reclassified as section 10406 of Title 34, Crime Control and Law Enforcement.

§3796ee–6. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796ee–6 was editorially reclassified as section 10407 of Title 34, Crime Control and Law Enforcement.

§3796ee–7. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796ee–7 was editorially reclassified as section 10408 of Title 34, Crime Control and Law Enforcement.

§3796ee–8. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796ee–8 was editorially reclassified as section 10409 of Title 34, Crime Control and Law Enforcement.

§3796ee–9. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796ee–9 was editorially reclassified as section 10410 of Title 34, Crime Control and Law Enforcement.

§3796ee–10. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 90–351, title I, §1810, as added Pub. L. 107–273, div. C, title II, §12102(a), Nov. 2, 2002, 116 Stat. 1868; amended Pub. L. 109–162, title XI, §1166, Jan. 5, 2006, 119 Stat. 3121, which authorized appropriations for fiscal years 2006 through 2009, was omitted as obsolete.

SUBCHAPTER XII–G—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR STATE PRISONERS

§3796ff. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796ff was editorially reclassified as section 10421 of Title 34, Crime Control and Law Enforcement.

§3796ff–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796ff–1 was editorially reclassified as section 10422 of Title 34, Crime Control and Law Enforcement.

§3796ff–2. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796ff–2 was editorially reclassified as section 10423 of Title 34, Crime Control and Law Enforcement.

§3796ff–3. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796ff–3 was editorially reclassified as section 10424 of Title 34, Crime Control and Law Enforcement.

§3796ff–4. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796ff–4 was editorially reclassified as section 10425 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER XII–H—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

§3796gg. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796gg was editorially reclassified as section 10441 of Title 34, Crime Control and Law Enforcement.

§3796gg–0. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796gg–0 was editorially reclassified as section 10442 of Title 34, Crime Control and Law Enforcement.

§3796gg–0a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796gg–0a was editorially reclassified as section 10443 of Title 34, Crime Control and Law Enforcement.

§3796gg–0b. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796gg–0b was editorially reclassified as section 10444 of Title 34, Crime Control and Law Enforcement.

§3796gg–0c. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796gg–0c was editorially reclassified as section 10445 of Title 34, Crime Control and Law Enforcement.

§3796gg–0d. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 90–351, title I, §2006, as added Pub. L. 107–273, div. A, title IV, §402(3), Nov. 2, 2002, 116 Stat. 1791, which authorized appropriations for each fiscal year until fiscal year 2005, was omitted as obsolete.

§3796gg–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796gg–1 was editorially reclassified as section 10446 of Title 34, Crime Control and Law Enforcement.

§3796gg–2. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796gg–2 was editorially reclassified as section 10447 of Title 34, Crime Control and Law Enforcement.

§3796gg–3. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796gg–3 was editorially reclassified as section 10448 of Title 34, Crime Control and Law Enforcement.

§3796gg–4. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796gg–4 was editorially reclassified as section 10449 of Title 34, Crime Control and Law Enforcement.

§3796gg–5. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796gg–5 was editorially reclassified as section 10450 of Title 34, Crime Control and Law Enforcement.

§3796gg–6. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796gg–6 was editorially reclassified as section 20121 of Title 34, Crime Control and Law Enforcement.

§3796gg–7. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796gg–7 was editorially reclassified as section 20122 of Title 34, Crime Control and Law Enforcement.

§3796gg–8. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796gg–8 was editorially reclassified as section 10451 of Title 34, Crime Control and Law Enforcement.

§3796gg–9. Repealed. Pub. L. 109–271, §3(a), Aug. 12, 2006, 120 Stat. 754

Section, Pub. L. 90–351, title I, §2014, as added Pub. L. 109–162, title II, §202, Jan. 5, 2006, 119 Stat. 2994, related to sexual assault services. See section 12511 of Title 34, Crime Control and Law Enforcement.

EDITORIAL NOTES

CODIFICATION

Pub. L. 109–271, which directed the repeal of section 202 of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Pub. L. 109–162), was executed by repealing this section, which was section 2014 of the Omnibus Crime Control and Safe Streets Act of 1968 as added by section 202 of Pub. L. 109–162, to reflect the probable intent of Congress.

§3796gg–10. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796gg–10 was editorially reclassified as section 10452 of Title 34, Crime Control and Law Enforcement.

§3796gg–11. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796gg–11 was editorially reclassified as section 10453 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER XII–I—GRANTS TO ENCOURAGE ARREST POLICIES AND ENFORCEMENT OF PROTECTION ORDERS

§3796hh. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796hh was editorially reclassified as section 10461 of Title 34, Crime Control and Law Enforcement.

§3796hh–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796hh–1 was editorially reclassified as section 10462 of Title 34, Crime Control and Law

Enforcement.

§3796hh–2. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796hh–2 was editorially reclassified as section 10463 of Title 34, Crime Control and Law Enforcement.

§3796hh–3. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796hh–3 was editorially reclassified as section 10464 of Title 34, Crime Control and Law Enforcement.

§3796hh–4. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796hh–4 was editorially reclassified as section 10465 of Title 34, Crime Control and Law Enforcement.

§3796hh–5. Repealed. Pub. L. 109–271, §2(f)(2), Aug. 12, 2006, 120 Stat. 752

Section, Pub. L. 90–351, title I, §2106, as added Pub. L. 109–162, title I, §102(d), Jan. 5, 2006, 119 Stat. 2978, related to training and technical assistance.

SUBCHAPTER XII–J—MENTAL HEALTH COURTS

EDITORIAL NOTES

PRIOR PROVISIONS

A prior subchapter XII–J, consisting of sections 3796ii to 3796ii–8, related to grants for drug courts, prior to repeal by Pub. L. 104–134, title I, §101[(a)] [title I, §114(b)(1)(A)], Apr. 26, 1996, 110 Stat. 1321, 1321–21; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.

§3796ii. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796ii was editorially reclassified as section 10471 of Title 34, Crime Control and Law Enforcement.

STATUTORY NOTES AND RELATED SUBSIDIARIES

STUDY ON REENTRY, MENTAL ILLNESS, AND PUBLIC SAFETY

Pub. L. 107–273, div. C, title I, §11011, Nov. 2, 2002, 116 Stat. 1823, directed the Attorney General to commission a study of offenders with mental illness released from prison or jail to determine the extent to which participation in public benefit programs correlates with successful reentry and improved public safety.

§3796ii–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796ii–1 was editorially reclassified as section 10472 of Title 34, Crime Control and Law Enforcement.

§3796ii–2. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796ii–2 was editorially reclassified as section 10473 of Title 34, Crime Control and Law Enforcement.

§3796ii–3. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796ii–3 was editorially reclassified as section 10474 of Title 34, Crime Control and Law Enforcement.

§3796ii–4. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796ii–4 was editorially reclassified as section 10475 of Title 34, Crime Control and Law Enforcement.

§3796ii–5. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796ii–5 was editorially reclassified as section 10476 of Title 34, Crime Control and Law Enforcement.

§3796ii–6. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796ii–6 was editorially reclassified as section 10477 of Title 34, Crime Control and Law Enforcement.

§3796ii–7. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796ii–7 was editorially reclassified as section 10478 of Title 34, Crime Control and Law Enforcement.

§3796ii–8. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796ii–8 was editorially reclassified as section 10479 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER XII–K—FAMILY SUPPORT

§3796jj. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796jj was editorially reclassified as section 10491 of Title 34, Crime Control and Law Enforcement.

§3796jj–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796jj–1 was editorially reclassified as section 10492 of Title 34, Crime Control and Law

Enforcement.

§3796jj–2. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796jj–2 was editorially reclassified as section 10493 of Title 34, Crime Control and Law Enforcement.

§3796jj–3. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796jj–3 was editorially reclassified as section 10494 of Title 34, Crime Control and Law Enforcement.

§3796jj–4. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796jj–4 was editorially reclassified as section 10495 of Title 34, Crime Control and Law Enforcement.

§3796jj–5. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796jj–5 was editorially reclassified as section 10496 of Title 34, Crime Control and Law Enforcement.

§3796jj–6. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796jj–6 was editorially reclassified as section 10497 of Title 34, Crime Control and Law Enforcement.

§3796jj–7. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796jj–7 was editorially reclassified as section 10498 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER XII–L—DNA IDENTIFICATION GRANTS

§3796kk. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796kk was editorially reclassified as section 10511 of Title 34, Crime Control and Law Enforcement.

§3796kk–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796kk–1 was editorially reclassified as section 10512 of Title 34, Crime Control and Law Enforcement.

§3796kk–2. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796kk–2 was editorially reclassified as section 10513 of Title 34, Crime Control and Law Enforcement.

§3796kk–3. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796kk–3 was editorially reclassified as section 10514 of Title 34, Crime Control and Law Enforcement.

§3796kk–4. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796kk–4 was editorially reclassified as section 10515 of Title 34, Crime Control and Law Enforcement.

§3796kk–5. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796kk–5 was editorially reclassified as section 10516 of Title 34, Crime Control and Law Enforcement.

§3796kk–6. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796kk–6 was editorially reclassified as section 10517 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER XII–M—MATCHING GRANT PROGRAM FOR LAW ENFORCEMENT ARMOR VESTS

§3796*ll*. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796ll was editorially reclassified as section 10531 of Title 34, Crime Control and Law Enforcement.

§3796*ll*–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796ll–1 was editorially reclassified as section 10532 of Title 34, Crime Control and Law Enforcement.

§3796*ll*–2. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796ll–2 was editorially reclassified as section 10533 of Title 34, Crime Control and Law Enforcement.

§3796*ll*–3. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3796ll–3 was editorially reclassified as section 10534 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER XIII—TRANSITION; EFFECTIVE DATE; REPEALER

EDITORIAL NOTES

CODIFICATION

Subchapter is based on part Z, formerly part M, of title I of Pub. L. 90–351, as added by Pub. L. 96–157, §2, and redesignated by Pub. L. 99–570, §1552(a)(1), Pub. L. 101–647, §§241(a)(1)(A), 801(a)(1), Pub. L. 102–521, §4(a)(1), Pub. L. 103–322, §§10003(a)(1), 20201(a)(1), 32101(a)(1), 40121(a)(1), 40231(a)(1), 50001(a)(1), 210201(a)(1), 210302(c)(1)(A), and Pub. L. 105–181, §3(a)(1).

§3797. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797 was editorially reclassified as section 10541 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER XIV—MATCHING GRANT PROGRAM FOR SCHOOL SECURITY

§3797a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797a was editorially reclassified as section 10551 of Title 34, Crime Control and Law Enforcement.

§3797b. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797b was editorially reclassified as section 10552 of Title 34, Crime Control and Law Enforcement.

§3797c. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797c was editorially reclassified as section 10553 of Title 34, Crime Control and Law Enforcement.

§3797d. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797d was editorially reclassified as section 10554 of Title 34, Crime Control and Law Enforcement.

§3797e. Repealed. Pub. L. 115–141, div. S, title V, §502(5), Mar. 23, 2018, 132 Stat. 1131

Section, Pub. L. 90–351, title I, §2705, as added Pub. L. 106–386, div. B, title I, §1108(b), Oct. 28, 2000, 114 Stat. 1502; amended Pub. L. 109–162, title XI, §1169(a), Jan. 5, 2006, 119 Stat. 3122, authorized appropriations for fiscal years 2001 through 2009.

SUBCHAPTER XV—PAUL COVERDELL FORENSIC SCIENCES IMPROVEMENT GRANTS

§3797j. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797j was editorially reclassified as section 10561 of Title 34, Crime Control and Law Enforcement.

§3797k. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797k was editorially reclassified as section 10562 of Title 34, Crime Control and Law Enforcement.

§3797*l*. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797l was editorially reclassified as section 10563 of Title 34, Crime Control and Law Enforcement.

§3797m. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797m was editorially reclassified as section 10564 of Title 34, Crime Control and Law Enforcement.

§3797n. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797n was editorially reclassified as section 10565 of Title 34, Crime Control and Law Enforcement.

§3797*o*. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797o was editorially reclassified as section 10566 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER XV–A—MENTAL HEALTH AND DRUG TREATMENT ALTERNATIVES TO INCARCERATION PROGRAMS

§3797q. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797q was editorially reclassified as section 10581 of Title 34, Crime Control and Law

Enforcement, which was repealed by Pub. L. 115–391, title V, §504(g)(2), Dec. 21, 2018, 132 Stat. 5234.

PRIOR PROVISIONS

Prior sections 3797q–1 to 3797q–6 were repealed by Pub. L. 114–255, div. B, title XIV, §14013, Dec. 13, 2016, 130 Stat. 1298.

Section 3797q–1, Pub. L. 90–351, title I, §2902, as added Pub. L. 110–199, title I, §112(a), Apr. 9, 2008, 122 Stat. 672, related to use of grant funds.

Section 3797q–2, Pub. L. 90–351, title I, §2903, as added Pub. L. 110–199, title I, §112(a), Apr. 9, 2008, 122 Stat. 673, related to grant applications.

Section 3797q–3, Pub. L. 90–351, title I, §2904, as added Pub. L. 110–199, title I, §112(a), Apr. 9, 2008, 122 Stat. 673, related to the Federal share of the total costs of the qualified drug treatment program funded under this subchapter.

Section 3797q–4, Pub. L. 90–351, title I, §2905, as added Pub. L. 110–199, title I, §112(a), Apr. 9, 2008, 122 Stat. 673, related to geographic distribution of grants.

Section 3797q–5, Pub. L. 90–351, title I, §2906, as added Pub. L. 110–199, title I, §112(a), Apr. 9, 2008, 122 Stat. 673, related to reports and evaluations by grant recipients.

Section 3797q–6, Pub. L. 90–351, title I, §2907, as added Pub. L. 110–199, title I, §112(a), Apr. 9, 2008, 122 Stat. 674, defined terms for purposes of this subchapter.

SUBCHAPTER XV–B—GRANTS FOR FAMILY-BASED SUBSTANCE ABUSE TREATMENT

§3797s. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797s was editorially reclassified as section 10591 of Title 34, Crime Control and Law Enforcement.

§3797s–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797s–1 was editorially reclassified as section 10592 of Title 34, Crime Control and Law Enforcement.

§3797s–2. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797s–2 was editorially reclassified as section 10593 of Title 34, Crime Control and Law Enforcement.

§3797s–3. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797s–3 was editorially reclassified as section 10594 of Title 34, Crime Control and Law Enforcement.

§3797s–4. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797s–4 was editorially reclassified as section 10595 of Title 34, Crime Control and Law Enforcement.

§3797s–5. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797s–5 was editorially reclassified as section 10595a of Title 34, Crime Control and Law Enforcement.

§3797s–6. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797s–6 was editorially reclassified as section 10596 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER XVI—DRUG COURTS

§3797u. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797u was editorially reclassified as section 10611 of Title 34, Crime Control and Law Enforcement.

STATUTORY NOTES AND RELATED SUBSIDIARIES

STUDY BY THE GOVERNMENT ACCOUNTABILITY OFFICE

Pub. L. 107–273, div. B, title II, §2303, Nov. 2, 2002, 116 Stat. 1799, directed the Comptroller General to

issue a report to Congress on the effectiveness and impact of grants authorized by part EE of title I of Pub. L. 90–351 on or before January 1, 2005.

§3797u–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797u–1 was editorially reclassified as section 10612 of Title 34, Crime Control and Law Enforcement.

§3797u–2. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797u–2 was editorially reclassified as section 10613 of Title 34, Crime Control and Law Enforcement.

§3797u–3. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797u–3 was editorially reclassified as section 10614 of Title 34, Crime Control and Law Enforcement.

§3797u–4. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797u–4 was editorially reclassified as section 10615 of Title 34, Crime Control and Law Enforcement.

§3797u–5. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797u–5 was editorially reclassified as section 10616 of Title 34, Crime Control and Law Enforcement.

§3797u–6. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797u–6 was editorially reclassified as section 10617 of Title 34, Crime Control and Law Enforcement.

§3797u–7. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797u–7 was editorially reclassified as section 10618 of Title 34, Crime Control and Law Enforcement.

§3797u–8. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797u–8 was editorially reclassified as section 10619 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER XVII—OFFENDER REENTRY AND COMMUNITY SAFETY

§3797w. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797w was editorially reclassified as section 10631 of Title 34, Crime Control and Law Enforcement.

§3797w–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797w–1 was editorially reclassified as section 10632 of Title 34, Crime Control and Law Enforcement.

§3797w–2. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797w–2 was editorially reclassified as section 10633 of Title 34, Crime Control and Law Enforcement, which was repealed by Pub. L. 115–391, title V, §504(g)(1), Dec. 21, 2018, 132 Stat. 5234.

SUBCHAPTER XVIII—CRIME FREE RURAL STATE GRANTS

§3797y. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797y was editorially reclassified as section 10641 of Title 34, Crime Control and Law Enforcement.

§3797y–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797y–1 was editorially reclassified as section 10642 of Title 34, Crime Control and Law Enforcement.

§3797y–2. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797y–2 was editorially reclassified as section 10643 of Title 34, Crime Control and Law Enforcement.

§3797y–3. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797y–3 was editorially reclassified as section 10644 of Title 34, Crime Control and Law Enforcement.

§3797y–4. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 90–351, title I, §2989, as added Pub. L. 107–273, div. C, title I, §11027(b), Nov. 2, 2002, 116 Stat. 1835, which authorized appropriations for fiscal years 2003, 2004, and 2005, was omitted as obsolete.

SUBCHAPTER XIX—ADULT AND JUVENILE COLLABORATION PROGRAM GRANTS

§3797aa. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797aa was editorially reclassified as section 10651 of Title 34, Crime Control and Law Enforcement.

§3797aa–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797aa–1 was editorially reclassified as section 10652 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER XX—CONFRONTING USE OF METHAMPHETAMINE

§3797cc. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797cc was editorially reclassified as section 10661 of Title 34, Crime Control and Law Enforcement.

§3797cc–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797cc–1 was editorially reclassified as section 10662 of Title 34, Crime Control and Law Enforcement.

§3797cc–2. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797cc–2 was editorially reclassified as section 10663 of Title 34, Crime Control and Law Enforcement.

§3797cc–3. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797cc–3 was editorially reclassified as section 10664 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER XX–A—LOAN REPAYMENT FOR PROSECUTORS AND PUBLIC DEFENDERS

§3797cc–21. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797cc–21 was editorially reclassified as section 10671 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER XX–B—GRANT PROGRAM TO EVALUATE AND IMPROVE EDUCATIONAL METHODS AT PRISONS, JAILS, AND JUVENILE FACILITIES

§3797dd. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797dd was editorially reclassified as section 10681 of Title 34, Crime Control and Law Enforcement, which was repealed by Pub. L. 115–391, title V, §502(c)(1), Dec. 21, 2018, 132 Stat. 5228.

§3797dd–1. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 90–351, title I, §3002, as added Pub. L. 110–199, title I, §114(2), Apr. 9, 2008, 122 Stat. 677, which authorized appropriations for fiscal years 2009 and 2010, was omitted as obsolete and was subsequently repealed by Pub. L. 115–391, title V, §502(c)(1), Dec. 21, 2018, 132 Stat. 5228.

SUBCHAPTER XXI—SEX OFFENDER APPREHENSION GRANTS; JUVENILE SEX OFFENDER TREATMENT GRANTS

§3797ee. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797ee was editorially reclassified as section 10691 of Title 34, Crime Control and Law Enforcement.

§3797ee–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797ee–1 was editorially reclassified as section 10692 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER XXII—COMPREHENSIVE OPIOID ABUSE GRANT PROGRAM

§3797ff. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797ff was editorially reclassified as section 10701 of Title 34, Crime Control and Law Enforcement.

§3797ff–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797ff–1 was editorially reclassified as section 10702 of Title 34, Crime Control and Law Enforcement.

§3797ff–2. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797ff–2 was editorially reclassified as section 10703 of Title 34, Crime Control and Law Enforcement.

§3797ff–3. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797ff–3 was editorially reclassified as section 10704 of Title 34, Crime Control and Law Enforcement.

§3797ff–4. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797ff–4 was editorially reclassified as section 10705 of Title 34, Crime Control and Law Enforcement.

§3797ff–5. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797ff–5 was editorially reclassified as section 10706 of Title 34, Crime Control and Law Enforcement.

§3797ff–6. Transferred

EDITORIAL NOTES

CODIFICATION

Section 3797ff–6 was editorially reclassified as section 10707 of Title 34, Crime Control and Law Enforcement.

CHAPTER 47—JUVENILE DELINQUENCY PREVENTION AND CONTROL

§3801. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 90–445, §2, as added Pub. L. 92–381, §1, Aug. 14, 1972, 86 Stat. 532, which set out the Congressional findings and declaration of purpose for this chapter, was omitted in view of appropriations not being authorized for fiscal years after 1975.

A prior section 3801, Pub. L. 90–445, §2, July 31, 1968, 82 Stat. 462, related to similar subject matter, prior to the general amendment of Pub. L. 90–445 by section 1 of Pub. L. 92–381.

SUBCHAPTER I—PREVENTIVE SERVICES AND DEMONSTRATION PROGRAMS

PART A—COMMUNITY-BASED COORDINATED YOUTH SERVICES

§§3811 to 3814. Omitted

EDITORIAL NOTES

CODIFICATION

Appropriations for this part have not been authorized for fiscal years after 1975.

Section 3811, Pub. L. 90–445, title I, §101, as added Pub. L. 92–381, §1, Aug. 14, 1972, 86 Stat. 532; amended Pub. L. 93–415, title IV, §401(3), Sept. 7, 1974, 88 Stat. 1132, set out Congressional statement of purpose for community-based coordinated youth services.

A prior section 3811, Pub. L. 90–445, title I, §101, July 31, 1968, 82 Stat. 463, related to Secretary's authority to make grants for State and local planning, prior to the general amendment of Pub. L. 90–445 by section 1 of Pub. L. 92–381.

Provisions similar to those comprising this section were contained in prior sections 3821 and 3831, Pub. L. 90–445, title I, §§111, 121, July 31, 1968, 82 Stat. 463, 465, prior to the general amendment of Pub. L. 90–445 by section 1 of Pub. L. 92–381.

Title IV of Pub. L. 93–415 was repealed by Pub. L. 95–115, §10, Oct. 3, 1977, 91 Stat. 1061, and Pub. L. 107–273, div. C, title II, §12221(a)(4), Nov. 2, 2002, 116 Stat. 1894.

Section 3812, Pub. L. 90–445, title I, §102, as added Pub. L. 92–381, §1, Aug. 14, 1972, 86 Stat. 532; amended Pub. L. 93–415, title IV, §401(3), Sept. 7, 1974, 88 Stat. 1132, related to grants for planning community-based programs.

A prior section 3812, Pub. L. 90–445, title I, §102, July 31, 1968, 82 Stat. 463, related to grants for planning projects or programs, prior to the general amendment of Pub. L. 90–445 by section 1 of Pub. L. 92–381.

Provisions similar to those comprising subsec. (b) of this section were contained in prior sections 3822, 3823, 3832, 3833, Pub. L. 90–445, title I, §§112, 113, 122, 123, July 31, 1968, 82 Stat. 464, 465, prior to the general amendment of Pub. L. 90–445 by section 1 of Pub. L. 92–381.

Title IV of Pub. L. 93–415 was repealed by Pub. L. 95–115, §10, Oct. 3, 1977, 91 Stat. 1061, and Pub. L. 107–273, div. C, title II, §12221(a)(4), Nov. 2, 2002, 116 Stat. 1894.

Section 3813, Pub. L. 90–445, title I, §103, as added Pub. L. 92–381, §1, Aug. 14, 1972, 86 Stat. 533; amended Pub. L. 93–415, title IV, §401(3), Sept. 7, 1974, 88 Stat. 1132, related to use of funds for community-based youth services.

Provisions similar to those comprising this section were contained in prior section 3843, Pub. L. 90–445, title I, §133, July 31, 1968, 82 Stat. 468, prior to the general amendment of Pub. L. 90–445 by section 1 of Pub. L. 92–381.

Title IV of Pub. L. 93–415 was repealed by Pub. L. 95–115, §10, Oct. 3, 1977, 91 Stat. 1061, and Pub. L. 107–273, div. C, title II, §12221(a)(4), Nov. 2, 2002, 116 Stat. 1894.

Section 3814, Pub. L. 90–445, title I, §104, as added Pub. L. 92–381, §1, Aug. 14, 1972, 86 Stat. 534; amended Pub. L. 93–415, title IV, §401(3), Sept. 7, 1974, 88 Stat. 1132, related to considerations in the approval of applications for grants or contracts involving community-based youth services.

Title IV of Pub. L. 93–415 was repealed by Pub. L. 95–115, §10, Oct. 3, 1977, 91 Stat. 1061, and Pub. L. 107–273, div. C, title II, §12221(a)(4), Nov. 2, 2002, 116 Stat. 1894.

PART B—DEMONSTRATIONS IN YOUTH DEVELOPMENT

§3821. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 90–445, title I, §105, as added Pub. L. 93–415, title IV, §401(4), Sept. 7, 1974, 88 Stat. 1132, which related to grants for demonstrations of innovative approaches to youth development, was omitted in view of appropriations not being authorized for fiscal years after 1975.

Prior sections 3821 to 3845 were omitted in the general amendment of Pub. L. 90–445 by Pub. L. 92–381, §1, Aug. 14, 1972, 86 Stat. 532.

A prior section 3821, Pub. L. 90–445, title I, §111, July 31, 1968, 82 Stat. 463, set out Congressional statement of purpose of rehabilitative services.

A prior section 3822, Pub. L. 90–445, title I, §112, July 31, 1968, 82 Stat. 463; Pub. L. 92–31, §2(a), June 30, 1971, 85 Stat. 84, related to authorization of grants.

A prior section 3823, Pub. L. 90–445, title I, §113, July 31, 1968, 82 Stat. 464; Pub. L. 92–31, §2(b), June 30, 1971, 85 Stat. 84, related to assurances and information required to be presented in applications for grants.

A prior section 3831, Pub. L. 90–445, title I, §121, July 31, 1968, 82 Stat. 465, related to Congressional statement of purpose of preventive services.

A prior section 3832, Pub. L. 90–445, title I, §122, July 31, 1968, 82 Stat. 465, related to authorization of grants.

A prior section 3833, Pub. L. 90–445, title I, §123, July 31, 1968, 82 Stat. 465, related to assurances and information required to be presented in application for grants.

A prior section 3841, Pub. L. 90–445, title I, §131, July 31, 1968, 82 Stat. 466, related to requirements, procedure for approval, and approval of State plans for grants.

A prior section 3842, Pub. L. 90–445, title I, §132, July 31, 1968, 82 Stat. 468, related to making of grants directly to public and other agencies.

A prior section 3843, Pub. L. 90–445, title I, §133, July 31, 1968, 82 Stat. 468, related to use of funds and labor standards.

A prior section 3844, Pub. L. 90–445, title I, §134, July 31, 1968, 82 Stat. 469, related to submission of copies of applications for grants to State officials and evaluation of projects by them.

A prior section 3845, Pub. L. 90–445, title I, §135, July 31, 1968, 82 Stat. 469, related to considerations for approval of applications.

Title IV of Pub. L. 93–415 was repealed by Pub. L. 95–115, §10, Oct. 3, 1977, 91 Stat. 1061, and Pub. L. 107–273, div. C, title II, §12221(a)(4), Nov. 2, 2002, 116 Stat. 1894.

SUBCHAPTER II—TRAINING

§§3861, 3862. Omitted

EDITORIAL NOTES

CODIFICATION

Appropriations for this subchapter have not been authorized for fiscal years after 1975.

Section 3861, Pub. L. 90–445, title II, §201, as added Pub. L. 92–381, §1, Aug. 14, 1972, 86 Stat. 534, related to project grants and contracts for the training of personnel in fields related to diagnosis and treatment of delinquent youths and parental counseling or instruction.

A prior section 3861, Pub. L. 90–445, title II, §201, July 31, 1968, 82 Stat. 470, related to similar subject matter, prior to the general amendment of Pub. L. 90–445 by section 1 of Pub. L. 92–381.

Section 3862, Pub. L. 90–445, title II, §202, as added Pub. L. 92–381, §1 Aug. 14, 1972, 86 Stat. 535, related to recipients and conditions of grants and contracts.

A prior section 3862, Pub. L. 90–445, title II, §202, July 31, 1968, 82 Stat. 470, related to similar subject matter, prior to the general amendment of Pub. L. 90–445 by section 1 of Pub. L. 92–381.

SUBCHAPTER III—TECHNICAL ASSISTANCE AND INFORMATION SERVICES

§§3871 to 3873. Omitted

EDITORIAL NOTES

CODIFICATION

Appropriations for this subchapter have not been authorized for fiscal years after 1975.

Section 3871, Pub. L. 90–445, title III, §301, as added Pub. L. 92–381, §1, Aug. 14, 1972, 86 Stat. 535, related to technical assistance to agencies in matters relating to prevention of delinquency.

A prior section 3871, Pub. L. 90–445, title III, §301, July 31, 1968, 82 Stat. 470, related to development of improved techniques and practices for prevention of juvenile delinquency, prior to the general amendment of Pub. L. 90–445 by section 1 of Pub. L. 92–381.

Provisions similar to those comprising this section were contained in prior section 3872, Pub. L. 90–445, title III, §301, July 31, 1968, 82 Stat. 470, prior to the general amendment of Pub. L. 90–445 by section 1 of Pub. L. 92–381.

Section 3872, Pub. L. 90–445, title III, §302, as added Pub. L. 92–381, §1, Aug. 14, 1972, 86 Stat. 535, related to State assistance to local units concerning activities under this chapter.

A prior section 3872, Pub. L. 90–445, title III, §302, July 31, 1968, 82 Stat. 471, related to technical assistance for prevention of juvenile delinquency, prior to the general amendment of Pub. L. 90–445 by section 1 of Pub. L. 92–381.

Provisions similar to those comprising this section were contained in prior section 3873, Pub. L. 90–445, title III, §303, July 31, 1968, 82 Stat. 471, prior to the general amendment of Pub. L. 90–445 by section 1 of Pub. L. 92–381.

Section 3873, Pub. L. 90–445, title III, §303, as added Pub. L. 92–381, §1, Aug. 14, 1972, 86 Stat. 535, related to information and other services to the general public.

A prior section 3873, Pub. L. 90–445, title III, §303, July 31, 1968, 82 Stat. 471, related to State assistance to local units, prior to the general amendment of Pub. L. 90–445 by section 1 of Pub. L. 92–381.

Provisions similar to those comprising section 3873 were contained in prior section 3874, Pub. L. 90–445, title III, §304, July 31, 1968, 82 Stat. 471, prior to the general amendment of Pub. L. 90–445 by section 1 of Pub. L. 92–381.

A prior section 3874, Pub. L. 90–445, title III, §304, July 31, 1968, 82 Stat. 471, related to information services, prior to the general amendment of Pub. L. 90–445 by Pub. L. 92–381, §1, Aug. 14, 1972, 86 Stat. 535.

SUBCHAPTER IV—ADMINISTRATION

§§3881 to 3888. Omitted

EDITORIAL NOTES

CODIFICATION

Appropriations for this subchapter have not been authorized for fiscal years after 1975.

Section 3881, Pub. L. 90–445, title IV, §401, as added Pub. L. 92–381, §1, Aug. 14, 1972, 86 Stat. 535, related to payment procedures for grants and contracts under this chapter.

A prior section 3881, Pub. L. 90–445, title VI, §401, July 31, 1968, 82 Stat. 471, related to similar subject matter, prior to the general amendment of Pub. L. 90–445 by section 1 of Pub. L. 92–381.

Section 3882, Pub. L. 90–445, title IV, §402, as added Pub. L. 92–381, §1, Aug. 14, 1972, 86 Stat. 536; amended Pub. L. 93–415, title IV, §404, Sept. 7, 1974, 88 Stat. 1133, authorized appropriations for fiscal years 1973 to 1975.

A prior section 3882, Pub. L. 90–445, title IV, §402, July 31, 1968, 82 Stat. 471, as amended by Pub. L. 92–31, §3, June 30, 1971, 85 Stat. 84, related to similar subject matter, prior to the general amendment of Pub. L. 90–445 by section 1 of Pub. L. 92–381.

Title IV of Pub. L. 93–415 was repealed by Pub. L. 95–115, §10, Oct. 3, 1977, 91 Stat. 1061, and Pub. L. 107–273, div. C, title II, §12221(a)(4), Nov. 2, 2002, 116 Stat. 1894.

Section 3883, Pub. L. 90–445, title IV, §403, as added Pub. L. 92–381, §1, Aug. 14, 1972, 86 Stat. 536; amended Pub. L. 93–415, title IV, §403, Sept. 7, 1974, 88 Stat. 1133, related to amounts available to each State pursuant to grants and contracts under this chapter.

A prior section 3883, Pub. L. 90–445, title IV, §403, July 31, 1968, 82 Stat. 471, related to similar subject matter, prior to the general amendment of Pub. L. 90–445 by section 1 of Pub. L. 92–381.

Title IV of Pub. L. 93–415 was repealed by Pub. L. 95–115, §10, Oct. 3, 1977, 91 Stat. 1061, and Pub. L. 107–273, div. C, title II, §12221(a)(4), Nov. 2, 2002, 116 Stat. 1894.

Section 3884, Pub. L. 90–445, title IV, §404, as added Pub. L. 92–381, §1, Aug. 14, 1972, 86 Stat. 536, related to maintenance of labor standards as condition for grants under this chapter.

A prior section 3884, Pub. L. 90–445, title IV, §404, July 31, 1968, 82 Stat. 472, related to evaluation of programs, prior to the general amendment of Pub. L. 90–445 by section 1 of Pub. L. 92–381.

Provisions similar to those comprising this section were contained in prior section 3843, Pub. L. 90–445, title I. §133, July 31, 1968, 82 Stat. 468, prior to the general amendment of Pub. L. 90–445 by section 1 of Pub. L. 92–381.

Section 3885, Pub. L. 90–445, title IV, §405, as added Pub. L. 92–381, §1, Aug. 14, 1972, 86 Stat. 536, related to evaluation by the Secretary of activities under this chapter.

A prior section 3885, Pub. L. 90–445, title IV, §405, July 31, 1968, 82 Stat. 472, related to judicial review, prior to the general amendment of Pub. L. 90–445 by section 1 of Pub. L. 92–381.

Provisions similar to those comprising this section were contained in prior section 3884, Pub. L. 90–445, title IV, §404, July 31, 1968, 82 Stat. 472, prior to the general amendment of Pub. L. 90–445 by section 1 of Pub. L. 92–381.

Section 3886, Pub. L. 90–445, title IV, §406, as added Pub. L. 92–381, §1, Aug. 14, 1972, 86 Stat. 537, related to judicial review in the case of action taken by the Secretary terminating or refusing to continue financial assistance under this chapter.

A prior section 3886, Pub. L. 90–445, title IV, §406, July 31, 1968, 82 Stat. 472, related to joint funding by several agencies, prior to the general amendment of Pub. L. 90–445 by section 1 of Pub. L. 92–381.

Provisions similar to those comprising this section were contained in prior section 3885, Pub. L. 90–445, title IV, §405, July 31, 1968, 82 Stat. 472, prior to the general amendment of Pub. L. 90–445 by section 1 of Pub. L. 92–381.

Section 3887, Pub. L. 90–445, title IV, §407, as added Pub. L. 92–381, §1, Aug. 14, 1972, 86 Stat. 537, related to administration of funds in cases of joint funding.

A prior section 3887, Pub. L. 90–445, title IV, §407, July 31, 1968, 82 Stat. 472; amended Pub. L. 92–31, §4, June 30, 1971, 85 Stat. 84, related to coordination of efforts of Federal officers, prior to the general amendment of Pub. L. 90–445 by section 1 of Pub. L. 92–381.

Provisions similar to those comprising this section were contained in prior section 3886, Pub. L. 90–445, title IV, §406, July 31, 1968, 82 Stat. 472, prior to the general amendment of Pub. L. 90–445 by section 1 of Pub. L. 92–381.

Section 3888, Pub. L. 90–445, title IV, §408, as added Pub. L. 92–381, §1, Aug. 14, 1972, 86 Stat. 537; amended Pub. L. 93–415, title IV, §402(a), Sept. 7, 1974, 88 Stat. 1133, related to limitations on assistance under this chapter and provided for coordination of programs and activities under this chapter with those under the Omnibus Crime Control and Safe Streets Act of 1968.

A prior section 3888, Pub. L. 90–445, title IV, §408, July 31, 1968, 82 Stat. 472, related to annual reports to Congress, prior to the general amendment of Pub. L. 90–445 by section 1 of Pub. L. 92–381.

Provisions similar to those comprising this section were contained in prior section 3887, Pub. L. 90–445, title IV. §407, July 31, 1968, 82 Stat. 472, prior to the general amendment of Pub. L. 90–445 by section 1 of Pub. L. 92–381.

Title IV of Pub. L. 93–415 was repealed by Pub. L. 95–115, §10, Oct. 3, 1977, 91 Stat. 1061, and Pub. L. 107–273, div. C, title II, §12221(a)(4), Nov. 2, 2002, 116 Stat. 1894.

§3889. Repealed. Pub. L. 93–415, title IV, §402(b), Sept. 7, 1974, 88 Stat. 1133

Section, Pub. L. 90–445, title IV, §409, as added Pub. L. 92–381, §1, Aug. 14, 1972, 86 Stat. 537, related to preparation and submission of a report to the President by the Interdepartmental Council concerning all Federal activities in the field of juvenile delinquency.

A prior section 3889, Pub. L. 90–445, title IV, §409, July 31, 1968, 82 Stat. 473, related to appointment of advisory committees by the Secretary in respect to activities under prior chapter 47, prior to the general amendment of Pub. L. 90–445 by section 1 of Pub. L. 92–381.

STATUTORY NOTES AND RELATED SUBSIDIARIES

REPEALS

Title IV of Pub. L. 93–415, which repealed this section, was repealed by Pub. L. 95–115, §10, Oct. 3, 1977, 91 Stat. 1061, and Pub. L. 107–273, div. C, title II, §12221(a)(4), Nov. 2, 2002, 116 Stat. 1894.

Repeal by Pub. L. 95–115 effective Oct. 1, 1977, see former section 263(c) of Pub. L. 93–415, as added by Pub. L. 95–115, which is classified as an Effective Date of 1977 Amendment note under section 11101 of Title 34, Crime Control and Law Enforcement.

§§3890, 3891. Omitted

EDITORIAL NOTES

CODIFICATION

Appropriations for this subchapter have not been authorized for fiscal years after 1975.

Section 3890, Pub. L. 90–445, title IV, §410, as added Pub. L. 92–381, §1, Aug. 14, 1972, 86 Stat. 538, prohibited application of this chapter in such a way as to be detrimental to parental and individual rights.

A prior section 3890, Pub. L. 90–445, title IV, §410, July 31, 1968, 82 Stat. 473, related to definitions, prior to the general amendment of Pub. L. 90–445 by section 1 of Pub. L. 92–381.

Section 3891, Pub. L. 90–445, title IV, §411, as added Pub. L. 92–381, §1, Aug. 14, 1972, 86 Stat. 538; amended Pub. L. 93–644, §9(a), Jan. 4, 1975, 88 Stat. 805, provided definitions for purposes of this chapter.

Provisions similar to those comprising this section were contained in prior section 3890, Pub. L. 90–445, title IV, §410, July 31, 1968, 82 Stat. 473, prior to the general amendment of Pub. L. 90–445 by section 1 of Pub. L. 92–381.

CHAPTER 48—GUARANTEES FOR FINANCING NEW COMMUNITY LAND DEVELOPMENT

§§3901 to 3906. Repealed. Pub. L. 98–181, title I [title IV, §474(e)], Nov. 30, 1983,

97 Stat. 1239

Section 3901, Pub. L. 90–448, title IV, §402, Aug. 1, 1968, 82 Stat. 513, set out a Congressional statement of purpose for this chapter.

Section 3902, Pub. L. 90–448, title IV, §403, Aug. 1, 1968, 82 Stat. 514, provided Secretary with authority to guarantee obligations.

Section 3903, Pub. L. 90–448, title IV, §404, Aug. 1, 1968, 82 Stat. 514, related to eligible new community development entitled to guarantees under this chapter.

Section 3904, Pub. L. 90–448, title IV, §405, Aug. 1, 1968, 82 Stat. 514, related to eligibility of bonds, debentures, notes, and other obligations under this chapter.

Section 3905, Pub. L. 90–448, title IV, §406, Aug. 1, 1968, 82 Stat. 515, related to fees and charges for guarantees and the submission of a report to Congress concerning such fees and charges.

Section 3906, Pub. L. 90–448, title IV, §407, Aug. 1, 1968, 82 Stat. 515; Pub. L. 91–351, title VII, §703, July 24, 1970, 84 Stat. 462; Pub. L. 91–609, title III, §303(a), Dec. 31, 1970, 84 Stat. 1780, provided for a revolving guarantee fund. Section 4528 of this title transferred all receipts, funds, or other assets and all liabilities of the revolving fund established under this section to the revolving fund established under section 4518 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 90–448, title IV, §401, Aug. 1, 1968, 82 Stat. 513, which provided that this title, which enacted this chapter and amended section 1492 of this title and sections 371 and 1464 of Title 12, Banks and Banking, may be referred to as the "New Communities Act of 1968", was repealed by Pub. L. 98–181, title I [title IV, §474(e)], Nov. 30, 1983, 97 Stat. 1239.

SAVINGS PROVISION

Pub. L. 98–181, title I [title IV, §474(e)], Nov. 30, 1983, 97 Stat. 1239, provided that: "Any actions taken, prior to repeal, under the authority of any of the sections which are repealed by this section [repealing sections 3901 to 3906, 3908, 3909, 3911, 3914, 4511 to 4524, and 4528 to 4532 of this title] shall continue to be valid. Nothing in this subsection shall impair the validity of any guarantees which have been made pursuant to title IV [of the Housing and Urban Development Act of 1968, 42 U.S.C. 3901 et seq.] or title VII [of the Housing and Urban Development Act of 1970, 42 U.S.C. 4501 et seq.] and any such guarantees shall continue to be governed by the provisions of title IV or title VII, as applicable, as they existed immediately before the date of the enactment of this Act [Nov. 30, 1983]."

§3907. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 90–448, title IV, §408, Aug. 1, 1968, 82 Stat. 516; Pub. L. 91–609, title III, §303(c), Dec. 31, 1970, 84 Stat. 1780, which related to incontestability of guarantees was omitted pursuant to section 4528 of this title, which terminated authority to guarantee bonds, debentures, notes, or other obligations under this chapter after Dec. 31, 1970, with exceptions now inapplicable.

§§3908, 3909. Repealed. Pub. L. 98–181, title I [title IV, §474(e)], Nov. 30, 1983, 97 Stat. 1239

Section 3908, Pub. L. 90–448, title IV, §409, Aug. 1, 1968, 82 Stat. 516, related to encouragement of small builders in new community construction under this chapter.

Section 3909, Pub. L. 90–448, title IV, §410, Aug. 1, 1968, 82 Stat. 516, related to labor standards in construction under this chapter.

§3910. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 90–448, title IV, §411, Aug. 1, 1968, 82 Stat. 516, which related to real property taxation was omitted pursuant to section 4528 of this title, which terminated authority to guarantee bonds, debentures, notes, or other obligations under this chapter after Dec. 31, 1970, with exceptions now inapplicable.

§3911. Repealed. Pub. L. 98–181, title I [title IV, §474(e)], Nov. 30, 1983, 97 Stat. 1239

Section, Pub. L. 90–448, title IV, §412, 1, 1968, 82 Stat. 516; Pub. L. 91–152, title III, §304, Dec. 24, 1969, 83 Stat. 391; Pub. L. 91–609, title III, §303(b), Dec. 31, 1970, 84 Stat. 1780, provided for supplementary grants under this chapter.

§§3912, 3913. Omitted

EDITORIAL NOTES

CODIFICATION

Sections were omitted pursuant to section 4528 of this title, which terminated authority to guarantee bonds, debentures, notes, or other obligations under this chapter after Dec. 31, 1970, with exceptions now inapplicable.

Section 3912, Pub. L. 90–448, title IV, §413, Aug. 1, 1968, 82 Stat. 517, set out functions, powers and duties of the Secretary under this chapter.

Section 3913, Pub. L. 90–448, title IV, §414, Aug. 1, 1968, 82 Stat. 517, related to audit of financial transactions of those whose obligations are guaranteed under this chapter.

§3914. Repealed. Pub. L. 98–181, title I [title IV, §474(e)], Nov. 30, 1983, 97 Stat. 1239

Section, Pub. L. 90–448, title IV, §415, Aug. 1, 1968, 82 Stat. 517, defined "land development", "actual costs", and "new community assistance projects" for purposes of this chapter.

CHAPTER 49—NATIONAL HOUSING PARTNERSHIPS

Sec.

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3933. Organization of corporation.
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3935. Financing the corporation.
3936. Purposes and powers of corporation.
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§3931. Congressional statement of purpose

The Congress finds that the volume of housing being produced for families and individuals of low or moderate income must be increased to meet the national goal of a decent home and a suitable living environment for every American family, and declares that it is the policy of the United States to encourage the widest possible participation by private enterprise in the provision of housing for low or moderate income families. The Congress has therefore determined that one or more private organizations should be created to encourage maximum participation by private investors in programs and projects to provide low and moderate income housing.

(Pub. L. 90–448, title IX, §901, Aug. 1, 1968, 82 Stat. 547.)

§3932. Creation of corporations

(a) Authorization

There is hereby authorized to be created a private corporation for profit (hereinafter in this chapter referred to as the "corporation"). The corporation will not be an agency or establishment of the United States Government. The corporation shall be subject to the provisions of this chapter and, to the extent consistent with this chapter, to the District of Columbia Business Corporation Act.

(b) Creation of additional corporations

Whenever the President finds it in the national interest to do so, he may cause the creation of an additional corporation or additional corporations to carry out the purposes of this chapter. All the provisions of this chapter shall thereupon become applicable to each such corporation, and to the limited partnership formed by it pursuant to section 3937 of this title.

(c) Creation of corporations and organization of other partnerships, joint ventures, or associations by private persons

Nothing in this chapter shall be construed to preclude private persons from creating other corporations and organizing other partnerships, joint ventures, or associations for the purposes set forth in this chapter as the purposes of the corporation and the partnership described in section 3937 of this title.

(Pub. L. 90–448, title IX, §902, Aug. 1, 1968, 82 Stat. 547.)

EDITORIAL NOTES

REFERENCES IN TEXT

The District of Columbia Business Corporation Act, referred to in subsec. (a), is act June 8, 1954, ch. 269, 68 Stat. 179, which is not classified to the Code.

§3933. Organization of corporation

(a) Appointment of incorporators; Chairman; initial board of directors

The President of the United States shall appoint, by and with the advice and consent of the Senate, incorporators of the corporation, one of whom shall be designated by the President to serve as chairman. The incorporators shall serve as the initial board of directors until the first annual meeting of stockholders or until their successors are elected and have qualified.

(b) Action by incorporators; filing articles of incorporation

The incorporators shall take whatever actions are necessary or appropriate to establish the corporation, including the filing of articles of incorporation as approved by the President.

(c) Initial offering of stock in corporation and of interests in partnership; terms of offering

The incorporators shall also arrange for an initial offering of shares of stock in the corporation and

of interests in the partnership described in section 3937 of this title. If the incorporators deem it advisable in order to carry out the purposes of this chapter, the initial offering may be made upon terms which require the purchase of other securities of the corporation or of interests in such partnership.

(Pub. L. 90–448, title IX, §903, Aug. 1, 1968, 82 Stat. 547.)

§3934. Board of Directors; membership; appointment; term

The corporation shall have a board of directors (hereinafter in this section referred to as the "board"), consisting of fifteen members. Three members of the board shall be appointed by the President of the United States, by and with the advice and consent of the Senate, effective on the date on which the other members are elected, and for terms of three years or until their successors have been appointed and have qualified, except that the first three members of the board so appointed shall continue in office for terms of one, two, and three years, respectively, and any member so appointed to fill a vacancy shall be appointed only for the unexpired term of the director whom he succeeds. Twelve members of the board shall be elected by the stockholders.

(Pub. L. 90–448, title IX, §904, Aug. 1, 1968, 82 Stat. 547.)

§3935. Financing the corporation

The corporation shall have the power to create and issue the number of shares stated in its articles of incorporation. Such shares may be divided into one or more classes, any or all of which classes may consist of shares with par value or shares without par value, with such designations, preferences, voting powers, and special or relative rights and such limitations, restrictions, or qualifications thereof as shall be stated in the articles of incorporation. The articles of incorporation may limit or deny the voting power of the shares of any class.

(Pub. L. 90–448, title IX, §905, Aug. 1, 1968, 82 Stat. 548.)

§3936. Purposes and powers of corporation

(a) Building, rehabilitation, acquisition, and financing of housing and related facilities for families and individuals of low or moderate income; acquisition and disposal of property; funds

In order to achieve the objectives and carry out the purposes of this chapter, the corporation is authorized to—

(1) plan, initiate, and carry out, pursuant to Federal programs or otherwise, the building, rehabilitation, acquisition, and financing of housing and related facilities primarily for the benefit of families and individuals of low or moderate income;

(2) buy, own, manage, lease, or otherwise acquire or dispose of property in connection with the developments, projects, or undertakings referred to in paragraph (1);

(3) provide such funds as may be necessary to accomplish the developments, projects, or undertakings referred to in paragraph (1); and

(4) for the purpose of generating income to support the building or rehabilitation of housing primarily for the benefit of families and individuals of low or moderate income (A) design, develop, manufacture and sell products and services for use in the construction, sale, or financing of housing, and (B) design and develop commercial, industrial, or retail facilities that are not directly related to housing, except that the development and preservation of housing for families and individuals of low or moderate income shall be the primary activity of the corporation.

(b) Authorization to enter into partnerships, limited partnerships, joint ventures, and other associations; manager or general partner of partnership, venture, or association; research

and studies; technical assistance; loans or grants; hire or acceptance of services of consultants, experts, advisory boards and panels

Included in the activities authorized to the corporation for the accomplishment of the purposes indicated in subsection (a) of this section are, among others not specifically named—

(1) to enter into partnerships, limited partnerships, joint ventures, and other associations with individuals, corporations, and private and governmental agencies, organizations, and institutions;

(2) to act as manager or general partner of any such partnership, venture, or association;

(3) to conduct or contract for research and studies related to the development, demonstration, and evaluation of improved techniques and methods of constructing, rehabilitating, and maintaining housing;

(4) to provide technical assistance to nonprofit corporations, limited dividend corporations, and others with respect to the planning, refinancing, construction, rehabilitation, maintenance, and management of housing for low and moderate income families and individuals;

(5) to make loans or grants including grants of interests in housing and related facilities, to nonprofit corporations, limited dividend corporations, and others, in carrying out its activities under subsection (a) of this section; and

(6) to hire or accept the voluntary services of consultants, experts, advisory boards, and panels to aid the corporation in carrying out the purposes of this chapter.

(c) Exercise of powers conferred upon stock corporation by District of Columbia Business Corporation Act

To carry out the foregoing purposes and engaged in the foregoing activities, the corporation shall have the usual powers conferred upon a stock corporation by the District of Columbia Business Corporation Act.

(d) Labor standards

Nothing in this chapter shall have the effect of waiving or otherwise affecting the applicability of the provisions of sections 3141–3144, 3146, and 3147 of title 40, or any other law requiring compliance with labor standards, in the case of any construction to which such provisions would otherwise apply.

(e) Maximum combined outstanding equity commitment

The combined outstanding equity commitment of the corporation and the partnership with respect to activities undertaken under subsection (a)(4) may not exceed (1) 7 percent of their total combined equity commitment outstanding during the first 12-month period following October 17, 1984; (2) 14 percent of their total combined equity commitment outstanding during the second 12-month period following October 17, 1984; or (3) 20 percent of their total combined equity commitment outstanding at any time thereafter.

(Pub. L. 90–448, title IX, §906, Aug. 1, 1968, 82 Stat. 548; Pub. L. 98–181, title I [title IV, §467], Nov. 30, 1983, 97 Stat. 1236; Pub. L. 98–479, title I, §104(c)(1), (2), Oct. 17, 1984, 98 Stat. 2225.)

EDITORIAL NOTES

REFERENCES IN TEXT

The District of Columbia Business Corporation Act, referred to in subsec. (c), is act June 8, 1954, ch. 269, 68 Stat. 179, which is not classified to the Code.

CODIFICATION

In subsec. (d), "sections 3141–3144, 3146, and 3147 of title 40" substituted for "the Davis-Bacon Act (40 U.S.C. 267a—276a–5)", meaning 40 U.S.C. 276a—276a–5, on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1984—Subsec. (a)(4). Pub. L. 98–479, §104(c)(1), added par. (4).

Subsec. (e). Pub. L. 98–479, §104(c)(2), added subsec. (e).

1983—Subsec. (a)(1). Pub. L. 98–181 inserted references to acquisition and financing.

§3937. National housing partnership

(a) Formation of limited partnership; partnership agreement

The corporation is authorized to arrange for the formation, as a separate organization, of a limited partnership (hereinafter in this chapter referred to as the "partnership") under the District of Columbia Uniform Limited Partnership Act for the purpose of engaging in any of the activities authorized for the corporation under section 3936 of this title, and to enter into a partnership agreement governing the affairs of such limited partnership.

(b) Applicability of other laws; legal status of limited partnership

The partnership shall be subject to the provisions, to the extent consistent with this chapter, of (1) the District of Columbia Uniform Limited Partnership Act and (2) those provisions of the District of Columbia Uniform Partnership Act made applicable by section 6(2) of that Act. Notwithstanding any inconsistency between the provisions of such Acts, or of any other law, and the provisions of this section, the partnership organized pursuant to this section shall be deemed to have the legal status of a limited partnership.

(c) Authorization to enter into partnerships, limited partnerships, or joint ventures organized under State or local laws for purpose of engaging in low and moderate income housing developments, projects, or undertakings

The partnership is authorized to enter into partnerships, limited partnerships, or joint ventures organized under applicable State or local law for the purpose of engaging in low and moderate income housing developments, projects, or undertakings in particular localities.

(d) General partner; capital of partnership; contribution of partners

The corporation shall be the general partner in the partnership. The capital of the partnership and the contributions of the partners shall be in such amounts and at such times as are set forth in or pursuant to the partnership agreement.

(e) Partnership agreement; participation in low and moderate income housing developments, projects, or undertakings; limitation on aggregate initial equity investment

The partnership agreement shall include provisions designed to assure that (1) the partnership shall participate in low and moderate income housing developments, projects, or undertakings in a manner designed to encourage the participation therein of local interests, and (2) in any such development, project, or undertaking the partnership shall not subscribe to more than 25 per centum (including equity investments made in services or property) of the aggregate initial equity investment unless, in the judgment of the corporation as general partner, the balance of the required equity investment is not readily obtainable from other responsible investors residing or doing business in the local community.

(f) Partnership agreement; authorization for stockholders to become limited partners; inclusion of other limited partners; acquisition of assignor's stock by assignee of limited partner; approval of substitution or addition of partnership member

The partnership agreement may without limitation (1) permit each of the stockholders of the corporation to become a member of the partnership as a limited partner, (2) authorize the inclusion of other limited partners in addition to the stockholders of the corporation, (3) provide that the assignee of the partnership interest of a limited partner of the partnership who is also a stockholder of the corporation may not become a substituted limited partner unless he also acquires the assignor's stock of the corporation, and (4) include provisions requiring that the corporation as a general partner approve the substitution or addition of a member of the partnership.

(g) Liability of corporation as general partner; treatment of interest of limited partner in partnership

A corporation which is a limited partner in the partnership shall not become liable as a general partner by reason of the fact that (1) such corporation is a holder of shares of voting stock of the corporation constituting not more than 5 per centum of the total number of outstanding shares of such stock and exercises any of the rights (including voting rights) of a holder of such shares, and/or (2) a person who is an officer or director of such corporation (or of another corporation which controls or is subject to the control of, or is under common control with, such corporation) is a director of the corporation and performs the duties of that office. The interest of a limited partner in the partnership shall not be treated as a stock interest in the corporation, notwithstanding that such interest of a limited partner may be proportionate to his stock interest in the corporation.

(h) Execution of certificate of partnership and amendments

The certificate of the partnership and any amendment thereof required by the District of Columbia Uniform Limited Partnership Act shall be executed and acknowledged by the corporation as member and by each other member of the partnership or his attorney-in-fact duly authorized by power of attorney in writing. The corporation may execute and acknowledge the certificate and any amendment thereof as attorney-in-fact for any member, member to be substituted or added, or assigning member, by whom the certificate or amendment is required to be executed and acknowledged and who has appointed the corporation as such attorney.

(Pub. L. 90–448, title IX, §907, Aug. 1, 1968, 82 Stat. 549.)

EDITORIAL NOTES

REFERENCES IN TEXT

The District of Columbia Uniform Limited Partnership Act, referred to in subsecs. (a) and (h), is Pub. L. 87–716, Sept. 28, 1962, 76 Stat. 655, which is not classified to the Code.

The District of Columbia Uniform Partnership Act, referred to in subsec. (b), is Pub. L. 87–709, Sept. 27, 1962, 76 Stat. 636, which is not classified to the Code.

§3938. Annual report of corporation; audit of accounts

(a)(1) The corporation shall submit an annual report to the President for transmittal to the Congress within six months after the end of its fiscal year. The report shall include a comprehensive and detailed report of the operations, activities, and financial condition of the corporation and the partnership under this chapter.

(2) The report shall contain a description of the activities undertaken under section 3936(a)(4) of this title, and shall specify, as a percentage of equity and in dollars, the extent of the corporation's and the partnership's investment in housing for the benefit of families and individuals of low or moderate income, the extent of the corporation's and the partnership's investment in other housing, and the extent of the corporation's and the partnership's activities which are undertaken under section 3936(a)(4) of this title.

(b) The accounts of the corporation and of the partnership shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States.

(Pub. L. 90–448, title IX, §908, Aug. 1, 1968, 82 Stat. 550; Pub. L. 98–479, title I, §104(c)(3), Oct. 17, 1984, 98 Stat. 2225.)

EDITORIAL NOTES

AMENDMENTS

1984—Subsec. (a). Pub. L. 98–479 designated existing provisions as par. (1) and added par. (2).

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (a) of this section relating to transmittal of annual report 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 item 2 on page 182 of House Document No. 103–7.

§3939. Applicability of antitrust laws

Nothing contained herein shall affect the applicability of the Federal antitrust laws to the activities of the corporation and the partnership created under this chapter and of the persons participating therein or in partnerships, limited partnerships, or joint ventures with either of them.

(Pub. L. 90–448, title IX, §909, Aug. 1, 1968, 82 Stat. 550.)

§3940. Reservation of right to repeal, alter, or amend chapter

The right to repeal, alter, or amend this chapter at any time is expressly reserved.

(Pub. L. 90–448, title IX, §910, Aug. 1, 1968, 82 Stat. 550.)

§3941. State or local taxation or regulation; access to judicial process

Nothing contained in this chapter shall preclude a State or other local jurisdiction from imposing, in accordance with the laws of such State or other local jurisdiction, any valid nondiscriminatory tax, obligation, or regulation on the partnership as a taxable and or legal entity, but no limited partner of the partnership not otherwise subject to taxation or regulation by or judicial process of a State or other local jurisdiction shall be subject to taxation or regulation by or subject to or denied access to judicial process of such State or other local jurisdiction, or be subject or denied access to any greater extent, because of activities of the corporation or partnership within such State or other local jurisdiction.

(Pub. L. 90–448, title IX, §912, as added Pub. L. 91–351, title VIII, §711, July 24, 1970, 84 Stat. 463.)

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4129. Federal Insurance Administrator; establishment of position.
4130. No cause of action.
4131. Levee certifications.

§4001. Congressional findings and declaration of purpose

(a) Necessity and reasons for flood insurance program

The Congress finds that (1) from time to time flood disasters have created personal hardships and economic distress which have required unforeseen disaster relief measures and have placed an increasing burden on the Nation's resources; (2) despite the installation of preventive and protective works and the adoption of other public programs designed to reduce losses caused by flood damage, these methods have not been sufficient to protect adequately against growing exposure to future flood losses; (3) as a matter of national policy, a reasonable method of sharing the risk of flood losses is through a program of flood insurance which can complement and encourage preventive and protective measures; and (4) if such a program is initiated and carried out gradually, it can be expanded as knowledge is gained and experience is appraised, thus eventually making flood insurance coverage available on reasonable terms and conditions to persons who have need for such protection.

(b) Participation of Federal Government in flood insurance program carried out by private insurance industry

The Congress also finds that (1) many factors have made it uneconomic for the private insurance industry alone to make flood insurance available to those in need of such protection on reasonable terms and conditions; but (2) a program of flood insurance with large-scale participation of the Federal Government and carried out to the maximum extent practicable by the private insurance industry is feasible and can be initiated.

(c) Unified national program for flood plain management

The Congress further finds that (1) a program of flood insurance can promote the public interest by providing appropriate protection against the perils of flood losses and encouraging sound land use by minimizing exposure of property to flood losses; and (2) the objectives of a flood insurance program should be integrally related to a unified national program for flood plain management and, to this end, it is the sense of Congress that within two years following the effective date of this chapter the President should transmit to the Congress for its consideration any further proposals

necessary for such a unified program, including proposals for the allocation of costs among beneficiaries of flood protection.

(d) Authorization of flood insurance program; flexibility in program

It is therefore the purpose of this chapter to (1) authorize a flood insurance program by means of which flood insurance, over a period of time, can be made available on a nationwide basis through the cooperative efforts of the Federal Government and the private insurance industry, and (2) provide flexibility in the program so that such flood insurance may be based on workable methods of pooling risks, minimizing costs, and distributing burdens equitably among those who will be protected by flood insurance and the general public.

(e) Land use adjustments by State and local governments; development of proposed future construction; assistance of lending and credit institutions; relation of Federal assistance to all flood-related programs; continuing studies

It is the further purpose of this chapter to (1) encourage State and local governments to make appropriate land use adjustments to constrict the development of land which is exposed to flood damage and minimize damage caused by flood losses, (2) guide the development of proposed future construction, where practicable, away from locations which are threatened by flood hazards, (3) encourage lending and credit institutions, as a matter of national policy, to assist in furthering the objectives of the flood insurance program, (4) assure that any Federal assistance provided under the program will be related closely to all flood-related programs and activities of the Federal Government, and (5) authorize continuing studies of flood hazards in order to provide for a constant reappraisal of the flood insurance program and its effect on land use requirements.

(f) Mudslides

The Congress also finds that (1) the damage and loss which results from mudslides is related in cause and similar in effect to that which results directly from storms, deluges, overflowing waters, and other forms of flooding, and (2) the problems involved in providing protection against this damage and loss, and the possibilities for making such protection available through a Federal or federally sponsored program, are similar to those which exist in connection with efforts to provide protection against damage and loss caused by such other forms of flooding. It is therefore the further purpose of this chapter to make available, by means of the methods, procedures, and instrumentalities which are otherwise established or available under this chapter for purposes of the flood insurance program, protection against damage and loss resulting from mudslides that are caused by accumulations of water on or under the ground.

(Pub. L. 90–448, title XIII, §1302, Aug. 1, 1968, 82 Stat. 572; Pub. L. 91–152, title IV, §409(a), Dec. 24, 1969, 83 Stat. 397; Pub. L. 93–234, title I, §108(a), Dec. 31, 1973, 87 Stat. 979; Pub. L. 103–325, title V, §552(d), Sept. 23, 1994, 108 Stat. 2269.)

EDITORIAL NOTES

REFERENCES IN TEXT

For effective date of this chapter, referred to in subsec. (c), see section 1377 of Pub. L. 90–448, set out as an Effective Date note below.

This chapter, referred to in subsecs. (d) to (f), was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

AMENDMENTS

1994—Subsec. (g). Pub. L. 103–325 struck out subsec. (g) which read as follows: "The Congress also finds that (1) the damage and loss which may result from the erosion and undermining of shorelines by waves or currents in lakes and other bodies of water exceeding anticipated cyclical levels is related in cause and similar in effect to that which results directly from storms, deluges, overflowing waters, and other forms of flooding, and (2) the problems involved in providing protection against this damage and loss, and the possibilities for

making such protection available through a Federal or federally sponsored program, are similar to those which exist in connection with efforts to provide protection against damage and loss caused by such other forms of flooding. It is therefore the further purpose of this chapter to make available, by means of the methods, procedures, and instrumentalities which are otherwise established or available under this chapter for purposes of the flood insurance program, protection against damage and loss resulting from the erosion and undermining of shorelines by waves or currents in lakes and other bodies of water exceeding anticipated cyclical levels."

1973—Subsec. (g). Pub. L. 93–234 added subsec. (g).

1969—Subsec. (f). Pub. L. 91–152 added subsec. (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 90–448, title XIII, §1377, Aug. 1, 1968, 82 Stat. 589, provided that: "This title [enacting this chapter, amending section 2414 of this title, repealing sections 2401 to 2413 and 2415 to 2421 of this title, and enacting provisions set out as notes under this section] shall take effect one hundred and twenty days following the date of its enactment [Aug. 1, 1968], except that the Secretary, on the basis of a finding that conditions exist necessitating the prescribing of an additional period, may prescribe a later effective date which in no event shall be more than one hundred and eighty days following such date of enactment."

SHORT TITLE OF 2019 AMENDMENT

Pub. L. 116–19, §1, May 31, 2019, 133 Stat. 870, provided that: "This Act [amending sections 4016 and 4026 of this title and enacting provisions set out as a note under section 4016 of this title] may be cited as the 'National Flood Insurance Program Extension Act of 2019'."

SHORT TITLE OF 2018 AMENDMENT

Pub. L. 115–396, §1, Dec. 21, 2018, 132 Stat. 5296, provided that: "This Act [amending sections 4016 and 4026 of this title and enacting provisions set out as a note under section 4016 of this title] may be cited as the 'National Flood Insurance Program Extension Act'."

Pub. L. 115–281, §1, Dec. 1, 2018, 132 Stat. 4191, provided that: "This Act [amending sections 4016 and 4026 of this title] may be cited as the 'National Flood Insurance Program Further Extension Act of 2018'."

Pub. L. 115–225, §1, July 31, 2018, 132 Stat. 1624, provided that: "This Act [amending sections 4016 and 4026 of this title] may be cited as the 'National Flood Insurance Program Extension Act of 2018'."

SHORT TITLE OF 2014 AMENDMENT

Pub. L. 113–89, §1(a), Mar. 21, 2014, 128 Stat. 1020, provided that: "This Act [enacting sections 4005, 4015a, 4033, 4101d, and 4101e of this title, amending sections 4012a, 4013, 4014, 4015, 4017, 4017a, 4081, 4101b, 4102, and 4104 of this title and section 2604 of Title 12, Banks and Banking, enacting provisions set out as notes under sections 4012a, 4014, 4015, and 4102 of this title, and repealing provisions set out as a note under section 4012a of this title] may be cited as the 'Homeowner Flood Insurance Affordability Act of 2014'."

SHORT TITLE OF 2012 AMENDMENT

Pub. L. 112–141, div. F, title II, §100201, July 6, 2012, 126 Stat. 916, provided that: "This subtitle [subtitle A (§§100201–100249) of title II of div. F of Pub. L. 112–141, see Tables for classification] may be cited as the 'Biggert-Waters Flood Insurance Reform Act of 2012'."

Pub. L. 112–141, div. F, title II, §100251, July 6, 2012, 126 Stat. 969, provided that: "This subtitle [subtitle B (§§100251–100253) of title II of div. F of Pub. L. 112–141, enacting section 4057 of this title and section 3611 of Title 33, Navigation and Navigable Waters] may be cited as the 'Consumer Option for an Alternative System to Allocate Losses Act of 2012' or the 'COASTAL Act of 2012'."

SHORT TITLE OF 2010 AMENDMENT

Pub. L. 111–250, §1, Sept. 30, 2010, 124 Stat. 2630, provided that: "This Act [amending sections 4016 and 4026 of this title] may be cited as the 'National Flood Insurance Program Reextension Act of 2010'."

Pub. L. 111–196, §1, July 2, 2010, 124 Stat. 1352, provided that: "This Act [amending sections 4016 and 4026 of this title and enacting provisions set out as a note under section 4016 of this title] may be cited as the 'National Flood Insurance Program Extension Act of 2010'."

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109–208, §1, Mar. 23, 2006, 120 Stat. 317, provided that: "This Act [amending section 4016 of this title] may be cited as the 'National Flood Insurance Program Enhanced Borrowing Authority Act of 2006'."

SHORT TITLE OF 2005 AMENDMENTS

Pub. L. 109–106, §1, Nov. 21, 2005, 119 Stat. 2288, provided that: "This Act [amending section 4016 of this title] may be cited as the 'National Flood Insurance Program Further Enhanced Borrowing Authority Act of 2005'."

Pub. L. 109–65, §1, Sept. 20, 2005, 119 Stat. 1998, provided that: "This Act [amending section 4016 of this title] may be cited as the 'National Flood Insurance Program Enhanced Borrowing Authority Act of 2005'."

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–264, §1(a), June 30, 2004, 118 Stat. 712, provided that: "This Act [enacting sections 4030 and 4102a of this title, amending sections 4011, 4015 to 4017, 4022, 4026, 4056, 4104c, 4104d, 4121, and 4127 of this title, and enacting provisions set out as notes under this section and sections 4011 and 4101 of this title] may be cited as the 'Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004'."

SHORT TITLE OF 2003 AMENDMENTS

Pub. L. 108–171, §1, Dec. 6, 2003, 117 Stat. 2064, provided that: "This Act [amending sections 4016, 4026, 4056, and 4127 of this title and enacting provisions set out as a note under section 4016 of this title] may be cited as the 'National Flood Insurance Program Reauthorization Act of 2004'."

Pub. L. 108–3, §1, Jan. 13, 2003, 117 Stat. 7, provided that: "This Act [amending sections 4016, 4026, 4056, and 4127 of this title and enacting provisions set out as a note under section 4016 of this title] may be cited as the 'National Flood Insurance Program Reauthorization Act of 2003'."

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–325, title V, §501, Sept. 23, 1994, 108 Stat. 2255, provided that: "This title [enacting sections 4104b to 4104d and 5154a of this title, amending this section, sections 4003, 4011, 4012a, 4013, 4015, 4017, 4022, 4026, 4027, 4029, 4056, 4081, 4101, 4104a, 4106, 4121, and 5154 of this title, and sections 1784, 1820, 3305, and 4521 of Title 12, Banks and Banking, repealing section 4103 of this title, enacting provisions set out as notes under this section and sections 4011, 4013, 4014, 4101 to 4103, and 4104c of this title, and repealing provisions set out as a note under section 4015 of this title] may be cited as the 'National Flood Insurance Reform Act of 1994'."

SHORT TITLE OF 1973 AMENDMENT

Pub. L. 93–234, §1, Dec. 31, 1973, 87 Stat. 975, provided: "That this Act [enacting sections 4002, 4003, 4012a, 4104, 4105 to 4107, and 4128 of this title, amending this section, sections 4013 to 4016, 4026, 4054, 4056, 4101, and 4121 of this title, and sections 24 and 1709–1 of Title 12, Banks and Banking, and repealing section 4021 of this title] may be cited as the 'Flood Disaster Protection Act of 1973'."

SHORT TITLE

Pub. L. 90–448, title XIII, §1301, Aug. 1, 1968, 82 Stat. 572, provided that: "This title [enacting this chapter, amending section 2414 of this title, repealing sections 2401 to 2413 and 2415 to 2421 of this title, and enacting provisions set out as a note under this section] may be cited as the 'National Flood Insurance Act of 1968'."

REGULATIONS

Pub. L. 103–325, title V, §583, Sept. 23, 1994, 108 Stat. 2287, as amended by Pub. L. 109–295, title VI, §612(c), Oct. 4, 2006, 120 Stat. 1410, provided that: "The Administrator of the Federal Emergency Management Agency and any appropriate Federal agency may each issue any regulations necessary to carry out the applicable provisions of this title [see Short Title of 1994 Amendment note above] and the applicable amendments made by this title."

[For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.]

[For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the

Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.]

EVALUATION OF EROSION HAZARDS

Pub. L. 103–325, title V, §577(a)–(g), Sept. 23, 1994, 108 Stat. 2281–2283, required the Director of the Federal Emergency Management Agency to submit a report no later than two years after Sept. 23, 1994, evaluating erosion hazards and estimating the impact of erosion on flood insurance claims.

RELATION OF TITLE V OF PUB. L. 103–325 TO STATE AND LOCAL LAWS

Pub. L. 103–325, title V, §584, Sept. 23, 1994, 108 Stat. 2287, provided that: "This title [see Short Title of 1994 Amendment note above] and the amendments made by this title may not be construed to preempt, annul, alter, amend, or exempt any person from compliance with any law, ordinance, or regulation of any State or local government with respect to land use, management, or control."

EXECUTIVE DOCUMENTS

FLOODPLAIN MANAGEMENT

For provisions relating to the reduction of the risk of flood loss, the minimization of the impact of floods on human safety, health and welfare, and the management of floodplains, see Ex. Ord. No. 11988, May 24, 1977, 42 F.R. 26951, set out as a note under section 4321 of this title.

§4002. Additional Congressional findings and declaration of purpose

(a) The Congress finds that—

(1) annual losses throughout the Nation from floods and mudslides are increasing at an alarming rate, largely as a result of the accelerating development of, and concentration of population in, areas of flood and mudslide hazards;

(2) the availability of Federal loans, grants, guaranties, insurance, and other forms of financial assistance are often determining factors in the utilization of land and the location and construction of public and of private industrial, commercial, and residential facilities;

(3) property acquired or constructed with grants or other Federal assistance may be exposed to risk of loss through floods, thus frustrating the purpose for which such assistance was extended;

(4) Federal instrumentalities insure or otherwise provide financial protection to banking and credit institutions whose assets include a substantial number of mortgage loans and other indebtedness secured by property exposed to loss and damage from floods and mudslides;

(5) the Nation cannot afford the tragic losses of life caused annually by flood occurrences, nor the increasing losses of property suffered by flood victims, most of whom are still inadequately compensated despite the provision of costly disaster relief benefits; and

(6) it is in the public interest for persons already living in flood-prone areas to have both an opportunity to purchase flood insurance and access to more adequate limits of coverage, so that they will be indemnified, for their losses in the event of future flood disasters.

(b) The purpose of this Act, therefore, is to—

(1) substantially increase the limits of coverage authorized under the national flood insurance program;

(2) provide for the expeditious identification of, and the dissemination of information concerning, flood-prone areas;

(3) require States or local communities, as a condition of future Federal financial assistance, to participate in the flood insurance program and to adopt adequate flood plan ordinances with effective enforcement provisions consistent with Federal standards to reduce or avoid future flood losses; and

(4) require the purchase of flood insurance by property owners who are being assisted by Federal programs or by federally supervised, regulated, or insured agencies or institutions in the

acquisition or improvement of land or facilities located or to be located in identified areas having special flood hazards.

(Pub. L. 93–234, §2, Dec. 31, 1973, 87 Stat. 975.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (b), means Pub. L. 93–234, Dec. 31, 1973, 87 Stat. 975, known as the Flood Disaster Protection Act of 1973. For complete classification of this Act to the Code, see Short Title of 1973 Amendment note set out under section 4001 of this title and Tables.

CODIFICATION

Section was enacted as part of the Flood Disaster Protection Act of 1973, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

§4003. Definitions applicable to Flood Disaster Protection Act of 1973

(a) As used in this Act, unless the context otherwise requires, the term—

(1) "community" means a State or a political subdivision thereof which has zoning and building code jurisdiction over a particular area having special flood hazards;

(2) "Federal agency" means any department, agency, corporation, or other entity or instrumentality of the executive branch of the Federal Government, and includes the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation;

(3) "financial assistance" means any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance, other than general or special revenue sharing or formula grants made to States;

(4) "financial assistance for acquisition or construction purposes" means any form of financial assistance which is intended in whole or in part for the acquisition, construction, reconstruction, repair, or improvement of any publicly or privately owned building or mobile home, and for any machinery, equipment, fixtures, and furnishings contained or to be contained therein, and shall include the purchase or subsidization of mortgages or mortgage loans but shall exclude assistance pursuant to the Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.] (other than assistance under such Act in connection with a flood);

(5) "Federal entity for lending regulation" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the National Credit Union Administration, and the Farm Credit Administration, and with respect to a particular regulated lending institution means the entity primarily responsible for the supervision of the institution;

(6) "Administrator" means the Administrator of the Federal Emergency Management Agency;

(7) "Federal agency lender" means a Federal agency that makes direct loans secured by improved real estate or a mobile home, to the extent such agency acts in such capacity;

(8) the term "improved real estate" means real estate upon which a building is located;

(9) "lender" means a regulated lending institution or Federal agency lender;

(10) "regulated lending institution" means any bank, savings and loan association, credit union, farm credit bank, Federal land bank association, production credit association, or similar institution subject to the supervision of a Federal entity for lending regulation; and

(11) "servicer" means the person responsible for receiving any scheduled periodic payments from a borrower pursuant to the terms of a loan, including amounts for taxes, insurance premiums, and other charges with respect to the property securing the loan, and making the payments of principal and interest and such other payments with respect to the amounts received from the borrower as may be required pursuant to the terms of the loan.

(b) The Administrator is authorized to define or redefine, by rules and regulations, any scientific

or technical term used in this Act, insofar as such definition is not inconsistent with the purposes of this Act.

(Pub. L. 93–234, §3, Dec. 31, 1973, 87 Stat. 976; Pub. L. 95–128, title VII, §703(b), Oct. 12, 1977, 91 Stat. 1145; Pub. L. 98–181, title I [title IV, §451(e)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 100–707, title I, §109(t), Nov. 23, 1988, 102 Stat. 4710; Pub. L. 103–325, title V, §511(a), Sept. 23, 1994, 108 Stat. 2255; Pub. L. 111–203, title III, §368, July 21, 2010, 124 Stat. 1557; Pub. L. 112–141, div. F, title II, §100238(a)(1), July 6, 2012, 126 Stat. 958.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 93–234, Dec. 31, 1973, 87 Stat. 975, known as the Flood Disaster Protection Act of 1973. For complete classification of this Act to the Code, see Short Title of 1973 Amendment note set out under section 4001 of this title and Tables.

The Disaster Relief and Emergency Assistance Act, referred to in subsec. (a)(4), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, known as the Robert T. Stafford Disaster Relief and Emergency Assistance Act, which is classified principally to chapter 68 (§5121 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

CODIFICATION

Section was enacted as part of the Flood Disaster Protection Act of 1973, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

AMENDMENTS

2012—Subsec. (a)(6). Pub. L. 112–141 substituted " 'Administrator' " for " 'Director' " and "Administrator of" for "Director of".

Subsec. (b). Pub. L. 112–141 substituted "Administrator" for "Director".

2010—Subsec. (a)(5). Pub. L. 111–203 struck out ", the Office of Thrift Supervision" after "the Comptroller of the Currency".

1994—Subsec. (a)(5). Pub. L. 103–325, §511(a)(1), added par. (5) and struck out former par. (5) which read as follows: " 'Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions' means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, and the National Credit Union Administration; and".

Subsec. (a)(7) to (11). Pub. L. 103–325, §511(a)(2), (3), added pars. (7) to (11).

1988—Subsec. (a)(4). Pub. L. 100–707 substituted "Disaster Relief and Emergency Assistance Act" for "Disaster Relief Act of 1974".

1983—Subsec. (a)(6). Pub. L. 98–181, §451(e)(2), substituted definition of "Director" meaning the Director of the Federal Emergency Management Agency for definition of "Secretary" meaning the Secretary of Housing and Urban Development.

Subsec. (b). Pub. L. 98–181, §451(e)(1), substituted "Director" for "Secretary".

1977—Subsec. (a)(4). Pub. L. 95–128 substituted "assistance pursuant to the Disaster Relief Act of 1974 (other than assistance under such Act in connection with a flood)" for "assistance for emergency work essential for the protection and preservation of life and property performed pursuant to the Disaster Relief Act of 1970 or any subsequent Act of Congress which supersedes or modifies the Disaster Relief Act of 1970".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the transfer date, see section 351 of Pub. L. 111–203, set out as a note under section 906 of Title 2, The Congress.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal

Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4004. Definitions applicable to Biggert-Waters Flood Insurance Reform Act of 2012

(a) In general

In this subtitle, the following definitions shall apply:

(1) 100-year floodplain

The term "100-year floodplain" means that area which is subject to inundation from a flood having a 1-percent chance of being equaled or exceeded in any given year.

(2) 500-year floodplain

The term "500-year floodplain" means that area which is subject to inundation from a flood having a 0.2-percent chance of being equaled or exceeded in any given year.

(3) Administrator

The term "Administrator" means the Administrator of the Federal Emergency Management Agency.

(4) National Flood Insurance Program

The term "National Flood Insurance Program" means the program established under the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.).

(5) Write Your Own

The term "Write Your Own" means the cooperative undertaking between the insurance industry and the Federal Insurance Administration which allows participating property and casualty insurance companies to write and service standard flood insurance policies.

(b) Common terminology

Except as otherwise provided in this subtitle, any terms used in this subtitle shall have the meaning given to such terms under section 1370 of the National Flood Insurance Act of 1968 (42 U.S.C. 4121).

(Pub. L. 112–141, div. F, title II, §100202, July 6, 2012, 126 Stat. 916.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subtitle, referred to in subsecs. (a) and (b), is subtitle A (§§100201–100249) of title II of div. F of Pub. L. 112–141, July 6, 2012, 126 Stat. 916, known as the Biggert-Waters Flood Insurance Reform Act of 2012. For complete classification of this subtitle to the Code, see Short Title of 2012 Amendment note set out under section 4001 of this title and Tables.

The National Flood Insurance Act of 1968, referred to in subsec. (a)(4), is title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

CODIFICATION

Section was enacted as part of the Biggert-Waters Flood Insurance Reform Act of 2012, and also as part of the Moving Ahead for Progress in the 21st Century Act, also known as the MAP–21, and not as part of National Flood Insurance Act of 1968 which comprises this chapter.

§4005. Definitions applicable to Homeowner Flood Insurance Affordability Act of 2014

For purposes of this title,[1] the following definitions shall apply:

(1) Administrator

The term "Administrator" means the Administrator of the Federal Emergency Management Agency.

(2) National Flood Insurance Program

The term "National Flood Insurance Program" means the program established under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

(Pub. L. 113–89, §2, Mar. 21, 2014, 128 Stat. 1020.)

EDITORIAL NOTES

REFERENCES IN TEXT

This title, referred to in text, probably should read "this Act", meaning Pub. L. 113–89, Mar. 21, 2014, 128 Stat. 1020, known as the Homeowner Flood Insurance Affordability Act of 2014, which does not contain titles. For complete classification of this Act to the Code, see Short Title of 2014 Amendment note set out under section 4001 of this title and Tables.

The National Flood Insurance Act of 1968, referred to in par. (2), is title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

CODIFICATION

Section was enacted as part of the Homeowner Flood Insurance Affordability Act of 2014, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

[1] *See References in Text note below.*

SUBCHAPTER I—THE NATIONAL FLOOD INSURANCE PROGRAM

§4011. Authorization to establish and carry out program

(a) Authorization and establishment

To carry out the purposes of this chapter, the Administrator of the Federal Emergency Management Agency is authorized to establish and carry out a national flood insurance program which will enable interested persons to purchase insurance against loss resulting from physical damage to or loss of real property or personal property related thereto arising from any flood occurring in the United States.

(b) Additional coverage for compliance with land use and control measures

The national flood insurance program established pursuant to subsection (a) shall enable the purchase of insurance to cover the cost of implementing measures that are consistent with land use and control measures established by the community under section 4102 of this title for—

(1) properties that are repetitive loss structures;

(2) properties that are substantially damaged structures;

(3) properties that have sustained flood damage on multiple occasions, if the Administrator determines that it is cost-effective and in the best interests of the National Flood Insurance Fund to require the implementation of such measures; and

(4) properties for which an offer of mitigation assistance is made under—
(A) section 4104c of this title (Flood Mitigation Assistance Program);
(B) the Hazard Mitigation Grant Program authorized under section 5170c of this title;
(C) the Predisaster Hazard Mitigation Program under section 5133 of this title; and
(D) any programs authorized or for which funds are appropriated to address any unmet needs or for which supplemental funds are made available.

The Administrator shall impose a surcharge on each insured of not more than $75 per policy to provide cost of compliance coverage in accordance with the provisions of this subsection.

(c) Participation and risk sharing by insurers

In carrying out the flood insurance program the Administrator shall, to the maximum extent practicable, encourage and arrange for—
(1) appropriate financial participation and risk sharing in the program by insurance companies and other insurers, and
(2) other appropriate participation, on other than a risk-sharing basis, by insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organizations,

in accordance with the provisions of subchapter II.

(Pub. L. 90–448, title XIII, §1304, Aug. 1, 1968, 82 Stat. 574; Pub. L. 98–181, title I [title IV, §451(d)(1), (2)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 103–325, title V, §555(a), Sept. 23, 1994, 108 Stat. 2274; Pub. L. 108–264, title I, §105(a), June 30, 2004, 118 Stat. 723; Pub. L. 112–141, div. F, title II, §§100225(f), 100238(b)(1), July 6, 2012, 126 Stat. 942, 958.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2012—Subsec. (a). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director".

Subsec. (b). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director" in concluding provisions.

Subsec. (b)(3). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director".

Subsec. (b)(4)(B) to (E). Pub. L. 112–141, §100225(f), redesignated subpars. (C) to (E) as (B) to (D), respectively, and struck out former subpar. (B) which read as follows: "section 1368 (Repetitive Loss Priority Program and Individual Priority Property Program);".

Subsec. (c). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director" in introductory provisions.

2004—Subsec. (b). Pub. L. 108–264, §105(a)(1)(B), which directed insertion of "by the community" after "established" in introductory provisions, was executed by making the insertion after "established" the second time appearing to reflect the probable intent of Congress.

Pub. L. 108–264, §105(a)(1)(A), substituted "implementing measures that are consistent" for "compliance" in introductory provisions.

Subsec. (b)(2). Pub. L. 108–264, §105(a)(2), substituted "are substantially damaged structures;" for "have flood damage in which the cost of repairs equals or exceeds 50 percent of the value of the structure at the time of the flood event; and".

Subsec. (b)(3). Pub. L. 108–264, §105(a)(3), which directed the substitution of "the implementation of such measures; and" for "compliance with land use and control measures.", was executed by making the substitution for "compliance with the land use and control measures.", to reflect the probable intent of Congress.

Subsec. (b)(4). Pub. L. 108–264, §105(a)(4), added par. (4).

1994—Subsecs. (b), (c). Pub. L. 103–325 added subsec. (b) and redesignated former subsec. (b) as (c).

1983—Subsec. (a). Pub. L. 98–181, §451(d)(2), substituted "Director of the Federal Emergency Management Agency" for "Secretary of Housing and Urban Development".

Subsec. (b). Pub. L. 98–181, §451(d)(1), substituted "Director" for "Secretary".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–325, title V, §555(b), Sept. 23, 1994, 108 Stat. 2274, provided that: "The provisions of subsection (a) [amending this section] shall apply only to properties that sustain flood-related damage after the date of enactment of this Act [Sept. 23, 1994]."

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

FLOOD IN PROGRESS DETERMINATIONS

Pub. L. 112–141, div. F, title II, §100227, July 6, 2012, 126 Stat. 943, provided that:

"(a) REPORT.—

"(1) REVIEW.—The Administrator shall review—

"(A) the processes and procedures for determining that a flood event has commenced or is in progress for purposes of flood insurance coverage made available under the National Flood Insurance Program;

"(B) the processes and procedures for providing public notification that such a flood event has commenced or is in progress;

"(C) the processes and procedures regarding the timing of public notification of flood insurance requirements and availability; and

"(D) the effects and implications that weather conditions, including rainfall, snowfall, projected snowmelt, existing water levels, and other conditions, have on the determination that a flood event has commenced or is in progress.

"(2) REPORT.—Not later than 6 months after the date of enactment of this Act [July 6, 2012], the Administrator shall submit a report to Congress that describes—

"(A) the results and conclusions of the review under paragraph (1); and

"(B) any actions taken, or proposed actions to be taken, by the Administrator to provide for more precise and technical processes and procedures for determining that a flood event has commenced or is in progress.

"(b) EFFECTIVE DATE OF POLICIES COVERING PROPERTIES AFFECTED BY FLOODING OF THE MISSOURI RIVER IN 2011.—

"(1) ELIGIBLE COVERAGE.—For purposes of this subsection, the term 'eligible coverage' means coverage under a new contract for flood insurance coverage under the National Flood Insurance Program, or a modification to coverage under an existing flood insurance contract, for property damaged by the flooding of the Missouri River that commenced on June 1, 2011, that was purchased or made during the period beginning May 1, 2011, and ending June 6, 2011.

"(2) EFFECTIVE DATES.—Notwithstanding section 1306(c) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(c)), or any other provision of law, any eligible coverage shall—

"(A) be deemed to take effect on the date that is 30 days after the date on which all obligations for the eligible coverage (including completion of the application and payment of any initial premiums

owed) are satisfactorily completed; and

"(B) cover damage to property occurring after the effective date described in subparagraph (A) that resulted from the flooding of the Missouri River that commenced on June 1, 2011, if the property did not suffer damage or loss as a result of such flooding before the effective date described in subparagraph (A).

"(c) TIMELY NOTIFICATION.—Not later than 90 days after the date on which the Administrator submits the report required under subsection (a)(2), the Administrator shall, taking into consideration the results of the review under subsection (a)(1)(B), develop procedures for providing timely notification, to the extent practicable, to policyholders who have purchased flood insurance coverage under the National Flood Insurance Program within 30 days of a determination of a flood in progress and who may be affected by the flood of the determination and how the determination may affect their coverage."

[For definitions of terms used in section 100227 of Pub. L. 112–141, set out above, see section 4004 of this title.]

CONGRESSIONAL FINDINGS

Pub. L. 108–264, §2, June 30, 2004, 118 Stat. 712, provided that: "The Congress finds that—

"(1) the national flood insurance program—

"(A) identifies the flood risk;

"(B) provides flood risk information to the public;

"(C) encourages State and local governments to make appropriate land use adjustments to constrict the development of land which is exposed to flood damage and minimize damage caused by flood losses; and

"(D) makes flood insurance available on a nationwide basis that would otherwise not be available, to accelerate recovery from floods, mitigate future losses, save lives, and reduce the personal and national costs of flood disasters;

"(2) the national flood insurance program insures approximately 4,400,000 policyholders;

"(3) approximately 48,000 properties currently insured under the program have experienced, within a 10-year period, 2 or more flood losses where each such loss exceeds the amount $1,000;

"(4) approximately 10,000 of these repetitive-loss properties have experienced either 2 or 3 losses that cumulatively exceed building value or 4 or more losses, each exceeding $1,000;

"(5) repetitive-loss properties constitute a significant drain on the resources of the national flood insurance program, costing about $200,000,000 annually;

"(6) repetitive-loss properties comprise approximately 1 percent of currently insured properties but are expected to account for 25 to 30 percent of claims losses;

"(7) the vast majority of repetitive-loss properties were built before local community implementation of floodplain management standards under the program and thus are eligible for subsidized flood insurance;

"(8) while some property owners take advantage of the program allowing subsidized flood insurance without requiring mitigation action, others are trapped in a vicious cycle of suffering flooding, then repairing flood damage, then suffering flooding, without the means to mitigate losses or move out of harm's way;

"(9) mitigation of repetitive-loss properties through buyouts, elevations, relocations, or flood-proofing will produce savings for policyholders under the program and for Federal taxpayers through reduced flood insurance losses and reduced Federal disaster assistance;

"(10) a strategy of making mitigation offers aimed at high-priority repetitive-loss properties and shifting more of the burden of recovery costs to property owners who choose to remain vulnerable to repetitive flood damage can encourage property owners to take appropriate actions that reduce loss of life and property damage and benefit the financial soundness of the program;

"(11) the method for addressing repetitive-loss properties should be flexible enough to take into consideration legitimate circumstances that may prevent an owner from taking a mitigation action; and

"(12) focusing the mitigation and buy-out of repetitive loss properties upon communities and property owners that choose to voluntarily participate in a mitigation and buy-out program will maximize the benefits of such a program, while minimizing any adverse impact on communities and property owners."

MISCELLANEOUS FLOOD INSURANCE PROVISIONS

Pub. L. 108–264, title II, June 30, 2004, 118 Stat. 725, as amended by Pub. L. 109–295, title VI, §612(c), Oct. 4, 2006, 120 Stat. 1410, provided that:

"SEC. 201. DEFINITIONS.

"In this title, the following definitions shall apply:

"(1) DIRECTOR.—The term 'Director' means the Administrator of the Federal Emergency Management Agency.

"(2) FLOOD INSURANCE POLICY.—The term 'flood insurance policy' means a flood insurance policy issued under the National Flood Insurance Act of 1968 (42 U.S.C. [4001] et seq.).

"(3) PROGRAM.—The term 'Program' means the National Flood Insurance Program established under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

"SEC. 202. SUPPLEMENTAL FORMS.

"(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act [June 30, 2004], the Director shall develop supplemental forms to be issued in conjunction with the issuance of a flood insurance policy that set forth, in simple terms—

"(1) the exact coverages being purchased by a policyholder;

"(2) any exclusions from coverage that apply to the coverages purchased;

"(3) an explanation, including illustrations, of how lost items and damages will be valued under the policy at the time of loss;

"(4) the number and dollar value of claims filed under a flood insurance policy over the life of the property, and the effect, under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), of the filing of any further claims under a flood insurance policy with respect to that property; and

"(5) any other information that the Director determines will be helpful to policyholders in understanding flood insurance coverage.

"(b) DISTRIBUTION.—The forms developed under subsection (a) shall be given to—

"(1) all holders of a flood insurance policy at the time of purchase and renewal; and

"(2) insurance companies and agents that are authorized to sell flood insurance policies.

"SEC. 203. ACKNOWLEDGEMENT FORM.

"(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act [June 30, 2004], the Director shall develop an acknowledgement form to be signed by the purchaser of a flood insurance policy that contains—

"(1) an acknowledgement that the purchaser has received a copy of the standard flood insurance policy, and any forms developed under section 202; and

"(2) an acknowledgement that the purchaser has been told that the contents of a property or dwelling are not covered under the terms of the standard flood insurance policy, and that the policyholder has the option to purchase additional coverage for such contents.

"(b) DISTRIBUTION.—Copies of an acknowledgement form executed under subsection (a) shall be made available to the purchaser and the Director.

"SEC. 204. FLOOD INSURANCE CLAIMS HANDBOOK.

"(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act [June 30, 2004], the Director shall develop a flood insurance claims handbook that contains—

"(1) a description of the procedures to be followed to file a claim under the Program, including how to pursue a claim to completion;

"(2) how to file supplementary claims, proof of loss, and any other information relating to the filing of claims under the Program; and

"(3) detailed information regarding the appeals process established under section 205.

"(b) DISTRIBUTION.—The handbook developed under subsection (a) shall be made available to—

"(1) each insurance company and agent authorized to sell flood insurance policies; and

"(2) each purchaser, at the time of purchase and renewal, of a flood insurance policy, and at the time of any flood loss sustained by such purchaser.

"SEC. 205. APPEAL OF DECISIONS RELATING TO FLOOD INSURANCE COVERAGE.

"Not later than 6 months after the date of enactment of this Act [June 30, 2004], the Director shall, by regulation, establish an appeals process through which holders of a flood insurance policy may appeal the decisions, with respect to claims, proofs of loss, and loss estimates relating to such flood insurance policy, of—

"(1) any insurance agent or adjuster, or insurance company; or

"(2) any employee or contractor of the Federal Emergency Management Agency.

"SEC. 206. STUDY AND REPORT ON USE OF COST COMPLIANCE COVERAGE.

"Not later than 1 year after the date of enactment of this Act [June 30, 2004], the Administrator of the Federal Emergency Management Agency shall submit to Congress a report that sets forth—

"(1) the use of cost of compliance coverage under section 1304(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4011(b)) in connection with flood insurance policies;

"(2) any barriers to policyholders using the funds provided by cost of compliance coverage under that section 1304(b) under a flood insurance policy, and recommendations to address those barriers; and

"(3) the steps that the Federal Emergency Management Agency has taken to ensure that funds paid for cost of compliance coverage under that section 1304(b) are being used to lessen the burdens on all homeowners and the Program.

"SEC. 207. MINIMUM TRAINING AND EDUCATION REQUIREMENTS.

"The Administrator of the Federal Emergency Management Agency shall, in cooperation with the insurance industry, State insurance regulators, and other interested parties—

"(1) establish minimum training and education requirements for all insurance agents who sell flood insurance policies; and

"(2) not later than 6 months after the date of enactment of this Act [June 30, 2004], publish these requirements in the Federal Register, and inform insurance companies and agents of the requirements.

"SEC. 208. GAO STUDY AND REPORT.

"(a) STUDY.—The Comptroller General of the United States shall conduct a study of—

"(1) the adequacy of the scope of coverage provided under flood insurance policies in meeting the intended goal of Congress that flood victims be restored to their pre-flood conditions, and any recommendations to ensure that goal is being met;

"(2) the adequacy of payments to flood victims under flood insurance policies; and

"(3) the practices of the Federal Emergency Management Agency and insurance adjusters in estimating losses incurred during a flood, and how such practices affect the adequacy of payments to flood victims.

"(b) REPORT.—Not later than 1 year after the date of enactment of this Act [June 30, 2004], the Comptroller General shall submit to Congress a report regarding the results of the study under subsection (a).

"SEC. 209. PROSPECTIVE PAYMENT OF FLOOD INSURANCE PREMIUMS.

[Amended section 4015 of this title.]

"SEC. 210. REPORT ON CHANGES TO FEE SCHEDULE OR FEE PAYMENT ARRANGEMENTS.

"Not later than 3 months after the date of enactment of this Act [June 30, 2004], the Director shall submit a report on any changes or modifications made to the fee schedule or fee payment arrangements between the Federal Emergency Management Agency and insurance adjusters who provide services with respect to flood insurance policies to—

"(1) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

"(2) the Committee on Financial Services of the House of Representatives."

FLOOD INSURANCE INTERAGENCY TASK FORCE

Section 561 of Pub. L. 103–325 provided that:

"(a) ESTABLISHMENT.—There is hereby established an interagency task force to be known as the Flood Insurance Task Force (in this section referred to as the 'Task Force').

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The Task Force shall be composed of 10 members, who shall be the designees of—

"(A) the Federal Insurance Administrator;

"(B) the Federal Housing Commissioner;

"(C) the Secretary of Veterans Affairs;

"(D) the Administrator of the Farmers Home Administration;

"(E) the Administrator of the Small Business Administration;

"(F) the Chairman of the Board of Directors of the Farm Credit Administration;

"(G) a designee of the Financial Institutions Examination Council;

"(H) the Director of the Office of Federal Housing Enterprise Oversight;

"(I) the chairman of the Board of Directors of the Federal Home Loan Mortgage Corporation; and

"(J) the chairman of the Board of Directors of the Federal National Mortgage Association.

"(2) QUALIFICATIONS.—Members of the Task Force shall be designated for membership on the Task Force by reason of demonstrated knowledge and competence regarding the national flood insurance program.

"(c) DUTIES.—The Task Force shall carry out the following duties:

"(1) RECOMMENDATIONS OF STANDARDIZED ENFORCEMENT PROCEDURES.—Make

recommendations to the head of each Federal agency and enterprise referred to under subsection (b)(1) regarding establishment or adoption of standardized enforcement procedures among such agencies and corporations responsible for enforcing compliance with the requirements under the national flood insurance program to ensure fullest possible compliance with such requirements.

"(2) STUDY OF COMPLIANCE ASSISTANCE.—Conduct a study of the extent to which Federal agencies and the secondary mortgage market can provide assistance in ensuring compliance with the requirements under the national flood insurance program and submit to the Congress a report describing the study and any conclusions.

"(3) STUDY OF COMPLIANCE MODEL.—Conduct a study of the extent to which existing programs of Federal agencies and corporations for compliance with the requirements under the national flood insurance program can serve as a model for other Federal agencies responsible for enforcing compliance, and submit to the Congress a report describing the study and any conclusions.

"(4) RECOMMENDATIONS FOR ENFORCEMENT AND COMPLIANCE PROCEDURES .—Develop recommendations regarding enforcement and compliance procedures, based on the studies and findings of the Task Force, and publish such recommendations.

"(5) STUDY OF DETERMINATION FEES.—Conduct a study of—

"(A) the reasonableness of fees charged pursuant to 102(h) of the Flood Disaster Protection Act of 1973 [42 U.S.C. 4012a(h)] for costs of determining whether the property securing a loan is located in an area having special flood hazards; and

"(B) whether the fees charged pursuant to such section by lenders and servicers are greater than the amounts paid by such lenders and servicers to persons actually conducting such determinations and the extent to which the fees exceed such amounts.

"(d) NONCOMPENSATION.—Members of the Task Force shall receive no additional pay by reason of their service on the Task Force.

"(e) CHAIRPERSON.—The members of the Task Force shall elect one member as chairperson of the Task Force.

"(f) MEETINGS AND ACTION.—The Task Force shall meet at the call of the chairman or a majority of the members of the Task Force and may take action by a vote of the majority of the members. The Federal Insurance Administrator shall coordinate and call the initial meeting of the Task Force.

"(g) OFFICERS.—The chairperson of the Task Force may appoint any officers to carry out the duties of the Task Force under subsection (c).

"(h) STAFF OF FEDERAL AGENCIES.—Upon request of the chairperson of the Task Force, the head of any of the Federal agencies and entities referred to under subsection (b)(1) may detail, on a nonreimbursable basis, any of the personnel of such agency to the Task Force to assist the Task Force in carrying out its duties under this section.

"(i) POWERS.—In carrying out this section, the Task Force may hold hearings, sit and act at times and places, take testimony, receive evidence and assistance, provide information, and conduct research as the Task Force considers appropriate.

"(j) TERMINATION.—The Task Force shall terminate upon the expiration of the 24-month period beginning upon the designation of the last member to be designated under subsection (b)(1)."

§4012. Scope of program and priorities

(a) Priority for insurance for certain residential and church properties and business concerns

In carrying out the flood insurance program the Administrator shall afford a priority to making flood insurance available to cover residential properties which are designed for the occupancy of from one to four families, church properties, and business properties which are owned or leased and operated by small business concerns.

(b) Availability of insurance for other properties

If on the basis of—

(1) studies and investigations undertaken and carried out and information received or exchanged under section 4014 of this title, and

(2) such other information as may be necessary,

the Administrator determines that it would be feasible to extend the flood insurance program to

cover other properties, he may take such action under this chapter as from time to time may be necessary in order to make flood insurance available to cover, on such basis as may be feasible, any types and classes of—

(A) other residential properties not described in subsection (a) or (d),
(B) other business properties,
(C) agricultural properties,
(D) properties occupied by private nonprofit organizations, and
(E) properties owned by State and local governments and agencies thereof,

and any such extensions of the program to any types and classes of these properties shall from time to time be prescribed in regulations.

(c) Availability of insurance in States or areas evidencing positive interest in securing insurance and assuring adoption of adequate land use and control measures

The Administrator shall make flood insurance available in only those States or areas (or subdivisions thereof) which he has determined have—

(1) evidenced a positive interest in securing flood insurance coverage under the flood insurance program, and

(2) given satisfactory assurance that by December 31, 1971, adequate land use and control measures will have been adopted for the State or area (or subdivision) which are consistent with the comprehensive criteria for land management and use developed under section 4102 of this title, and that the application and enforcement of such measures will commence as soon as technical information on floodways and on controlling flood elevations is available.

(d) Availability of insurance for multifamily properties

(1) In general

The Administrator shall make flood insurance available to cover residential properties of 5 or more residences. Notwithstanding any other provision of law, the maximum coverage amount that the Administrator may make available under this subsection to such residential properties shall be equal to the coverage amount made available to commercial properties.

(2) Rule of construction

Nothing in this subsection shall be construed to limit the ability of individuals residing in residential properties of 5 or more residences to obtain insurance for the contents and personal articles located in such residences.

(Pub. L. 90–448, title XIII, §1305, Aug. 1, 1968, 82 Stat. 574; Pub. L. 91–152, title IV, §410(a), Dec. 24, 1969, 83 Stat. 397; Pub. L. 92–213, §2(c)(1), Dec. 22, 1971, 85 Stat. 775; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §§100204, 100238(b)(1), July 6, 2012, 126 Stat. 916, 958.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2012—Subsec. (a). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director".

Subsec. (b). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director" in concluding provisions following par. (2).

Subsec. (b)(A). Pub. L. 112–141, §100204(1), which directed amendment of subsec. (b)(2)(A) by inserting "not described in subsection (a) or (d)" after "properties", was executed by making the insertion in subpar. (A) following first concluding provisions to reflect the probable intent of Congress.

Subsec. (c). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director" in introductory provisions.

Subsec. (d). Pub. L. 112–141, §100204(2), added subsec. (d).

1983—Pub. L. 98–181 substituted "Director" for "Secretary" wherever appearing.

1971—Subsec. (a). Pub. L. 92–213 inserted reference to church properties.

1969—Subsec. (c)(2). Pub. L. 91–152 substituted "December 31, 1971, adequate" for "June 30, 1970, permanent".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4012a. Flood insurance purchase and compliance requirements and escrow accounts

(a) Amount and term of coverage

After the expiration of sixty days following December 31, 1973, no Federal officer or agency shall approve any financial assistance for acquisition or construction purposes for use in any area that has been identified by the Administrator as an area having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968 [42 U.S.C. 4001 et seq.], unless the building or mobile home and any personal property to which such financial assistance relates is covered by flood insurance in an amount at least equal to its development or project cost (less estimated land cost) or to the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, whichever is less: *Provided*, That if the financial assistance provided is in the form of a loan or an insurance or guaranty of a loan, the amount of flood insurance required need not exceed the outstanding principal balance of the loan and need not be required beyond the term of the loan. The requirement of maintaining flood insurance shall apply during the life of the property, regardless of transfer of ownership of such property.

(b) Requirement for mortgage loans

(1) Regulated lending institutions

Each Federal entity for lending regulation (after consultation and coordination with the Financial Institutions Examination Council established under the Federal Financial Institutions Examination Council Act of 1974 [12 U.S.C. 3301 et seq.]) shall by regulation direct regulated lending institutions—

(A) not to make, increase, extend, or renew any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Administrator as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968 [42 U.S.C. 4001 et seq.], unless the building or

mobile home and any personal property securing such loan is covered for the term of the loan by flood insurance in an amount at least equal to the outstanding principal balance of the loan or the maximum limit of coverage made available under the Act with respect to the particular type of property, whichever is less; and

(B) to accept private flood insurance as satisfaction of the flood insurance coverage requirement under subparagraph (A) if the coverage provided by such private flood insurance meets the requirements for coverage under such subparagraph.

(2) Federal agency lenders

A Federal agency lender may not make, increase, extend, or renew any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Administrator as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968, unless the building or mobile home and any personal property securing such loan is covered for the term of the loan by flood insurance in the amount provided in paragraph (1)(A). Each Federal agency lender shall accept private flood insurance as satisfaction of the flood insurance coverage requirement under the preceding sentence if the flood insurance coverage provided by such private flood insurance meets the requirements for coverage under such sentence. Each Federal agency lender shall issue any regulations necessary to carry out this paragraph. Such regulations shall be consistent with and substantially identical to the regulations issued under paragraph (1)(A).

(3) Government-sponsored enterprises for housing

The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation shall implement procedures reasonably designed to ensure that, for any loan that is—

(A) secured by improved real estate or a mobile home located in an area that has been identified, at the time of the origination of the loan or at any time during the term of the loan, by the Administrator as an area having special flood hazards and in which flood insurance is available under the National Flood Insurance Act of 1968, and

(B) purchased by such entity,

the building or mobile home and any personal property securing the loan is covered for the term of the loan by flood insurance in the amount provided in paragraph (1)(A). The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation shall accept private flood insurance as satisfaction of the flood insurance coverage requirement under paragraph (1)(A) if the flood insurance coverage provided by such private flood insurance meets the requirements for coverage under such paragraph and any requirements established by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, respectively, relating to the financial solvency, strength, or claims-paying ability of private insurance companies from which the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation will accept private flood insurance.

(4) Applicability

(A) Existing coverage

Except as provided in subparagraph (B), paragraph (1) shall apply on September 23, 1994.

(B) New coverage

Paragraphs (2) and (3) shall apply only with respect to any loan made, increased, extended, or renewed after the expiration of the 1-year period beginning on September 23, 1994. Paragraph (1) shall apply with respect to any loan made, increased, extended, or renewed by any lender supervised by the Farm Credit Administration only after the expiration of the period under this subparagraph.

(C) Continued effect of regulations

Notwithstanding any other provision of this subsection, the regulations to carry out paragraph (1), as in effect immediately before September 23, 1994, shall continue to apply until the

regulations issued to carry out paragraph (1) as amended by section 522(a) of Public Law 103–325 take effect.

(5) Rule of construction

Nothing in this subsection shall be construed to supersede or limit the authority of a Federal entity for lending regulation, the Federal Housing Finance Agency, a Federal agency lender, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation to establish requirements relating to the financial solvency, strength, or claims-paying ability of private insurance companies from which the entity or agency will accept private flood insurance.

(6) Notice

(A) In general

Each lender shall disclose to a borrower that is subject to this subsection that—

(i) flood insurance is available from private insurance companies that issue standard flood insurance policies on behalf of the national flood insurance program or directly from the national flood insurance program;

(ii) flood insurance that provides the same level of coverage as a standard flood insurance policy under the national flood insurance program may be available from a private insurance company that issues policies on behalf of the company; and

(iii) the borrower is encouraged to compare the flood insurance coverage, deductibles, exclusions, conditions and premiums associated with flood insurance policies issued on behalf of the national flood insurance program and policies issued on behalf of private insurance companies and to direct inquiries regarding the availability, cost, and comparisons of flood insurance coverage to an insurance agent.

(B) Rule of construction

Nothing in this paragraph shall be construed as affecting or otherwise limiting the authority of a Federal entity for lending regulation to approve any disclosure made by a regulated lending institution for purposes of complying with subparagraph (A).

(7) Private flood insurance defined

In this subsection, the term "private flood insurance" means an insurance policy that—

(A) is issued by an insurance company that is—

(i) licensed, admitted, or otherwise approved to engage in the business of insurance in the State or jurisdiction in which the insured building is located, by the insurance regulator of that State or jurisdiction; or

(ii) in the case of a policy of difference in conditions, multiple peril, all risk, or other blanket coverage insuring nonresidential commercial property, is [1] recognized, or not disapproved, as a surplus lines insurer by the insurance regulator of the State or jurisdiction where the property to be insured is located;

(B) provides flood insurance coverage which is at least as broad as the coverage provided under a standard flood insurance policy under the national flood insurance program, including when considering deductibles, exclusions, and conditions offered by the insurer;

(C) includes—

(i) a requirement for the insurer to give 45 days' written notice of cancellation or non-renewal of flood insurance coverage to—

(I) the insured; and

(II) the regulated lending institution or Federal agency lender;

(ii) information about the availability of flood insurance coverage under the national flood insurance program;

(iii) a mortgage interest clause similar to the clause contained in a standard flood insurance policy under the national flood insurance program; and

(iv) a provision requiring an insured to file suit not later than 1 year after date of a written denial of all or part of a claim under the policy; and

(D) contains cancellation provisions that are as restrictive as the provisions contained in a standard flood insurance policy under the national flood insurance program.

(c) Exceptions to purchase requirements

(1) State-owned property

Notwithstanding the other provisions of this section, flood insurance shall not be required on any State-owned property that is covered under an adequate State policy of self-insurance satisfactory to the Administrator. The Administrator shall publish and periodically revise the list of States to which this subsection applies.

(2) Small loans

Notwithstanding any other provision of this section, subsections (a) and (b) shall not apply to any loan having—

(A) an original outstanding principal balance of $5,000 or less; and

(B) a repayment term of 1 year or less.

(3) Detached structures

Notwithstanding any other provision of this section, flood insurance shall not be required, in the case of any residential property, for any structure that is a part of such property but is detached from the primary residential structure of such property and does not serve as a residence.

(d) Escrow of flood insurance payments

(1) Regulated lending institutions

(A) Federal entities responsible for lending regulations

Each Federal entity for lending regulation (after consultation and coordination with the Federal Financial Institutions Examination Council) shall, by regulation, direct that all premiums and fees for flood insurance under the National Flood Insurance Act of 1968, for residential improved real estate or a mobile home, shall be paid to the regulated lending institution or servicer for any loan secured by the residential improved real estate or mobile home, with the same frequency as payments on the loan are made, for the duration of the loan. Except as provided in subparagraph (B), upon receipt of any premiums or fees, the regulated lending institution or servicer shall deposit such premiums and fees in an escrow account on behalf of the borrower. Upon receipt of a notice from the Administrator or the provider of the flood insurance that insurance premiums are due, the premiums deposited in the escrow account shall be paid to the provider of the flood insurance.

(B) Limitation

Except as may be required under applicable State law, a Federal entity for lending regulation may not direct or require a regulated lending institution to deposit premiums or fees for flood insurance under the National Flood Insurance Act of 1968 in an escrow account on behalf of a borrower under subparagraph (A)—

(i) if—

(I) the regulated lending institution has total assets of less than $1,000,000,000; and

(II) on or before July 6, 2012, the regulated lending institution—

(aa) in the case of a loan secured by residential improved real estate or a mobile home, was not required under Federal or State law to deposit taxes, insurance premiums, fees, or any other charges in an escrow account for the entire term of the loan; and

(bb) did not have a policy of consistently and uniformly requiring the deposit of taxes, insurance premiums, fees, or any other charges in an escrow account for loans secured by residential improved real estate or a mobile home; or

(ii) in the case of a loan that—

(I) is in a junior or subordinate position to a senior lien secured by the same residential improved real estate or mobile home for which flood insurance is being provided at the time of the origination of the loan;

(II) is secured by residential improved real estate or a mobile home that is part of a condominium, cooperative, or other project development, if the residential improved real estate or mobile home is covered by a flood insurance policy that—

(aa) meets the requirements that the regulated lending institution is required to enforce under subsection (b)(1);

(bb) is provided by the condominium association, cooperative, homeowners association, or other applicable group; and

(cc) the premium for which is paid by the condominium association, cooperative, homeowners association, or other applicable group as a common expense;

(III) is secured by residential improved real estate or a mobile home that is used as collateral for a business purpose;

(IV) is a home equity line of credit;

(V) is a nonperforming loan; or

(VI) has a term of not longer than 12 months.

(2) Federal agency lenders

Each Federal agency lender shall by regulation require and provide for escrow and payment of any flood insurance premiums and fees relating to residential improved real estate and mobile homes securing loans made by the Federal agency lender under the circumstances and in the manner provided under paragraph (1). Any regulations issued under this paragraph shall be consistent with and substantially identical to the regulations issued under paragraph (1).

(3) Applicability of RESPA

Escrow accounts established pursuant to this subsection shall be subject to the provisions of section 10 of the Real Estate Settlement Procedures Act of 1974 [12 U.S.C. 2609].

(4) "Residential improved real estate" defined

For purposes of this subsection, the term "residential improved real estate" means improved real estate for which the improvement is a residential building.

(5) Applicability

This subsection shall apply only with respect to any loan made, increased, extended, or renewed after the expiration of the 1-year period beginning on September 23, 1994.

(e) Placement of flood insurance by lender

(1) Notification to borrower of lack of coverage

If, at the time of origination or at any time during the term of a loan secured by improved real estate or by a mobile home located in an area that has been identified by the Administrator (at the time of the origination of the loan or at any time during the term of the loan) as an area having special flood hazards and in which flood insurance is available under the National Flood Insurance Act of 1968 [42 U.S.C. 4001 et seq.], the lender or servicer for the loan determines that the building or mobile home and any personal property securing the loan is not covered by flood insurance or is covered by such insurance in an amount less than the amount required for the property pursuant to paragraph (1), (2), or (3) of subsection (b), the lender or servicer shall notify the borrower under the loan that the borrower should obtain, at the borrower's expense, an amount of flood insurance for the building or mobile home and such personal property that is not less than the amount under subsection (b)(1), for the term of the loan.

(2) Purchase of coverage on behalf of borrower

If the borrower fails to purchase such flood insurance within 45 days after notification under

paragraph (1), the lender or servicer for the loan shall purchase the insurance on behalf of the borrower and may charge the borrower for the cost of premiums and fees incurred by the lender or servicer for the loan in purchasing the insurance, including premiums or fees incurred for coverage beginning on the date on which flood insurance coverage lapsed or did not provide a sufficient coverage amount.

(3) Termination of force-placed insurance

Within 30 days of receipt by the lender or servicer of a confirmation of a borrower's existing flood insurance coverage, the lender or servicer shall—

(A) terminate any insurance purchased by the lender or servicer under paragraph (2); and

(B) refund to the borrower all premiums paid by the borrower for any insurance purchased by the lender or servicer under paragraph (2) during any period during which the borrower's flood insurance coverage and the insurance coverage purchased by the lender or servicer were each in effect, and any related fees charged to the borrower with respect to the insurance purchased by the lender or servicer during such period.

(4) Sufficiency of demonstration

For purposes of confirming a borrower's existing flood insurance coverage, a lender or servicer for a loan shall accept from the borrower an insurance policy declarations page that includes the existing flood insurance policy number and the identity of, and contact information for, the insurance company or agent.

(5) Review of determination regarding required purchase

(A) In general

The borrower and lender for a loan secured by improved real estate or a mobile home may jointly request the Administrator to review a determination of whether the building or mobile home is located in an area having special flood hazards. Such request shall be supported by technical information relating to the improved real estate or mobile home. Not later than 45 days after the Administrator receives the request, the Administrator shall review the determination and provide to the borrower and the lender with a letter stating whether or not the building or mobile home is in an area having special flood hazards. The determination of the Administrator shall be final.

(B) Effect of determination

Any person to whom a borrower provides a letter issued by the Administrator pursuant to subparagraph (A), stating that the building or mobile home securing the loan of the borrower is not in an area having special flood hazards, shall have no obligation under this title [2] to require the purchase of flood insurance for such building or mobile home during the period determined by the Administrator, which shall be specified in the letter and shall begin on the date on which such letter is provided.

(C) Effect of failure to respond

If a request under subparagraph (A) is made in connection with the origination of a loan and the Administrator fails to provide a letter under subparagraph (A) before the later of (i) the expiration of the 45-day period under such subparagraph, or (ii) the closing of the loan, no person shall have an obligation under this title [2] to require the purchase of flood insurance for the building or mobile home securing the loan until such letter is provided.

(6) Applicability

This subsection shall apply to all loans outstanding on or after September 23, 1994.

(f) Civil monetary penalties for failure to require flood insurance or notify

(1) Civil monetary penalties against regulated lenders

Any regulated lending institution that is found to have a pattern or practice of committing violations under paragraph (2) shall be assessed a civil penalty by the appropriate Federal entity

for lending regulation in the amount provided under paragraph (5).

(2) Lender violations

The violations referred to in paragraph (1) shall include—

(A) making, increasing, extending, or renewing loans in violation of—

(i) the regulations issued pursuant to subsection (b) of this section;

(ii) the escrow requirements under subsection (d) of this section; or

(iii) the notice requirements under section 1364 of the National Flood Insurance Act of 1968 [42 U.S.C. 4104a]; or

(B) failure to provide notice or purchase flood insurance coverage in violation of subsection (e) of this section.

(3) Civil monetary penalties against GSE's

(A) In general

If the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation is found by the Director of the Federal Housing Finance Agency to have a pattern or practice of purchasing loans in violation of the procedures established pursuant to subsection (b)(3), the Director of such Office [3] shall assess a civil penalty against such enterprise in the amount provided under paragraph (5) of this subsection.

(B) "Enterprise" defined

For purposes of this subsection, the term "enterprise" means the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

(4) Notice and hearing

A penalty under this subsection may be issued only after notice and an opportunity for a hearing on the record.

(5) Amount

A civil monetary penalty under this subsection may not exceed $2,000 for each violation under paragraph (2) or paragraph (3).

(6) Lender compliance

Notwithstanding any State or local law, for purposes of this subsection, any regulated lending institution that purchases flood insurance or renews a contract for flood insurance on behalf of or as an agent of a borrower of a loan for which flood insurance is required shall be considered to have complied with the regulations issued under subsection (b).

(7) Effect of transfer on liability

Any sale or other transfer of a loan by a regulated lending institution that has committed a violation under paragraph (1), that occurs subsequent to the violation, shall not affect the liability of the transferring lender with respect to any penalty under this subsection. A lender shall not be liable for any violations relating to a loan committed by another regulated lending institution that previously held the loan.

(8) Deposit of penalties

Any penalties collected under this subsection shall be paid into the National Flood Mitigation Fund under section 1367 of the National Flood Insurance Act of 1968 [42 U.S.C. 4104d].

(9) Additional penalties

Any penalty under this subsection shall be in addition to any civil remedy or criminal penalty otherwise available.

(10) Statute of limitations

No penalty may be imposed under this subsection after the expiration of the 4-year period beginning on the date of the occurrence of the violation for which the penalty is authorized under

this subsection.

(g) Other actions to remedy pattern of noncompliance

(1) Authority of Federal entities for lending regulation

A Federal entity for lending regulation may require a regulated lending institution to take such remedial actions as are necessary to ensure that the regulated lending institution complies with the requirements of the national flood insurance program if the Federal agency for lending regulation makes a determination under paragraph (2) regarding the regulated lending institution.

(2) Determination of violations

A determination under this paragraph shall be a finding that—

(A) the regulated lending institution has engaged in a pattern and practice of noncompliance in violation of the regulations issued pursuant to subsection (b), (d), or (e) or the notice requirements under section 1364 of the National Flood Insurance Act of 1968 [42 U.S.C. 4104a]; and

(B) the regulated lending institution has not demonstrated measurable improvement in compliance despite the assessment of civil monetary penalties under subsection (f).

(h) Fee for determining location

Notwithstanding any other Federal or State law, any person who makes a loan secured by improved real estate or a mobile home or any servicer for such a loan may charge a reasonable fee for the costs of determining whether the building or mobile home securing the loan is located in an area having special flood hazards, but only in accordance with the following requirements:

(1) Borrower fee

The borrower under such a loan may be charged the fee, but only if the determination—

(A) is made pursuant to the making, increasing, extending, or renewing of the loan that is initiated by the borrower;

(B) is made pursuant to a revision or updating under section 1360(f) [4] [42 U.S.C. 4101(f)] of the floodplain areas and flood-risk zones or publication of a notice or compendia under subsection (h) or (i) of section 1360 [4] [42 U.S.C. 4101(h), (i)] that affects the area in which the improved real estate or mobile home securing the loan is located or that, in the determination of the Administrator, may reasonably be considered to require a determination under this subsection; or

(C) results in the purchase of flood insurance coverage pursuant to the requirement under subsection (e)(2).

(2) Purchaser or transferee fee

The purchaser or transferee of such a loan may be charged the fee in the case of sale or transfer of the loan.

(Pub. L. 93–234, title I, §102, Dec. 31, 1973, 87 Stat. 978; Pub. L. 98–181, title I [title IV, §451(e)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 103–325, title V, §§522–526, 531, 582(c), Sept. 23, 1994, 108 Stat. 2257–2262, 2267, 2287; Pub. L. 110–289, div. A, title I, §1161(e), July 30, 2008, 122 Stat. 2780; Pub. L. 112–141, div. F, title II, §§100208, 100209(a), 100238(a)(1), 100239(a), 100244(a), July 6, 2012, 126 Stat. 919, 920, 958, 966; Pub. L. 112–281, §1, Jan. 14, 2013, 126 Stat. 2485; Pub. L. 113–89, §§13(a), 25(a), Mar. 21, 2014, 128 Stat. 1026, 1030.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Flood Insurance Act of 1968, referred to in subsecs. (a), (b), (d)(1), and (e)(1), and the Act, referred to in subsec. (b), is title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, which is classified principally to this chapter (§4001 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

The Federal Financial Institutions Examination Council Act of 1974, referred to in subsec. (b)(1), probably means the Federal Financial Institutions Examination Council Act of 1978, Pub. L. 95–630, title X, Nov. 10, 1978, 92 Stat. 3694, which is classified principally to chapter 34 (§3301 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 3301 of Title 12 and Tables.

Section 522(a) of Public Law 103–325, referred to in subsec. (b)(4)(C), was in original "section 522(a) of such Act", which generally amended subsec. (b) of this section.

This title, referred to in subsec. (e)(5)(B), (C), means title I of Pub. L. 93–234, Dec. 31, 1973, 87 Stat. 977, which enacted this section and section 4104 of this title and amended sections 4001, 4013 to 4016, 4026, 4054, 4056, and 4121 of this title.

CODIFICATION

Section was enacted as part of the Flood Disaster Protection Act of 1973, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

AMENDMENTS

2014—Subsec. (c)(3). Pub. L. 113–89, §13(a), added par. (3).

Subsec. (d)(1)(A). Pub. L. 113–89, §25(a)(1), substituted "subparagraph (B)" for "subparagraph (C)".

Subsec. (d)(1)(B). Pub. L. 113–89, §25(a)(2), substituted "under subparagraph (A)—" for "under subparagraph (A) or (B), if—" in introductory provisions, designated existing provisions as cl. (i) and inserted "if—" after cl. (i) designation, redesignated former cls. (i) and (ii) as subcls. (I) and (II), respectively, of cl. (i), redesignated former subcls. (I) and (II) as items (aa) and (bb), respectively, of subcl. (II), and added cl. (ii).

2013—Subsec. (d)(1)(A). Pub. L. 112–281 inserted "residential" before "improved real estate" in two places.

2012—Subsec. (a). Pub. L. 112–141, §100238(a)(1), substituted "Administrator" for "Director".

Subsec. (b)(1). Pub. L. 112–141, §100239(a)(1), substituted "; and" for period at end, substituted "institutions—" for "institutions", inserted subpar. (A) designation before "not to make", and added subpar. (B).

Pub. L. 112–141, §100238(a)(1), substituted "Administrator" for "Director".

Subsec. (b)(2). Pub. L. 112–141, §100239(a)(2), substituted "paragraph (1)(A)" for "paragraph (1)" in two places and inserted "Each Federal agency lender shall accept private flood insurance as satisfaction of the flood insurance coverage requirement under the preceding sentence if the flood insurance coverage provided by such private flood insurance meets the requirements for coverage under such sentence." after first sentence.

Pub. L. 112–141, §100238(a)(1), substituted "Administrator" for "Director".

Subsec. (b)(3). Pub. L. 112–141, §100239(a)(3), substituted "paragraph (1)(A). The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation shall accept private flood insurance as satisfaction of the flood insurance coverage requirement under paragraph (1)(A) if the flood insurance coverage provided by such private flood insurance meets the requirements for coverage under such paragraph and any requirements established by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, respectively, relating to the financial solvency, strength, or claims-paying ability of private insurance companies from which the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation will accept private flood insurance." for "paragraph (1)." in concluding provisions.

Subsec. (b)(3)(A). Pub. L. 112–141, §100238(a)(1), substituted "Administrator" for "Director".

Subsec. (b)(5) to (7). Pub. L. 112–141, §100239(a)(4), added pars. (5) to (7).

Subsec. (c)(1). Pub. L. 112–141, §100238(a)(1), substituted "Administrator" for "Director" in two places.

Subsec. (d)(1). Pub. L. 112–141, §100238(a)(1), substituted "Administrator" for "Director".

Pub. L. 112–141, §100209(a), amended par. (1) generally. Prior to amendment, text read as follows: "Each Federal entity for lending regulation (after consultation and coordination with the Financial Institutions Examination Council) shall by regulation require that, if a regulated lending institution requires the escrowing of taxes, insurance premiums, fees, or any other charges for a loan secured by residential improved real estate or a mobile home, then all premiums and fees for flood insurance under the National Flood Insurance Act of 1968 for the real estate or mobile home shall be paid to the regulated lending institution or other servicer for the loan in a manner sufficient to make payments as due for the duration of the loan. Upon receipt of the premiums, the regulated lending institution or servicer of the loan shall deposit the premiums in an escrow account on behalf of the borrower. Upon receipt of a notice from the Administrator or the provider of the insurance that insurance premiums are due, the regulated lending institution or servicer shall pay from the escrow account to the provider of the insurance the amount of insurance premiums owed."

Subsec. (e)(1). Pub. L. 112–141, §100238(a)(1), substituted "Administrator" for "Director".

Subsec. (e)(2). Pub. L. 112–141, §100244(a)(1), substituted "purchasing the insurance, including premiums or fees incurred for coverage beginning on the date on which flood insurance coverage lapsed or did not provide a sufficient coverage amount" for "purchasing the insurance".

Subsec. (e)(3). Pub. L. 112–141, §100244(a)(3), added par. (3). Former par. (3) redesignated (5).

Subsec. (e)(3). Pub. L. 112–141, §100238(a)(1), substituted "Administrator" for "Director" wherever appearing.

Subsec. (e)(4) to (6). Pub. L. 112–141, §100244(a)(2), (3), added par. (4) and redesignated former pars. (3) and (4) as (5) and (6), respectively.

Subsec. (f)(5). Pub. L. 112–141, §100208, substituted "$2,000" for "$350" and struck out at end "The total amount of penalties assessed under this subsection against any single regulated lending institution or enterprise during any calendar year may not exceed $100,000."

Subsec. (h)(1)(B). Pub. L. 112–141, §100238(a)(1), substituted "Administrator" for "Director".

2008—Subsec. (f)(3)(A). Pub. L. 110–289 substituted "Director of the Federal Housing Finance Agency" for "Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development".

1994—Pub. L. 103–325, §531, substituted section catchline for former section catchline.

Subsec. (a). Pub. L. 103–325, §582(c), struck out ", during the anticipated economic or useful life of the project," before "covered by flood insurance" and inserted at end "The requirement of maintaining flood insurance shall apply during the life of the property, regardless of transfer of ownership of such property."

Subsec. (b). Pub. L. 103–325, §522(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "Each Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions shall by regulation direct such institutions not to make, increase, extend, or renew after the expiration of sixty days following December 31, 1973, any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Director as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968, unless the building or mobile home and any personal property securing such loan is covered for the term of the loan by flood insurance in an amount at least equal to the outstanding principal balance of the loan or to the maximum limit of coverage made available with respect to the particular type of property under the Act, whichever is less."

Subsec. (c). Pub. L. 103–325, §522(b), inserted heading, designated existing provisions as par. (1), inserted par. (1) heading, and added par. (2).

Subsecs. (d) to (h). Pub. L. 103–325, §§523–526, added subsecs. (d) to (h).

1983—Pub. L. 98–181 substituted "Director" for "Secretary" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–89, §25(b)(1), Mar. 21, 2014, 128 Stat. 1031, provided that:

"(1) IN GENERAL.—

"(A) REQUIRED APPLICATION.—The amendments to section 102(d)(1) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(d)(1)) made by section 100209(a) of the Biggert-Waters Flood Insurance Reform Act of 2012 (Public Law 112–141; 126 Stat. 920) and by subsection (a) of this section shall apply to any loan that is originated, refinanced, increased, extended, or renewed on or after January 1, 2016.

"(B) OPTIONAL APPLICATION.—

"(i) DEFINITIONS.—In this subparagraph—

"(I) the terms 'Federal entity for lending regulation', 'improved real estate', 'regulated lending institution', and 'servicer' have the meanings given the terms in section 3 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4003);

"(II) the term 'outstanding loan' means a loan that—

"(aa) is outstanding as of January 1, 2016;

"(bb) is not subject to the requirement to escrow premiums and fees for flood insurance under section 102(d)(1) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(d)(1)) as in effect on July 5, 2012; and

"(cc) would, if the loan had been originated, refinanced, increased, extended, or renewed on or after January 1, 2016, be subject to the requirements under section 102(d)(1)(A) of the Flood Disaster Protection Act of 1973, as amended; and

"(III) the term 'section 102(d)(1)(A) of the Flood Disaster Protection Act of 1973, as amended' means section 102(d)(1)(A) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(d)(1)(A)), as amended by—

"(aa) section 100209(a) of the Biggert-Waters Flood Insurance Reform Act of 2012 (Public Law 112–141; 126 Stat. 920); and

"(bb) subsection (a) of this section.

"(ii) OPTION TO ESCROW FLOOD INSURANCE PAYMENTS.—Each Federal entity for lending regulation (after consultation and coordination with the Federal Financial Institutions Examination Council) shall, by regulation, direct that each regulated lending institution or servicer of an outstanding loan shall offer and make available to a borrower the option to have the borrower's payment of premiums and fees for flood insurance under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), including the escrow of such payments, be treated in the same manner provided under section 102(d)(1)(A) of the Flood Disaster Protection Act of 1973, as amended."

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112–141, div. F, title II, §100209(b), July 6, 2012, 126 Stat. 920, which provided that the amendment made to this section by section 100209(a) of Pub. L. 112–141 would apply to any mortgage outstanding or entered into on or after the expiration of the 2-year period beginning on July 6, 2012, was repealed by Pub. L. 113–89, §25(b)(2), Mar. 21, 2014, 128 Stat. 1032. For effective date of amendment by section 100209(a) of Pub. L. 112–141, see Effective Date of 2014 Amendment note above.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 582(c) of Pub. L. 103–325 applicable to disasters declared after Sept. 23, 1994, see section 5154a(e) of this title.

RULE OF CONSTRUCTION

Pub. L. 113–89, §25(b)(3), Mar. 21, 2014, 128 Stat. 1032, provided that: "Nothing in this section [amending this section and enacting and repealing provisions set out as notes under this section] or the amendments made by this section shall be construed to supersede, during the period beginning on July 6, 2012 and ending on December 31, 2015, the requirements under section 102(d)(1) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(d)(1)), as in effect on July 5, 2012."

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

TREATMENT OF FLOODPROOFED RESIDENTIAL BASEMENTS

Pub. L. 113–89, §21, Mar. 21, 2014, 128 Stat. 1028, provided that: "The Administrator [of the Federal Emergency Management Agency] shall continue to extend exceptions and variances for flood-proofed basements consistent with section 60.6 of title 44, Code of Federal Regulations, which are effective April 3, 2009; and section 60.3 of such title, which are effective April 3, 2009."

[1] So in original. The word "is" probably should not appear.

[2] See References in Text note below.

[3] So in original. Probably should be "Agency".

[4] So in original. Probably should be followed by "of the National Flood Insurance Act of 1968".

§4013. Nature and limitation of insurance coverage

(a) Regulations respecting general terms and conditions of insurability

The Administrator shall from time to time, after consultation with the advisory committee authorized under section 4025 of this title, appropriate representatives of the pool formed or otherwise created under section 4051 of this title, and appropriate representatives of the insurance authorities of the respective States, provide by regulation for general terms and conditions of insurability which shall be applicable to properties eligible for flood insurance coverage under section 4012 of this title, including—

(1) the types, classes, and locations of any such properties which shall be eligible for flood insurance;

(2) the nature and limits of loss or damage in any areas (or subdivisions thereof) which may be covered by such insurance;

(3) the classification, limitation, and rejection of any risks which may be advisable;

(4) appropriate minimum premiums;

(5) appropriate loss-deductibles; and

(6) any other terms and conditions relating to insurance coverage or exclusion which may be necessary to carry out the purposes of this chapter.

(b) Regulations respecting amount of coverage

In addition to any other terms and conditions under subsection (a), such regulations shall provide that—

(1) any flood insurance coverage based on chargeable premium rates under section 4015 of this title which are less than the estimated premium rates under section 4014(a)(1) of this title shall not exceed—

(A) in the case of residential properties—

(i) $35,000 aggregate liability for any single-family dwelling, and $100,000 for any residential structure containing more than one dwelling unit,

(ii) $10,000 aggregate liability per dwelling unit for any contents related to such unit, and

(iii) in the States of Alaska and Hawaii, and in the Virgin Islands and Guam; the limits provided in clause (i) of this sentence shall be: $50,000 aggregate liability for any single-family dwelling, and $150,000 for any residential structure containing more than one dwelling unit;

(B) in the case of business properties which are owned or leased and operated by small business concerns, an aggregate liability with respect to any single structure, including any contents thereof related to premises of small business occupants (as that term is defined by the Administrator), which shall be equal to (i) $100,000 plus (ii) $100,000 multiplied by the number of such occupants and shall be allocated among such occupants (or among the occupant or occupants and the owner) under regulations prescribed by the Administrator; except that the aggregate liability for the structure itself may in no case exceed $100,000; and

(C) in the case of church properties and any other properties which may become eligible for flood insurance under section 4012 of this title—

(i) $100,000 aggregate liability for any single structure, and

(ii) $100,000 aggregate liability per unit for any contents related to such unit; and

(2) in the case of any residential building designed for the occupancy of from 1 to 4 families for which the risk premium rate is determined in accordance with the provisions of section 4014(a)(1) of this title, additional flood insurance in excess of the limits specified in clause (i) of subparagraph (A) of paragraph (1) shall be made available, with respect to any single such building, up to an aggregate liability (including such limits specified in paragraph (1)(A)(i)) of $250,000;

(3) in the case of any residential property for which the risk premium rate is determined in

accordance with the provisions of section 4014(a)(1) of this title, additional flood insurance in excess of the limits specified in clause (ii) of subparagraph (A) of paragraph (1) shall be made available to every insured upon renewal and every applicant for insurance so as to enable any such insured or applicant to receive coverage up to a total amount (including such limits specified in paragraph (1)(A)(ii)) of $100,000;

(4) in the case of any nonresidential building, including a church, for which the risk premium rate is determined in accordance with the provisions of section 4014(a)(1) of this title, additional flood insurance in excess of the limits specified in subparagraphs (B) and (C) of paragraph (1) shall be made available with respect to any single such building, up to an aggregate liability (including such limits specified in subparagraph (B) or (C) of paragraph (1), as applicable) of $500,000, and coverage shall be made available up to a total of $500,000 aggregate liability for contents owned by the building owner and $500,000 aggregate liability for each unit within the building for contents owned by the tenant; and

(5) any flood insurance coverage which may be made available in excess of the limits specified in subparagraph (A), (B), or (C) of paragraph (1), shall be based only on chargeable premium rates under section 4015 of this title, which are not less than the estimated premium rates under section 4014(a)(1) of this title, and the amount of such excess coverage shall not in any case exceed an amount equal to the applicable limit so specified (or allocated) under paragraph (1)(C), (2), (3), or (4), as applicable.

(c) Effective date of policies

(1) Waiting period

Except as provided in paragraph (2), coverage under a new contract for flood insurance coverage under this chapter entered into after September 23, 1994, and any modification to coverage under an existing flood insurance contract made after September 23, 1994, shall become effective upon the expiration of the 30-day period beginning on the date that all obligations for such coverage (including completion of the application and payment of any initial premiums owed) are satisfactorily completed.

(2) Exception

The provisions of paragraph (1) shall not apply to—

(A) the initial purchase of flood insurance coverage under this chapter when the purchase of insurance is in connection with the making, increasing, extension, or renewal of a loan;

(B) the initial purchase of flood insurance coverage pursuant to a revision or updating of floodplain areas or flood-risk zones under section 4101(f) of this title, if such purchase occurs during the 1-year period beginning upon publication of notice of the revision or updating under section 4101(h) of this title; or

(C) the initial purchase of flood insurance coverage for private property if—

(i) the Administrator determines that the property is affected by flooding on Federal land that is a result of, or is exacerbated by, post-wildfire conditions, after consultation with an authorized employee of the Federal agency that has jurisdiction of the land on which the wildfire that caused the post-wildfire conditions occurred; and

(ii) the flood insurance coverage was purchased not later than 60 days after the fire containment date, as determined by the appropriate Federal employee, relating to the wildfire that caused the post-wildfire conditions described in clause (i).

(d) Optional high-deductible policies for residential properties

(1) Availability

In the case of residential properties, the Administrator shall make flood insurance coverage available, at the option of the insured, that provides for a loss-deductible for damage to the covered property in various amounts, up to and including $10,000.

(2) Disclosure

(A) Form

The Administrator shall provide the information described in subparagraph (B) clearly and conspicuously on the application form for flood insurance coverage or on a separate form, segregated from all unrelated information and other required disclosures.

(B) Information

The information described in this subparagraph is—

(i) information sufficient to inform the applicant of the availability of the coverage option required by paragraph (1) to applicants for flood insurance coverage; and

(ii) a statement explaining the effect of a loss-deductible and that, in the event of an insured loss, the insured is responsible out-of-pocket for losses to the extent of the deductible selected.

(Pub. L. 90–448, title XIII, §1306, Aug. 1, 1968, 82 Stat. 575; Pub. L. 92–213, §2(c)(2), Dec. 22, 1971, 85 Stat. 775; Pub. L. 93–234, title I, §101, Dec. 31, 1973, 87 Stat. 977; Pub. L. 95–128, title VII, §704(a), Oct. 12, 1977, 91 Stat. 1145; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 100–242, title V, §544(a), Feb. 5, 1988, 101 Stat. 1940; Pub. L. 100–628, title X, §1086(a), Nov. 7, 1988, 102 Stat. 3278; Pub. L. 100–707, title I, §109(o), Nov. 23, 1988, 102 Stat. 4709; Pub. L. 101–137, §1(c), Nov. 3, 1989, 103 Stat. 824; Pub. L. 101–508, title II, §2302(d), Nov. 5, 1990, 104 Stat. 1388–23; Pub. L. 103–325, title V, §§552(a), 573, 579(a), Sept. 23, 1994, 108 Stat. 2269, 2278, 2284; Pub. L. 112–141, div. F, title II, §§100228, 100238(b)(1), 100241, July 6, 2012, 126 Stat. 944, 958, 962; Pub. L. 113–89, §12, Mar. 21, 2014, 128 Stat. 1025.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(6) and (c)(1), (2)(A), was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2014—Subsec. (d). Pub. L. 113–89 added subsec. (d).

2012—Subsec. (a). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director" in introductory provisions.

Subsec. (b)(1)(B). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director" in two places.

Subsec. (b)(2). Pub. L. 112–141, §100228(1), substituted "in the case of any residential building designed for the occupancy of from 1 to 4 families" for "in the case of any residential property" and "shall be made available, with respect to any single such building, up to an aggregate liability (including such limits specified in paragraph (1)(A)(i)) of $250,000" for "shall be made available to every insured upon renewal and every applicant for insurance so as to enable such insured or applicant to receive coverage up to a total amount (including such limits specified in paragraph (1)(A)(i)) of $250,000".

Subsec. (b)(4). Pub. L. 112–141, §100228(2), substituted "in the case of any nonresidential building, including a church," for "in the case of any nonresidential property, including churches," and "shall be made available with respect to any single such building, up to an aggregate liability (including such limits specified in subparagraph (B) or (C) of paragraph (1), as applicable) of $500,000, and coverage shall be made available up to a total of $500,000 aggregate liability for contents owned by the building owner and $500,000 aggregate liability for each unit within the building for contents owned by the tenant" for "shall be made available to every insured upon renewal and every applicant for insurance, in respect to any single structure, up to a total amount (including such limit specified in subparagraph (B) or (C) of paragraph (1), as applicable) of $500,000 for each structure and $500,000 for any contents related to each structure".

Subsec. (c)(2)(C). Pub. L. 112–141, §100241, added subpar. (C).

1994—Subsec. (b)(2). Pub. L. 103–325, §573(a)(1), substituted "a total amount (including such limits specified in paragraph (1)(A)(i)) of $250,000" for "an amount of $150,000 under the provisions of this clause".

Subsec. (b)(3). Pub. L. 103–325, §573(a)(2), substituted "a total amount (including such limits specified in paragraph (1)(A)(ii)) of $100,000" for "an amount of $50,000 under the provisions of this clause".

Subsec. (b)(4). Pub. L. 103–325, §573(a)(3), added par. (4) and struck out former par. (4) which read as follows: "in the case of business property owned, leased, or operated by small business concerns for which the risk premium rate is determined in accordance with the provisions of section 4014(a)(1) of this title, additional flood insurance in excess of the limits specified in subparagraph (B) of paragraph (1) shall be made available to every such owner, lessee, or operator in respect to any single structure, including any contents thereof, related to premises of small business occupants (as that term is defined by the Director), up to an amount equal to (i) $250,000 plus (ii) $200,000 multiplied by the number of such occupants which coverage shall be allocated among such occupants (or among the occupant or occupants and the owner) in accordance with the regulations prescribed by the Director pursuant to such subparagraph (B), except that the aggregate liability for the structure itself may in no case exceed $250,000;".

Subsec. (b)(5). Pub. L. 103–325, §573(b)(1), substituted a period for "; and" at end.

Subsec. (b)(6). Pub. L. 103–325, §573(b)(2), struck out par. (6) which read as follows: "the flood insurance purchase requirements of section 4012a of this title do not apply to the additional flood insurance limits made available in excess of twice the limits made available under paragraph (1)."

Subsec. (c). Pub. L. 103–325, §579(a), added subsec. (c).

Pub. L. 103–325, §552(a), struck out subsec. (c) which related to schedule for payment of flood insurance for structures on land subject to imminent collapse or subsidence.

1990—Subsec. (c)(7). Pub. L. 101–508 substituted "September 30, 1995" for "September 30, 1991".

1989—Subsec. (c)(7). Pub. L. 101–137 substituted "September 30, 1991" for "September 30, 1989".

1988—Subsec. (c). Pub. L. 100–242 added subsec. (c).

Subsec. (c)(1)(A). Pub. L. 100–628 substituted "following" for "Following" in cls. (i) and (ii).

Subsec. (c)(5). Pub. L. 100–707 substituted "Disaster Relief and Emergency Assistance Act" for "Disaster Relief Act of 1974".

1983—Subsecs. (a), (b)(1)(B), (4). Pub. L. 98–181 substituted "Director" for "Secretary" wherever appearing.

1977—Subsec. (b)(2). Pub. L. 95–128 added par. (2) and redesignated former par. (2) as (5).

Subsec. (b)(3), (4). Pub. L. 95–128 added pars. (3) and (4).

Subsec. (b)(5). Pub. L. 95–128 redesignated former par. (2) as (5), struck out "(or allocated to any person under subparagraph (B) of such paragraph)" after "paragraph (1)", and inserted "under paragraph (1)(C), (2), (3), or (4), as applicable" after "(or allocated)".

Subsec. (b)(6). Pub. L. 95–128 added par. (6).

1973—Subsec. (b)(1)(A). Pub. L. 93–234, §101(a), in increasing limits of coverage, struck out following introductory text "residential properties" the clause "which are designed for the occupancy of from one to four families"; substituted provisions in cl. (i) "$35,000 aggregate liability for any single-family dwelling, and $100,000 for any residential structure containing more than one dwelling unit" for "$17,500 aggregate liability for any dwelling unit, and $30,000 for any single dwelling structure containing more than one dwelling unit"; increased cl. (ii) limits to $10,000 from $5,000 and added cl. (iii).

Subsec. (b)(1)(B). Pub. L. 93–234, §101(b), substituted "$100,000" for "$30,000" in cl. (i), for "$5,000" in cl. (ii), and for "$30,000" in exception provision.

Subsec. (b)(1)(C). Pub. L. 93–234, §101(c), increased cl. (i) limits to $100,000 from $30,000 and substituted cl. (ii) "$100,000 aggregate liability per unit for any contents related to such unit" for "$5,000 aggregate liability per dwelling unit for any contents related to such unit in the case of residential properties, or per occupant (as that term is defined by the Secretary) for any contents related to the premises occupied in the case of any other properties".

1971—Subsec. (b)(1)(C). Pub. L. 92–213 inserted "church properties, and" before "any other properties which may become".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–242, title V, §544(b), Feb. 5, 1988, 101 Stat. 1942, provided that: "The amendment made by this section [amending this section] shall become effective on the date of the enactment of this Act [Feb. 5, 1988]."

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

SAVINGS PROVISION

Pub. L. 103–325, title V, §552(c), Sept. 23, 1994, 108 Stat. 2269, required the Director of the Federal Emergency Management Agency to make payments under flood insurance contracts based on commitments made before the expiration of the 1-year period beginning on Sept. 23, 1994, pursuant to the authority under subsec. (c) of this section or section 552(b) of Pub. L. 103–325, formerly set out below.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

TRANSITION PHASE

Pub. L. 103–325, title V, §552(b), Sept. 23, 1994, 108 Stat. 2269, permitted the Director of the Federal Emergency Management Agency to pay amounts under flood insurance contracts for demolition or relocation of structures as provided in subsec. (c) of this section (as in effect immediately before the enactment of Pub. L. 103–325), during the 1-year period beginning on Sept. 23, 1994.

§4013a. Policy disclosures

(a) In general

Notwithstanding any other provision of law, in addition to any other disclosures that may be required, each policy under the National Flood Insurance Program shall state all conditions, exclusions, and other limitations pertaining to coverage under the subject policy, regardless of the underlying insurance product, in plain English, in boldface type, and in a font size that is twice the size of the text of the body of the policy.

(b) Violations

The Administrator may impose a civil penalty of not more than $50,000 on any person that fails to comply with subsection (a).

(Pub. L. 112–141, div. F, title II, §100234, July 6, 2012, 126 Stat. 956.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Biggert-Waters Flood Insurance Reform Act of 2012, and also as part of the Moving Ahead for Progress in the 21st Century Act, also known as the MAP–21, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 4004 of this title.

§4014. Estimates of premium rates

(a) Studies and investigations

The Administrator is authorized to undertake and carry out such studies and investigations and

receive or exchange such information as may be necessary to estimate, and shall from time to time estimate, on an area, subdivision, or other appropriate basis—

(1) the risk premium rates for flood insurance which—

(A) based on consideration of—

(i) the risk involved and accepted actuarial principles; and

(ii) the flood mitigation activities that an owner or lessee has undertaken on a property, including differences in the risk involved due to land use measures, floodproofing, flood forecasting, and similar measures, and

(B) including—

(i) the applicable operating costs and allowances set forth in the schedules prescribed under section 4018 of this title and reflected in such rates,

(ii) any administrative expenses (or portion of such expenses) of carrying out the flood insurance program which, in his discretion, should properly be reflected in such rates,

(iii) any remaining administrative expenses incurred in carrying out the flood insurance and floodplain management programs (including the costs of mapping activities under section 4101 of this title) not included under clause (ii), which shall be recovered by a fee charged to policyholders and such fee shall not be subject to any agents' commissions, company expense allowances, or State or local premium taxes, and

(iv) all costs, as prescribed by principles and standards of practice in ratemaking adopted by the American Academy of Actuaries and the Casualty Actuarial Society, including—

(I) an estimate of the expected value of future costs,

(II) all costs associated with the transfer of risk, and

(III) the costs associated with an individual risk transfer with respect to risk classes, as defined by the Administrator,

would be required in order to make such insurance available on an actuarial basis for any types and classes of properties for which insurance coverage is available under section 4012(a) of this title (or is recommended to the Congress under section 4012(b) of this title);

(2) the rates, if less than the rates estimated under paragraph (1), which would be reasonable, would encourage prospective insureds to purchase flood insurance, and would be consistent with the purposes of this chapter, and which, together with a fee charged to policyholders that shall not be not subject to any agents' commission, company expenses allowances, or State or local premium taxes, shall include any administrative expenses incurred in carrying out the flood insurance and floodplain management programs (including the costs of mapping activities under section 4101 of this title), except that the Administrator shall not estimate rates under this paragraph for—

(A) any residential property which is not the primary residence of an individual;

(B) any severe repetitive loss property;

(C) any property that has incurred flood-related damage in which the cumulative amounts of payments under this chapter equaled or exceeded the fair market value of such property;

(D) any business property; or

(E) any property which on or after July 6, 2012, has experienced or sustained—

(i) substantial damage exceeding 50 percent of the fair market value of such property; or

(ii) substantial improvement exceeding 50 percent of the fair market value of such property; and

(3) the extent, if any, to which federally assisted or other flood protection measures initiated after August 1, 1968, affect such rates.

(b) Utilization of services of other Departments and agencies

In carrying out subsection (a), the Administrator shall, to the maximum extent feasible and on a reimbursement basis, utilize the services of the Department of the Army, the Department of the Interior, the Department of Agriculture, the Department of Commerce, and the Tennessee Valley

Authority, and, as appropriate, other Federal departments or agencies, and for such purposes may enter into agreements or other appropriate arrangements with any persons.

(c) Priority to studies and investigations in States or areas evidencing positive interest in securing insurance under program

The Administrator shall give priority to conducting studies and investigations and making estimates under this section in those States or areas (or subdivisions thereof) which he has determined have evidenced a positive interest in securing flood insurance coverage under the flood insurance program.

(d) Parishes of Louisiana; premium rates

Notwithstanding any other provision of law, any structure existing on December 31, 1973, and located within Avoyelles, Evangeline, Rapides, or Saint Landry Parish in the State of Louisiana, which the Secretary determines is subject to additional flood hazards as a result of the construction or operation of the Atchafalaya Basin Levee System, shall be eligible for flood insurance under this chapter (if and to the extent it is eligible for such insurance under the other provisions of this chapter) at premium rates that shall not exceed those which would be applicable if such additional hazards did not exist.

(e) Eligibility of community making adequate progress on construction of flood protection system for rates not exceeding those applicable to completed flood protection system; determination of adequate progress

Notwithstanding any other provision of law, any community that has made adequate progress, acceptable to the Administrator, on the construction or reconstruction of a flood protection system which will afford flood protection for the one-hundred year frequency flood as determined by the Administrator, shall be eligible for flood insurance under this chapter (if and to the extent it is eligible for such insurance under the other provisions of this chapter) at premium rates not exceeding those which would be applicable under this section if such flood protection system had been completed. The Administrator shall find that adequate progress on the construction or reconstruction of a flood protection system, based on the present value of the completed flood protection system, has been made only if: (1) 100 percent of the cost of the system has been authorized; (2) at least 60 percent of the cost of the system has been appropriated; (3) at least 50 percent of the cost of the system has been expended; and (4) the system is at least 50 percent completed. Notwithstanding any other provision of law, in determining whether a community has made adequate progress on the construction, reconstruction, or improvement of a flood protection system, the Administrator shall consider all sources of funding, including Federal, State, and local funds.

(f) Availability of flood insurance in communities restoring disaccredited flood protection systems; criteria; rates

Notwithstanding any other provision of law, this subsection shall apply to riverine and coastal levees that are located in a community which has been determined by the Administrator of the Federal Emergency Management Agency to be in the process of restoring flood protection afforded by a flood protection system that had been previously accredited on a Flood Insurance Rate Map as providing 100-year frequency flood protection but no longer does so, and shall apply without regard to the level of Federal funding of or participation in the construction, reconstruction, or improvement of the flood protection system. Except as provided in this subsection, in such a community, flood insurance shall be made available to those properties impacted by the disaccreditation of the flood protection system at premium rates that do not exceed those which would be applicable to any property located in an area of special flood hazard, the construction of which was started prior to the effective date of the initial Flood Insurance Rate Map published by the Administrator for the community in which such property is located. A revised Flood Insurance Rate Map shall be prepared for the community to delineate as Zone AR the areas of special flood hazard that result from the disaccreditation of the flood protection system. A community will be considered to be in the process of restoration if—

(1) the flood protection system has been deemed restorable by a Federal agency in consultation

with the local project sponsor;

(2) a minimum level of flood protection is still provided to the community by the disaccredited system; and

(3) restoration of the flood protection system is scheduled to occur within a designated time period and in accordance with a progress plan negotiated between the community and the Federal Emergency Management Agency.

Communities that the Administrator of the Federal Emergency Management Agency determines to meet the criteria set forth in paragraphs (1) and (2) as of January 1, 1992, shall not be subject to revised Flood Insurance Rate Maps that contravene the intent of this subsection. Such communities shall remain eligible for C zone rates for properties located in zone AR for any policy written prior to promulgation of final regulations for this section. Floodplain management criteria for such communities shall not require the elevation of improvements to existing structures and shall not exceed 3 feet above existing grade for new construction, provided the base flood elevation based on the disaccredited flood control system does not exceed five feet above existing grade, or the remaining new construction in such communities is limited to infill sites, rehabilitation of existing structures, or redevelopment of previously developed areas.

The Administrator of the Federal Emergency Management Agency shall develop and promulgate regulations to implement this subsection, including minimum floodplain management criteria, within 24 months after October 28, 1992.

(g) No extension of subsidy to new policies or lapsed policies

The Administrator shall not provide flood insurance to prospective insureds at rates less than those estimated under subsection (a)(1), as required by paragraph (2) of that subsection, for—

(1) any policy under the flood insurance program that has lapsed in coverage,,[1] unless the decision of the policy holder to permit a lapse in flood insurance coverage was as a result of the property covered by the policy no longer being required to retain such coverage; or

(2) any prospective insured who refuses to accept any offer for mitigation assistance by the Administrator (including an offer to relocate), including an offer of mitigation assistance—

(A) following a major disaster, as defined in section 5122 of this title; or

(B) in connection with—

(i) a repetitive loss property; or

(ii) a severe repetitive loss property.

(h) Definition

In this section, the term "severe repetitive loss property" has the following meaning:

(1) Single-family properties

In the case of a property consisting of 1 to 4 residences, such term means a property that—

(A) is covered under a contract for flood insurance made available under this chapter; and

(B) has incurred flood-related damage—

(i) for which 4 or more separate claims payments have been made under flood insurance coverage under this subchapter, with the amount of each such claim exceeding $5,000, and with the cumulative amount of such claims payments exceeding $20,000; or

(ii) for which at least 2 separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the value of the property.

(2) Multifamily properties

In the case of a property consisting of 5 or more residences, such term shall have such meaning as the Director [2] shall by regulation provide.

(Pub. L. 90–448, title XIII, §1307, Aug. 1, 1968, 82 Stat. 576; Pub. L. 93–234, title I, §109, Dec. 31, 1973, 87 Stat. 980; Pub. L. 93–383, title VIII, §816(b), Aug. 22, 1974, 88 Stat. 739; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 101–508, title II, §2302(e)(1),

Nov. 5, 1990, 104 Stat. 1388–24; Pub. L. 102–550, title IX, §928, Oct. 28, 1992, 106 Stat. 3886; Pub. L. 112–123, §2(a), May 31, 2012, 126 Stat. 365; Pub. L. 112–141, div. F, title II, §§100205(a)(1), (b), 100238(b)(1), July 6, 2012, 126 Stat. 917, 918, 958; Pub. L. 113–89, §§3(a)(1), 14, 15, 19, Mar. 21, 2014, 128 Stat. 1021, 1026, 1027.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(2), (d), (e), and (h)(1)(A), was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2014—Subsec. (a)(1)(A). Pub. L. 113–89, §14, amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "based on consideration of the risk involved and accepted actuarial principles, and".

Subsec. (a)(2)(E)(ii). Pub. L. 113–89, §15, substituted "50 percent" for "30 percent".

Subsec. (e). Pub. L. 113–89, §19(a)(3), inserted before period at end "Notwithstanding any other provision of law, in determining whether a community has made adequate progress on the construction, reconstruction, or improvement of a flood protection system, the Administrator shall consider all sources of funding, including Federal, State, and local funds."

Pub. L. 113–89, §19(a)(1), (2), inserted "or reconstruction" after "construction" in first sentence and amended second sentence generally. Prior to amendment, second sentence read as follows: "The Administrator shall find that adequate progress on the construction of a flood protection system as required herein has been only if (1) 100 percent of the project cost of the system has been authorized, (2) at least 60 percent of the project cost of the system has been appropriated, (3) at least 50 percent of the project cost of the system has been expended, and (4) the system is at least 50 percent completed."

Subsec. (f). Pub. L. 113–89, §19(b), amended first sentence generally. Prior to amendment, first sentence read as follows: "Notwithstanding any other provision of law, this subsection shall only apply in a community which has been determined by the Administrator of the Federal Emergency Management Agency to be in the process of restoring flood protection afforded by a flood protection system that had been previously accredited on a Flood Insurance Rate Map as providing 100-year frequency flood protection but no longer does so."

Subsec. (g). Pub. L. 113–89, §3(a)(1), redesignated pars. (3) and (4) as (1) and (2), respectively, substituted ", unless the decision of the policy holder to permit a lapse in flood insurance coverage was as a result of the property covered by the policy no longer being required to retain such coverage" for "as a result of the deliberate choice of the holder of such policy" in par. (1) as redesignated, and struck out former pars. (1) and (2), which read as follows:

"(1) any property not insured by the flood insurance program as of July 6, 2012;

"(2) any property purchased after July 6, 2012;".

2012—Subsec. (a). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director" in introductory provisions.

Subsec. (a)(1)(B)(iv). Pub. L. 112–141, §100205(b), added cl. (iv).

Subsec. (a)(2). Pub. L. 112–141, §100205(a)(1)(A), substituted "for—" for "for any residential property which is not the primary residence of an individual; and" and added subpars. (A) to (E).

Pub. L. 112–123 inserted ", except that the Administrator shall not estimate rates under this paragraph for any residential property which is not the primary residence of an individual" before "; and".

Subsecs. (b), (c), (e), (f). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director" wherever appearing.

Subsecs. (g), (h). Pub. L. 112–141, §100205(a)(1)(B), added subsecs. (g) and (h).

1992—Subsec. (f). Pub. L. 102–550 added subsec. (f).

1990—Subsec. (a)(1)(B)(iii). Pub. L. 101–508, §2302(e)(1)(A)–(C), added cl. (iii).

Subsec. (a)(2). Pub. L. 101–508, §2302(e)(1)(D), inserted before semicolon ", and which, together with a fee charged to policyholders that shall not be not subject to any agents' commission, company expenses allowances, or State or local premium taxes, shall include any administrative expenses incurred in carrying out the flood insurance and floodplain management programs (including the costs of mapping activities under section 4101 of this title)".

1983—Subsecs. (a) to (c), (e). Pub. L. 98–181 substituted "Director" for "Secretary" wherever appearing.
1974—Subsec. (e). Pub. L. 93–383 added subsec. (e).
1973—Subsec. (d). Pub. L. 93–234 added subsec. (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112–141, div. F, title II, §100205(a)(2), July 6, 2012, 126 Stat. 918, provided that: "The amendments made by paragraph (1) [amending this section] shall become effective 90 days after the date of enactment of this Act [July 6, 2012]."

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

REPEAL OF CERTAIN RATE INCREASES

Pub. L. 113–89, §3, Mar. 21, 2014, 128 Stat. 1021, provided that:

"(a) REPEAL.—

"(1) IN GENERAL.—[Amended this section.]

"(2) EFFECTIVE DATE.—The Administrator [of the Federal Emergency Management Agency] shall make available such rate tables, as necessary to implement the amendments made by paragraph (1) as if it were enacted as part of the Biggert-Waters Flood Insurance Reform Act of 2012 ([subtitle A of title II of div. F of] Public Law 112–141; 126 Stat. 957 [sic]).

"(3) IMPLEMENTATION, COORDINATION, AND GUIDANCE.—

"(A) FACILITATION OF TIMELY REFUNDS.—To ensure the participation of Write Your Own companies (as such term is defined in section 100202(a) of the Biggert-Waters Flood Insurance Reform Act of 2012 (42 U.S.C. 4004(a)), the Administrator and the Federal Emergency Management Agency shall consult with Write Your Own companies throughout the development of guidance and rate tables necessary to implement the provisions of and the amendments made by this Act [see Short Title of 2014 Amendment note set out under section 4001 of this title].

"(B) IMPLEMENTATION AND GUIDANCE.—The Administrator shall issue final guidance and rate tables necessary to implement the provisions of and the amendments made by this Act not later than eight months following the date of the enactment of this Act [Mar. 21, 2014]. Write Your Own companies, in coordination with the Federal Emergency Management Agency, shall have not less than six months but not more than eight months following the issuance of such final guidance and rate tables to implement the changes required by such final guidance and rate tables.

"(4) REFUND OF EXCESS PREMIUM CHARGES COLLECTED.—The Administrator shall refund directly to insureds any premiums for flood insurance coverage under the National Flood Insurance Program [defined as the program established under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.)] collected in excess of the rates required under the provisions of and amendments made by this section [amending this section]. To allow for necessary and appropriate implementation of such provisions and amendments, any premium changes necessary to implement such provisions and amendments, including any such premium refund due to policy holders, which shall be paid directly by the National Flood Insurance Program, shall not be charged or paid to policyholders by the National Flood Insurance Program until after the Administrator issues guidance and makes available such rate tables to implement the provisions of and amendments made by this Act.

"(b) ASSUMPTION OF POLICIES AT EXISTING PREMIUM RATES.—The Administrator shall provide that the purchaser of a property that, as of the date of such purchase, is covered under an existing flood insurance policy under this title [probably means the National Flood Insurance Act of 1968, 42 U.S.C. 4001 et seq.] may assume such existing policy and coverage for the remainder of the term of the policy at the chargeable premium rates under such existing policy. Such rates shall continue with respect to such property until the implementation of subsection (a)."

CHANGES IN RATES RESULTING FROM PUB. L. 113–89

Pub. L. 113–89, §31(a), Mar. 21, 2014, 128 Stat. 1035, provided that: "Not later than the date that is 6 months before the date on which any change in risk premium rates for flood insurance coverage under the National Flood Insurance Program [defined as the program established under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.)] resulting from this Act [see Short Title of 2014 Amendment note set out under section 4001 of this title] or any amendment made by this Act is implemented, the Administrator [of the Federal Emergency Management Agency] shall make publicly available the rate tables and underwriting guidelines that provide the basis for the change."

ELIGIBILITY FOR FLOOD INSURANCE FOR PERSONS RESIDING IN COMMUNITIES THAT HAVE MADE ADEQUATE PROGRESS ON THE RECONSTRUCTION OR IMPROVEMENT OF A FLOOD PROTECTION SYSTEM

Pub. L. 112–141, div. F, title II, §100230, July 6, 2012, 126 Stat. 946, provided that:

"(a) ELIGIBILITY FOR FLOOD INSURANCE COVERAGE.—

"(1) IN GENERAL.—Notwithstanding any other provision of law (including section 1307(e) of the National Flood Insurance Act of 1968 (42 U.S.C. 4014(e))), a person residing in a community that the Administrator determines has made adequate progress on the reconstruction or improvement of a flood protection system that will afford flood protection for a 100-year floodplain (without regard to the level of Federal funding of or participation in the construction, reconstruction, or improvement), shall be eligible for flood insurance coverage under the National Flood Insurance Program—

"(A) if the person resides in a community that is a participant in the National Flood Insurance Program; and

"(B) at a risk premium rate that does not exceed the risk premium rate that would be chargeable if the flood protection system had been completed.

"(2) ADEQUATE PROGRESS.—

"(A) RECONSTRUCTION OR IMPROVEMENT.—For purposes of paragraph (1), the Administrator shall determine that a community has made adequate progress on the reconstruction or improvement of a flood protection system if—

"(i) 100 percent of the project cost has been authorized;

"(ii) not less than 60 percent of the project cost has been secured or appropriated;

"(iii) not less than 50 percent of the flood protection system has been assessed as being without deficiencies; and

"(iv) the reconstruction or improvement has a project schedule that does not exceed 5 years, beginning on the date on which the reconstruction or construction of the improvement commences.

"(B) CONSIDERATIONS.—In determining whether a flood protection system has been assessed as being without deficiencies, the Administrator shall consider the requirements under section 65.10 of chapter 44, Code of Federal Regulations, or any successor thereto.

"(C) DATE OF COMMENCEMENT.—For purposes of subparagraph (A)(iv) of this paragraph and subsection (b)(2)(B), the date of commencement of the reconstruction or improvement of a flood protection system that is undergoing reconstruction or improvement on the date of enactment of this Act [July 6, 2012] shall be deemed to be the date on which the owner of the flood protection system submits a request under paragraph (3).

"(3) REQUEST FOR DETERMINATION.—The owner of a flood protection system that is undergoing reconstruction or improvement on the date of enactment of this Act [July 6, 2012] may submit to the Administrator a request for a determination under paragraph (2) that the community in which the flood protection system is located has made adequate progress on the reconstruction or improvement of the flood protection system.

"(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit the Administrator from making a determination under paragraph (2) for any community in which a flood protection system is not undergoing reconstruction or improvement on the date of enactment of this Act.

"(b) TERMINATION OF ELIGIBILITY.—

"(1) ADEQUATE CONTINUING PROGRESS.—The Administrator shall issue rules to establish a method of determining whether a community has made adequate continuing progress on the reconstruction or improvement of a flood protection system that includes—

"(A) a requirement that the Administrator shall—

"(i) consult with the owner of the flood protection system—

"(I) 6 months after the date of a determination under subsection (a);

"(II) 18 months after the date of a determination under subsection (a); and

"(III) 36 months after the date of a determination under subsection (a); and

"(ii) after each consultation under clause (i), determine whether the reconstruction or improvement is reasonably likely to be completed in accordance with the project schedule described in subsection (a)(2)(A)(iv); and

"(B) a requirement that, if the Administrator makes a determination under subparagraph (A)(ii) that reconstruction or improvement is not reasonably likely to be completed in accordance with the project schedule, the Administrator shall—

"(i) not later than 30 days after the date of the determination, notify the owner of the flood protection system of the determination and provide the rationale and evidence for the determination; and

"(ii) provide the owner of the flood protection system the opportunity to appeal the determination.

"(2) TERMINATION.—The Administrator shall terminate the eligibility for flood insurance coverage under subsection (a) for persons residing in a community with respect to which the Administrator made a determination under subsection (a) if—

"(A) the Administrator determines that the community has not made adequate continuing progress; or

"(B) on the date that is 5 years after the date on which the reconstruction or construction of the improvement commences, the project has not been completed.

"(3) WAIVER.—A person whose eligibility would otherwise be terminated under paragraph (2)(B) shall continue to be eligible to purchase flood insurance coverage described in subsection (a) if the Administrator determines—

"(A) the community has made adequate continuing progress on the reconstruction or improvement of a flood protection system; and

"(B) there is a reasonable expectation that the reconstruction or improvement of the flood protection system will be completed not later than 1 year after the date of the determination under this paragraph.

"(4) RISK PREMIUM RATE.—If the Administrator terminates the eligibility of persons residing in a community to purchase flood insurance coverage described in subsection (a), the Administrator shall establish an appropriate risk premium rate for flood insurance coverage under the National Flood Insurance Program for persons residing in the community that purchased flood insurance coverage before the date on which the termination of eligibility takes effect, taking into consideration the then-current state of the flood protection system.

"(c) ADDITIONAL AUTHORITY.—

"(1) ADDITIONAL AUTHORITY.—Notwithstanding subsection (a), in exceptional and exigent circumstances, the Administrator may, in the Administrator's sole discretion, determine that a person residing in a community, which is a participant in the National Flood Insurance Program, that has begun reconstruction or improvement of a flood protection system that will afford flood protection for a 100-year floodplain (without regard to the level of Federal funding of or participation in the reconstruction or improvement) shall be eligible for flood insurance coverage under the National Flood Insurance Program at a risk premium rate that does not exceed the risk premium rate that would be chargeable if the flood protection system had been completed, provided—

"(A) the community makes a written request for the determination setting forth the exceptional and exigent circumstances, including why the community cannot meet the criteria for adequate progress set forth in under [sic] subsection (a)(2)(A) and why immediate relief is necessary;

"(B) the Administrator submits a written report setting forth findings of the exceptional and exigent circumstances on which the Administrator based an affirmative determination to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives not later than 15 days before making the determination; and

"(C) the eligibility for flood insurance coverage at a risk premium rate determined under this subsection terminates no later than 1 year after the date on which the Administrator makes the

determination.

"(2) LIMITATION.—Upon termination of eligibility under paragraph (1)(C), a community may submit another request pursuant to paragraph (1)(A). The Administrator may make no more than two determinations under paragraph (1) with respect to persons residing within any single requesting community.

"(3) TERMINATION.—The authority provided under paragraphs (1) and (2) shall terminate two years after the enactment of this Act [July 6, 2012]."

[For definitions of terms used in section 100230 of Pub. L. 112–141, set out above, see section 4004 of this title.]

FEES

Pub. L. 108–7, div. K, title III, Feb. 20, 2003, 117 Stat. 517, provided in part: "That beginning in fiscal year 2003 and thereafter, fees authorized in 42 U.S.C. 4014(a)(1)(B)(iii) shall be collected only if provided in advance in appropriations acts."

STUDY OF ECONOMIC EFFECTS OF CHARGING ACTUARIALLY BASED PREMIUM RATES FOR PRE-FIRM STRUCTURES

Pub. L. 103–325, title V, §578, Sept. 23, 1994, 108 Stat. 2284, required the Director of the Federal Emergency Management Agency to conduct a study of the economic effects that would result from increasing premium rates for flood insurance coverage for pre-FIRM structures and submit a report to Congress no later than 12 months after Sept. 23, 1994.

SEA LEVEL RISE STUDY

Pub. L. 101–137, §5, Nov. 3, 1989, 103 Stat. 825, directed Director of Federal Emergency Management Agency to conduct a study to determine the impact of relative sea level rise on the flood insurance rate maps, such study also to project the economic losses associated with estimated sea level rise and aggregate such data for the United States as a whole and by region, with Director to report results of study to Congress not later than one year after Nov. 3, 1989.

[1] *So in original.*

[2] *So in original. Probably means "Administrator".*

§4015. Chargeable premium rates

(a) Establishment; terms and conditions

On the basis of estimates made under section 4014 of this title, and such other information as may be necessary, the Administrator shall from time to time prescribe, after providing notice—

(1) chargeable premium rates for any types and classes of properties for which insurance coverage shall be available under section 4012 of this title (at less than the estimated risk premium rates under section 4014(a)(1) of this title, where necessary), and

(2) the terms and conditions under which, and the areas (including subdivisions thereof) within which, such rates shall apply.

(b) Considerations for rates

Such rates shall, insofar as practicable, be—

(1) based on a consideration of the respective risks involved, including differences in risks due to land use measures, flood-proofing, flood forecasting, and similar measures;

(2) adequate, on the basis of accepted actuarial principles, to provide reserves for anticipated losses, or, if less than such amount, consistent with the objective of making flood insurance available where necessary at reasonable rates so as to encourage prospective insureds to purchase such insurance and with the purposes of this chapter;

(3) adequate, together with the fee under paragraph (1)(B)(iii) or (2) of section 4014(a) of this title, to provide for any administrative expenses of the flood insurance and floodplain management programs (including the costs of mapping activities under section 4101 of this title);

(4) stated so as to reflect the basis for such rates, including the differences (if any) between the estimated risk premium rates under section 4014(a)(1) of this title and the estimated rates under section 4014(a)(2) of this title; and

(5) adequate, on the basis of accepted actuarial principles, to cover the average historical loss year obligations incurred by the National Flood Insurance Fund.

(c) Actuarial rate properties

Subject only to the limitations provided under paragraphs (1) and (2), the chargeable rate shall not be less than the applicable estimated risk premium rate for such area (or subdivision thereof) under section 4014(a)(1) of this title with respect to the following properties:

(1) Post-firm properties

Any property the construction or substantial improvement of which the Administrator determines has been started after December 31, 1974, or started after the effective date of the initial rate map published by the Administrator under paragraph (2) of section 4101 of this title for the area in which such property is located, whichever is later, except that the chargeable rate for properties under this paragraph shall be subject to the limitation under subsection (e).

(2) Certain leased coastal and river properties

Any property leased from the Federal Government (including residential and nonresidential properties) that the Administrator determines is located on the river-facing side of any dike, levee, or other riverine flood control structure, or seaward of any seawall or other coastal flood control structure.

(d) Payment of certain sums to Administrator; deposits in Fund

With respect to any chargeable premium rate prescribed under this section, a sum equal to the portion of the rate that covers any administrative expenses of carrying out the flood insurance and floodplain management programs which have been estimated under paragraphs (1)(B)(ii) and (1)(B)(iii) of section 4014(a) of this title or paragraph (2) of such section (including the fees under such paragraphs), shall be paid to the Administrator. The Administrator shall deposit the sum in the National Flood Insurance Fund established under section 4017 of this title.

(e) Annual limitation on premium increases

Except with respect to properties described under paragraph (2) of subsection (c), and notwithstanding any other provision of this chapter—

(1) the chargeable risk premium rate for flood insurance under this chapter for any property may not be increased by more than 18 percent each year, except—

(A) as provided in paragraph (4);

(B) in the case of property identified under section 4014(g) of this title; or

(C) in the case of a property that—

(i) is located in a community that has experienced a rating downgrade under the community rating system program carried out under section 4022(b) of this title;

(ii) is covered by a policy with respect to which the policyholder has—

(I) decreased the amount of the deductible; or

(II) increased the amount of coverage; or

(iii) was misrated;

(2) the chargeable risk premium rates for flood insurance under this chapter for any properties initially rated under section 4014(a)(2) of this title within any single risk classification, excluding properties for which the chargeable risk premium rate is not less than the applicable estimated risk premium rate under section 4014(a)(1) of this title, shall be increased by an amount that results in an average of such rate increases for properties within the risk classification during any 12-month period of not less than 5 percent of the average of the risk premium rates for such properties within the risk classification upon the commencement of such 12-month period;

(3) the chargeable risk premium rates for flood insurance under this chapter for any properties within any single risk classification may not be increased by an amount that would result in the average of such rate increases for properties within the risk classification during any 12-month period exceeding 15 percent of the average of the risk premium rates for properties within the risk classification upon the commencement of such 12-month period; and

(4) the chargeable risk premium rates for flood insurance under this chapter for any properties described in subparagraphs (A) through (E) of section 4014(a)(2) of this title shall be increased by 25 percent each year, until the average risk premium rate for such properties is equal to the average of the risk premium rates for properties described under paragraph (3).

(f) Adjustment of premium

Notwithstanding any other provision of law, if the Administrator determines that the holder of a flood insurance policy issued under this chapter is paying a lower premium than is required under this section due to an error in the flood plain determination, the Administrator may only prospectively charge the higher premium rate.

(g) Frequency of premium collection

With respect to any chargeable premium rate prescribed under this section, the Administrator shall provide policyholders that are not required to escrow their premiums and fees for flood insurance as set forth under section 4012a of this title with the option of paying their premiums annually or monthly.

(h) Rule of construction

For purposes of this section, the calculation of an "average historical loss year"—

(1) includes catastrophic loss years; and

(2) shall be computed in accordance with generally accepted actuarial principles.

(i) Rates for properties newly mapped into areas with special flood hazards

Notwithstanding subsection (f), the premium rate for flood insurance under this chapter that is purchased on or after March 21, 2014—

(1) on a property located in an area not previously designated as having special flood hazards and that, pursuant to any issuance, revision, updating, or other change in a flood insurance map, becomes designated as such an area; and

(2) where such flood insurance premium rate is calculated under subsection (a)(1) of section 4014 of this title,

shall for the first policy year be the preferred risk premium for the property and upon renewal shall be calculated in accordance with subsection (e) of this section until the rate reaches the rate calculated under subsection (a)(1) of section 4014 of this title.

(j) Premiums and reports

In setting premium risk rates, in addition to striving to achieve the objectives of this chapter the Administrator shall also strive to minimize the number of policies with annual premiums that exceed one percent of the total coverage provided by the policy. For any policies premiums that exceed this one percent threshold, the Administrator shall report such exceptions to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(k) Consideration of mitigation methods

In calculating the risk premium rate charged for flood insurance for a property under this section, the Administrator shall take into account the implementation of any mitigation method identified by the Administrator in the guidance issued under section 4102(d) of this title.

(l) Clear communications

The Administrator shall clearly communicate full flood risk determinations to individual property owners regardless of whether their premium rates are full actuarial rates.

(m) Protection of small businesses, non-profits, houses of worship, and residences

(1) Report

Not later than 18 months after March 21, 2014,[1] and semiannually thereafter, the Administrator shall monitor and report to Committee on Financial Services of the House Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, the Administrator's assessment of the impact, if any, of the rate increases required under subparagraphs (A) and (D) of section 4014(a)(2) of this title and the surcharges required under section 4015a of this title on the affordability of flood insurance for—

(A) small businesses with less than 100 employees;

(B) non-profit entities;

(C) houses of worship; and

(D) residences with a value equal to or less than 25 percent of the median home value of properties in the State in which the property is located.

(2) Recommendations

If the Administrator determines that the rate increases or surcharges described in paragraph (1) are having a detrimental effect on affordability, including resulting in lapsed policies, late payments, or other criteria related to affordability as identified by the Administrator, for any of the properties identified in subparagraphs (A) through (D) of such paragraph, the Administrator shall, not later than 3 months after making such a determination, make such recommendations as the Administrator considers appropriate to improve affordability to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(Pub. L. 90–448, title XIII, §1308, Aug. 1, 1968, 82 Stat. 576; Pub. L. 93–234, title I, §103, Dec. 31, 1973, 87 Stat. 978; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 101–508, title II, §2302(e)(2), Nov. 5, 1990, 104 Stat. 1388–24; Pub. L. 103–325, title V, §572(a), Sept. 23, 1994, 108 Stat. 2277; Pub. L. 108–264, title I, §106, title II, §209, June 30, 2004, 118 Stat. 724, 727; Pub. L. 112–123, §2(b), May 31, 2012, 126 Stat. 365; Pub. L. 112–141, div. F, title II, §§100205(c), (d), 100207, 100211, 100238(b)(1), July 6, 2012, 126 Stat. 918, 919, 921, 958; Pub. L. 113–89, §§4(a), 5–7, 11(a), 26(b), 28, 29, Mar. 21, 2014, 128 Stat. 1022, 1023, 1025, 1033.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b)(2), (e), (i), and (j), was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

This chapter, referred to in subsec. (f), was in the original "this Act", and was translated as reading "this title", meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter, to reflect the probable intent of Congress. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

The Flood Disaster Protection Act of 1973, referred to in subsec. (h), is Pub. L. 93–234, Dec. 31, 1973, 87 Stat. 975. For complete classification of this Act to the Code, see Short Title of 1973 Amendment note set out under section 4001 of this title and Tables.

The Biggert-Waters Flood Insurance Reform Act of 2012, referred to in subsec. (h), is subtitle A (§§100201–100249) of title II of div. F of Pub. L. 112–141, July 6, 2012, 126 Stat. 916. For complete classification of this Act to the Code, see Short Title of 2012 Amendment note set out under section 4001 of this title and Tables.

March 21, 2014, referred to in subsec. (m)(1), was in the original "the date of the enactment of this section", and was translated as reading "the date of the enactment of this subsection", meaning the date of enactment of Pub. L. 113–89, which enacted subsec. (m), to reflect the probable intent of Congress.

AMENDMENTS

2014—Subsec. (e). Pub. L. 113–89, §5(1), struck out ", the chargeable risk premium rates for flood insurance under this chapter for any properties" before dash at end of introductory provisions.

Subsec. (e)(1), (2). Pub. L. 113–89, §5(5), added pars. (1) and (2). Former pars. (1) and (2) redesignated (3) and (4), respectively.

Pub. L. 113–89, §5(2), (3), inserted "the chargeable risk premium rates for flood insurance under this chapter for any properties" at beginning.

Subsec. (e)(3). Pub. L. 113–89, §5(4), (6), redesignated par. (1) as (3) and substituted "15 percent" for "20 percent".

Subsec. (e)(4). Pub. L. 113–89, §5(4), (7), redesignated par. (2) as (4) and substituted "paragraph (3)" for "paragraph (1)".

Subsec. (g). Pub. L. 113–89, §11(a), substituted "annually or monthly" for "either annually or in more frequent installments".

Subsec. (h). Pub. L. 113–89, §4(a), redesignated subsec. (i) as (h) and struck out former subsec. (h) which related to premium adjustment to reflect current risk of flood.

Subsec. (i). Pub. L. 113–89, §6, added subsec. (i). Former subsec. (i) redesignated (h).

Subsec. (j). Pub. L. 113–89, §7, added subsec. (j).

Subsec. (k). Pub. L. 113–89, §26(b), added subsec. (k).

Subsec. (l). Pub. L. 113–89, §28, added subsec. (l).

Subsec. (m). Pub. L. 113–89, §29, added subsec. (m).

2012—Subsec. (a). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director" in introductory provisions.

Pub. L. 112–141, §100211(1), in introductory provisions, substituted "prescribe, after providing notice" for ", after consultation with the advisory committee authorized under section 4025 of this title, appropriate representatives of the pool formed or otherwise created under section 4051 of this title, and appropriate representatives of the insurance authorities of the respective States, prescribe by regulation".

Subsec. (b)(5). Pub. L. 112–141, §100211(2), added par. (5).

Subsecs. (c), (d). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director" wherever appearing.

Subsec. (e). Pub. L. 112–141, §100205(c)(1), struck out "or (3)" after "paragraph (2)" and inserted "any properties" after "under this chapter for" in introductory provisions.

Pub. L. 112–123 substituted "under this chapter for—" for "under this chapter for", inserted par. (1) designation before "any properties", and added par. (2).

Subsec. (e)(1). Pub. L. 112–141, §100205(c)(2), substituted "within any single" for "any properties within any single" and "20 percent" for "10 percent".

Subsec. (e)(2). Pub. L. 112–141, §100205(c)(3), added par. (2) and struck out former par. (2) which read as follows: "any residential properties which are not the primary residence of an individual, as described in section 4014(a)(2) of this title, shall be increased by 25 percent each year, until the average risk premium rate for such properties is equal to the average of the risk premium rates for properties described under paragraph (1)."

Subsec. (f). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director" in two places.

Subsec. (g). Pub. L. 112–141, §100205(d), added subsec. (g).

Subsec. (h). Pub. L. 112–141, §100207, added subsec. (h).

Subsec. (i). Pub. L. 112–141, §100211(3), added subsec. (i).

2004—Subsec. (c). Pub. L. 108–264, §106(a), added subsec. (c) and struck out former subsec. (c) which read as follows "Subject only to the limitation under subsection (e) of this section, the chargeable rate with respect to any property, the construction or substantial improvements of which the Director determines has been started after December 31, 1974, or the effective date of the initial rate map published by the Director under paragraph (2) of section 4101 of this title for the area in which such property is located, whichever is later, shall not be less than the applicable estimated risk premium rate for such area (or subdivision thereof) under section 4014(a)(1) of this title."

Subsec. (e). Pub. L. 108–264, §106(b), substituted "Except with respect to properties described under paragraph (2) or (3) of subsection (c), and notwithstanding" for "Notwithstanding".

Subsec. (f). Pub. L. 108–264, §209, added subsec. (f).

1994—Subsec. (c). Pub. L. 103–325, §572(a)(1), substituted "Subject only to the limitation under subsection (e) of this section" for "Notwithstanding any other provision of this chapter".

Subsec. (e). Pub. L. 103–325, §572(a)(2), added subsec. (e).

1990—Subsec. (b)(3), (4). Pub. L. 101–508, §2302(e)(2)(A), added par. (3) and redesignated former par.

(3) as (4).

Subsec. (d). Pub. L. 101–508, §2302(e)(2)(B), added subsec. (d) and struck out former subsec. (d) which read as follows: "In the event any chargeable premium rate prescribed under this section—

"(1) is a rate which is not less than the applicable estimated risk premium rate under section 4014(a)(1) of this title, and

"(2) includes any amount for administrative expenses of carrying out the flood insurance program which have been estimated under clause (ii) of section 4014(a)(1)(B) of this title,

a sum equal to such amount shall be paid to the Director, and he shall deposit such sum in the National Flood Insurance Fund established under section 4017 of this title."

1983—Subsecs. (a), (c), (d). Pub. L. 98–181 substituted "Director" for "Secretary" wherever appearing.

1973—Subsec. (c). Pub. L. 93–234 substituted "started after December 31, 1974, or the effective date of the initial rate map published by the Secretary under paragraph (2) of section 4101 of this title for the area in which such property is located, whichever is later" for "started after the identification of the area in which such property is located has been published under paragraph (1) of section 4101 of this title".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–89, §4(b), Mar. 21, 2014, 128 Stat. 1022, provided that: "The amendments made by subsection (a) [amending this section] shall take effect as if enacted as part of the Biggert-Waters Flood Insurance Reform Act of 2012 ([subtitle A of title II of div. F of] Public Law 112–141; 126 Stat. 957 [sic])."

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112–123, §2(c), May 31, 2012, 126 Stat. 365, provided that: "The first increase in chargeable risk premium rates for residential properties which are not the primary residence of an individual under section 1308(e)(2) of the National Flood Insurance Act of 1968 [former 42 U.S.C. 4015(e)(2)], as added by this Act, shall take effect on July 1, 2012, and the chargeable risk premium rates for such properties shall be increased by 25 percent each year thereafter, as provided in such section 1308(e)(2)."

CONSTRUCTION OF AMENDMENT BY PUB. L. 112–141

Pub. L. 112–141, div. F, title II, §100205(e), July 6, 2012, 126 Stat. 919, provided that: "Nothing in this section [amending this section and section 4014 of this title and enacting provisions set out as a note under section 4014 of this title] or the amendments made by this section may be construed to affect the requirement under section 2(c) of the Act entitled 'An Act to extend the National Flood Insurance Program, and for other purposes', approved May 31, 2012 (Public Law 112–123) [set out above], that the first increase in chargeable risk premium rates for residential properties which are not the primary residence of an individual take effect on July 1, 2012."

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

IMPLEMENTATION

Pub. L. 113–89, §11(b), Mar. 21, 2014, 128 Stat. 1025, provided that: "The Administrator [of the Federal Emergency Management Agency] shall implement the requirement under section 1308(g) of the National Flood Insurance Act of 1968 [42 U.S.C. 4015(g)], as amended by subsection (a), not later than the expiration

of the 18-month period beginning on the date of the enactment of this Act [Mar. 21, 2014]."

LIMITATION ON PREMIUMS

Pub. L. 101–508, title II, §2302(e)(5), Nov. 5, 1990, 104 Stat. 1388–25, provided that, notwithstanding section 541(d) of Pub. L. 100–242, formerly set out below, premium rates charged for flood insurance under any program established pursuant to this chapter could be increased by more than 10 percent during fiscal year 1991, with certain exceptions.

Pub. L. 100–242, title V, §541(d), Feb. 5, 1988, 101 Stat. 1939, as amended by Pub. L. 101–137, §1(d), Nov. 3, 1989, 103 Stat. 824; Pub. L. 101–508, title II, §2302(c), Nov. 5, 1990, 104 Stat. 1388–23, limited increases in premium rates charged for flood insurance under programs established pursuant to this chapter during period beginning Feb. 5, 1988, and ending Sept. 30, 1995, to prorated annual rate of 10 percent, prior to repeal by Pub. L. 103–325, title V, §572(b), Sept. 23, 1994, 108 Stat. 2278.

Pub. L. 98–181, title I [title IV, §451(g)(1)], Nov. 30, 1983, 97 Stat. 1229, provided that premium rates charged for flood insurance under any program established pursuant to this chapter could not be increased during the period beginning Nov. 30, 1983, and ending Sept. 30, 1984.

[1] *See References in Text note below.*

§4015a. Premium surcharge

(a) Imposition and collection

The Administrator shall impose and collect an annual surcharge, in the amount provided in subsection (b), on all policies for flood insurance coverage under the National Flood Insurance Program that are newly issued or renewed after March 21, 2014. Such surcharge shall be in addition to the surcharge under section 4011(b) of this title and any other assessments and surcharges applied to such coverage.

(b) Amount

The amount of the surcharge under subsection (a) shall be—

(1) $25, except as provided in paragraph (2); and

(2) $250, in the case of a policy for any property that is—

(A) a non-residential property; or

(B) a residential property that is not the primary residence of an individual.

(c) Termination

Subsections (a) and (b) shall cease to apply on the date on which the chargeable risk premium rate for flood insurance under this chapter for each property covered by flood insurance under this chapter, other than properties for which premiums are calculated under subsection (e) or (f) of section 4014 of this title or section 4056 of this title or under section 100230 of the Biggert-Waters Flood Insurance Reform Act of 2012 (42 U.S.C. 4014 note), is not less than the applicable estimated risk premium rate under section 4014(a)(1) of this title for such property.

(Pub. L. 90–448, title XIII, §1308A, as added Pub. L. 113–89, §8(a), Mar. 21, 2014, 128 Stat. 1023.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

Section 100230 of the Biggert-Waters Flood Insurance Reform Act of 2012, referred to in subsec. (c), is section 100230 of Pub. L. 112–141, which is set out as a note under section 4014 of this title.

§4016. Financing

(a) Authority to issue notes and other obligations

All authority which was vested in the Housing and Home Finance Administrator by virtue of section 2414(e) of this title (pertaining to the issue of notes or other obligations to the Secretary of the Treasury), as amended by subsections (a) and (b) of section 1303 of this Act, shall be available to the Administrator for the purpose of carrying out the flood insurance program under this chapter; except that the total amount of notes and obligations which may be issued by the Administrator pursuant to such authority (1) without the approval of the President, may not exceed $500,000,000, and (2) with the approval of the President, may not exceed $1,500,000,000 through the date specified in section 4026 of this title, and $1,000,000,000 thereafter; except that, through September 30, 2026, clause (2) of this sentence shall be applied by substituting "$30,425,000,000" for "$1,500,000,000". The Administrator shall report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate at any time when he requests the approval of the President in accordance with the preceding sentence.

(b) Deposit of borrowed funds

Any funds borrowed by the Administrator under this authority shall, from time to time, be deposited in the National Flood Insurance Fund established under section 4017 of this title.

(c) Schedule of repayments

Upon the exercise of the authority established under subsection (a), the Administrator shall transmit a schedule for repayment of such amounts to—

(1) the Secretary of the Treasury;
(2) the Committee on Banking, Housing, and Urban Affairs of the Senate; and
(3) the Committee on Financial Services of the House of Representatives.

(d) Reports on repayment

In connection with any funds borrowed by the Administrator under the authority established in subsection (a), the Administrator, beginning 6 months after the date on which such funds are borrowed, and continuing every 6 months thereafter until such borrowed funds are fully repaid, shall submit a report on the progress of such repayment to—

(1) the Secretary of the Treasury;
(2) the Committee on Banking, Housing, and Urban Affairs of the Senate; and
(3) the Committee on Financial Services of the House of Representatives.

(Pub. L. 90–448, title XIII, §1309, Aug. 1, 1968, 82 Stat. 577; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669; Pub. L. 93–234, title I, §104, Dec. 31, 1973, 87 Stat. 979; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 98–479, title II, §204(g), Oct. 17, 1984, 98 Stat. 2233; Pub. L. 104–208, div. A, title V, Sept. 30, 1996, 110 Stat. 3009–521; Pub. L. 105–65, title III, Oct. 27, 1997, 111 Stat. 1377; Pub. L. 105–276, title III, Oct. 21, 1998, 112 Stat. 2502; Pub. L. 106–74, title III, Oct. 20, 1999, 113 Stat. 1088; Pub. L. 106–377, §1(a)(1) [title III], Oct. 27, 2000, 114 Stat. 1441, 1441A–47; Pub. L. 107–73, title III, Nov. 26, 2001, 115 Stat. 689; Pub. L. 108–3, §2(a)(1), Jan. 13, 2003, 117 Stat. 7; Pub. L. 108–171, §2(a)(2), Dec. 6, 2003, 117 Stat. 2064; Pub. L. 108–199, div. H, §136(a)(2), Jan. 23, 2004, 118 Stat. 442; Pub. L. 108–264, title I, §101(a), June 30, 2004, 118 Stat. 714; Pub. L. 109–65, §2, Sept. 20, 2005, 119 Stat. 1998; Pub. L. 109–106, §2, Nov. 21, 2005, 119 Stat. 2288; Pub. L. 109–208, §2, Mar. 23, 2006, 120 Stat. 317; Pub. L. 111–196, §2(b), July 2, 2010, 124 Stat. 1352; Pub. L. 111–250, §2(b), Sept. 30, 2010, 124 Stat. 2630; Pub. L. 112–74, div. D, title V, §573, Dec. 23, 2011, 125 Stat. 985; Pub. L. 112–123, §1(b), May 31, 2012, 126 Stat. 365; Pub. L. 112–141, div. F, title II, §§100203(a), 100213(a), 100238(b)(1), July 6, 2012, 126 Stat. 916, 923, 958; Pub. L. 113–1, §1(a), Jan. 6, 2013, 127 Stat. 3; Pub. L. 115–225, §2(a), July 31, 2018, 132 Stat. 1624; Pub. L. 115–281, §2(a), Dec. 1, 2018, 132 Stat. 4191; Pub. L. 115–396, §2(a), Dec. 21, 2018, 132 Stat. 5296; Pub. L. 116–19, §2(a), May 31, 2019, 133 Stat. 870; Pub. L. 116–20, title XII, §1207(a), June 6, 2019, 133 Stat. 901; Pub. L. 116–159, div. A, §146(a), Oct. 1, 2020, 134 Stat.

718; Pub. L. 117–103, div. O, title I, §101(a), Mar. 15, 2022, 136 Stat. 787; Pub. L. 117–328, div. AA, title IX, §901(a), Dec. 29, 2022, 136 Stat. 5551; Pub. L. 119–75, div. I, §5004(a), Feb. 3, 2026, 140 Stat. 629.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1303 of this Act, referred to in subsec. (a), means section 1303 of Pub. L. 90–448, which amended section 2414(e) of this title.

This chapter, referred to in subsec. (a), was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2026—Subsec. (a). Pub. L. 119–75 substituted "September 30, 2026" for "September 30, 2023".

2022—Subsec. (a). Pub. L. 117–328 substituted "September 30, 2023" for "September 30, 2022".

Pub. L. 117–103 substituted "September 30, 2022" for "September 30, 2021".

2020—Subsec. (a). Pub. L. 116–159 substituted "September 30, 2021" for "September 30, 2019".

2019—Subsec. (a). Pub. L. 116–20 substituted "September 30, 2019" for "June 14, 2019".

Pub. L. 116–19 substituted "June 14, 2019" for "May 31, 2019".

2018—Subsec. (a). Pub. L. 115–396 substituted "May 31, 2019" for "December 7, 2018".

Pub. L. 115–281 substituted "December 7, 2018" for "November 30, 2018".

Pub. L. 115–225 substituted "November 30, 2018" for "September 30, 2017".

2013—Subsec. (a). Pub. L. 113–1 substituted "$30,425,000,000" for "$20,725,000,000".

2012—Subsec. (a). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director" wherever appearing.

Pub. L. 112–141, §100203(a), substituted "September 30, 2017" for "July 31, 2012".

Pub. L. 112–123 substituted "July 31, 2012" for "the earlier of the date of the enactment into law of an Act that specifically amends the date specified in this section or May 31, 2012".

Subsec. (b). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director".

Subsecs. (c), (d). Pub. L. 112–141, §100213(a), added subsecs. (c) and (d).

2011—Subsec. (a). Pub. L. 112–74 substituted "the earlier of the date of the enactment into law of an Act that specifically amends the date specified in this section or May 31, 2012" for "September 30, 2011".

2010—Subsec. (a). Pub. L. 111–250 substituted "September 30, 2011" for "September 30, 2010".

Pub. L. 111–196 substituted "September 30, 2010" for "September 30, 2008" and "$20,725,000,000" for "$20,775,000,000".

2006—Subsec. (a). Pub. L. 109–208 substituted "$20,775,000,000" for "$18,500,000,000" in first sentence.

2005—Subsec. (a). Pub. L. 109–106 substituted "$18,500,000,000" for "$3,500,000,000" in first sentence.

Pub. L. 109–65 inserted "; except that, through September 30, 2008, clause (2) of this sentence shall be applied by substituting '$3,500,000,000' for '$1,500,000,000' " before period at end of first sentence.

2004—Subsec. (a). Pub. L. 108–264, §101(a), which directed amendment of first sentence of subsec. (a) by substituting "through the date specified in section 4026 of this title, and" for " 'through December' and all that follows through ', and' ", could not be executed because the language to be struck out did not appear subsequent to amendment by Pub. L. 108–171. See 2003 Amendment note below.

Pub. L. 108–199 made amendment identical to that made by Pub. L. 108–171. See 2003 Amendment note below.

2003—Subsec. (a)(2). Pub. L. 108–171 substituted "the date specified in section 4026 of this title" for "December 31, 2003".

Pub. L. 108–3 substituted "December 31, 2003" for "December 31, 2002".

2001—Subsec. (a)(2). Pub. L. 107–73 substituted "2002" for "2001".

2000—Subsec. (a)(2). Pub. L. 106–377 substituted "December 31, 2001" for "September 30, 2000".

1999—Subsec. (a)(2). Pub. L. 106–74, which directed substitution of "2000" for "1999" in section "1309(a)(2) of the National Flood Insurance Act", was executed to subsec. (a)(2) of this section, which is section 1309 of the National Flood Insurance Act of 1968, to reflect the probable intent of Congress.

1998—Subsec. (a)(2). Pub. L. 105–276, which directed substitution of "1999" for "1998" in section "1309(a)(2) of the National Flood Insurance Act", was executed by making the substitution in subsec. (a)(2) of

this section, which is section 1309 of the National Flood Insurance Act of 1968, to reflect the probable intent of Congress.

1997—Subsec. (a)(2). Pub. L. 105–65, which directed substitution of "1998" for "1997" in section "1309(a)(2) of the National Flood Insurance Act", was executed by making the substitution in subsec. (a)(2) of this section, which is section 1309 of the National Flood Insurance Act of 1968, to reflect the probable intent of Congress.

1996—Subsec. (a)(2). Pub. L. 104–208 substituted "$1,500,000,000 through September 30, 1997, and $1,000,000,000 thereafter" for "$1,000,000,000".

1984—Subsec. (a). Pub. L. 98–479 substituted ", Finance and Urban Affairs" for "and Currency" and inserted a comma after "Housing" in last sentence.

1983—Pub. L. 98–181 substituted "Director" for "Secretary" wherever appearing.

1973—Subsec. (a). Pub. L. 93–234 substituted provisions respecting issuance of notes and obligation for $500,000,000 without approval of President and for $1,000,000,000 with approval of President, for former provision prescribing a $250,000,000 limitation, struck out provision rescinding authority of Secretary to issue notes and obligations under section 2414(e) of this title, and provided for report to Congressional Committees when the approval of the President is requested.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Reference to the Director of the Federal Emergency Management Agency in any law, rule, regulation, certificate, directive, instruction, or other official paper, considered to refer and apply to the Administrator of the Federal Emergency Management Agency, see section 612(f)(2) of Pub. L. 109–295, set out as a note under section 313 of Title 6, Domestic Security.

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

EFFECTIVE DATE OF 2026 AMENDMENT

Pub. L. 119–75, div. I, §5004(c), Feb. 3, 2026, 140 Stat. 630, provided that:

"(1) IN GENERAL.—Subject to paragraph (2), this section [amending this section and section 4026 of this title] shall take effect immediately upon the date of enactment of this Act [Feb. 3, 2026].

"(2) ALTERNATE DATE.—If this Act is enacted after January 30, 2026, this section shall take effect as if enacted on January 30, 2026."

EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117–328, div. AA, title IX, §901(c), Dec. 29, 2022, 136 Stat. 5551, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 4026 of this title] shall take effect as if enacted on September 30, 2022."

EFFECTIVE DATE OF 2020 AMENDMENT

Pub. L. 116–159, div. A, §146(c), Oct. 1, 2020, 134 Stat. 718, provided that:

"(1) This section [amending this section and section 4026 of this title] shall become effective immediately upon enactment of this Act [div. A of Pub. L. 116–159, approved Oct. 1, 2020].

"(2) If this Act is enacted after September 30, 2020, this section shall be applied as if it were in effect on September 30, 2020."

EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–20, title XII, §1207(c), June 6, 2019, 133 Stat. 901, provided that: "If this Act is enacted after June 14, 2019 [Pub. L. 116–20 enacted on June 6, 2019], the amendments made by subsections (a) and (b) [amending this section and section 4026 of this title] shall take effect as if enacted on June 14, 2019."

Pub. L. 116–19, §2(c), May 31, 2019, 133 Stat. 870, provided that: "If this Act is enacted after May 31, 2019 [Pub. L. 116–19 enacted on May 31, 2019], the amendments made by subsections (a) and (b) [amending this section and section 4026 of this title] shall take effect as if enacted on May 31, 2019."

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115–396, §2(c), Dec. 21, 2018, 132 Stat. 5296, provided that: "If this Act is enacted after December 7, 2018 [Pub. L. 115–396 enacted on Dec. 21, 2018], the amendments made by subsections (a) and (b) [amending this section and section 4026 of this title] shall take effect as if enacted on December 7, 2018."

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–196, §2(c), July 2, 2010, 124 Stat. 1352, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 4026 of this title] shall be considered to have taken effect on May 31, 2010."

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–199, div. H, §136(b), Jan. 23, 2004, 118 Stat. 442, provided that: "The amendments made by this section [amending this section and sections 4026, 4056, and 4127 of this title] shall be considered to have taken effect on December 31, 2003."

EFFECTIVE DATE OF 2003 AMENDMENTS

Pub. L. 108–171, §2(b), Dec. 6, 2003, 117 Stat. 2064, provided that: "The amendments made by this section [amending this section and sections 4026, 4056, and 4127 of this title] shall be considered to have taken effect on December 31, 2003."

Pub. L. 108–3, §2(b), Jan. 13, 2003, 117 Stat. 7, provided that: "The amendments made by this section [amending this section and sections 4026, 4056, and 4127 of this title] shall be considered to have taken effect on December 31, 2002."

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Functions of Housing and Home Finance Agency and head thereof transferred to Secretary of Housing and Urban Development by Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669, which is classified to section 3534(a) of this title. Section 9(c) of such act, set out as a note under section 3531 of this title, provides that references to Housing and Home Finance Agency or to any agency or officer therein are to be deemed to mean Secretary of Housing and Urban Development and that Housing and Home Finance Agency has lapsed.

EXTENSION OF LIMITATION ON FINANCING PROVISIONS

Pub. L. 118–47, div. G, title I, §101(a), Mar. 23, 2024, 138 Stat. 856, provided that: "Section 1309(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4016(a)) shall be applied by substituting 'September 30, 2024' for 'September 30, 2023'."

[Pub. L. 118–47, div. G, title I, §101(c), Mar. 23, 2024, 138 Stat. 856, provided that: "This section [enacting section 101(a) of div. G of Pub. L. 118–47, set out above, and section 101(b) of div. G of Pub. L. 118–47, set out as a note under section 4026 of this title] shall take effect as if enacted on September 30, 2023."]

For nonamendatory provisions extending both the limitation on financing provisions in subsec. (a) of this section and the National Flood Insurance Program generally, see Extension of Program notes under section 4026 of this title.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions vested in Secretary of Housing and Urban Development pursuant to this chapter transferred to Director of Federal Emergency Management Agency pursuant to Reorg. Plan No. 3 of 1978, §202, June 19, 1978, 43 F.R. 41944, 92 Stat. 3788, set out as a note under section 2201 of Title 15, Commerce and Trade, effective Apr. 1, 1979, as provided by Ex. Ord. No. 12127, Mar. 31, 1979, 44 F.R. 19367, set out as a note under section 2201 of Title 15.

§4017. National Flood Insurance Fund

(a) Establishment; availability

To carry out the flood insurance program authorized by this chapter, the Administrator shall establish in the Treasury of the United States a National Flood Insurance Fund (hereinafter referred to as the "fund") which shall be an account separate from any other accounts or funds available to the Administrator and shall be available as described in subsection (f), without fiscal year limitation (except as otherwise provided in this section)—

(1) for making such payments as may, from time to time, be required under section 4054 of this title;

(2) to pay reinsurance claims under the excess loss reinsurance coverage provided under section 4055 of this title;

(3) to repay to the Secretary of the Treasury such sums as may be borrowed from him (together with interest) in accordance with the authority provided in section 4016 of this title; and

(4) to the extent approved in appropriations Acts, to pay any administrative expenses of the flood insurance and floodplain management programs (including the costs of mapping activities under section 4101 of this title);

(5) for the purposes specified in subsection (d) under the conditions provided therein;

(6) for carrying out the program under section 4022(b) of this title;

(7) for transfers to the National Flood Mitigation Fund, but only to the extent provided in section 4104d(b)(1) of this title; and

(8) for carrying out section 4104(f) of this title.

(b) Credits to Fund

The fund shall be credited with—

(1) such funds borrowed in accordance with the authority provided in section 4016 of this title as may from time to time be deposited in the fund;

(2) premiums, fees, or other charges which may be paid or collected in connection with the excess loss reinsurance coverage provided under section 4055 of this title;

(3) such amounts as may be advanced to the fund from appropriations in order to maintain the fund in an operative condition adequate to meet its liabilities;

(4) interest which may be earned on investments of the fund pursuant to subsection (c);

(5) such sums as are required to be paid to the Administrator under section 4015(d) of this title; and

(6) receipts from any other operations under this chapter (including premiums under the conditions specified in subsection (d), and salvage proceeds, if any, resulting from reinsurance coverage).

(c) Investment of moneys in obligations issued or guaranteed by United States

If, after—

(1) all outstanding obligations of the fund have been liquidated, and

(2) any outstanding amounts which may have been advanced to the fund from appropriations authorized under section 4127(a)(2)(B) of this title have been credited to the appropriation from which advanced, with interest accrued at the rate prescribed under section 2414(e) of this title, as in effect immediately prior to August 1, 1968,

the Administrator determines that the moneys of the fund are in excess of current needs, he may request the investment of such amounts as he deems advisable by the Secretary of the Treasury in

obligations issued or guaranteed by the United States.

(d) Availability of Fund if operation of program is carried out through facilities of Federal Government

In the event the Administrator makes a determination in accordance with the provisions of section 4071 of this title that operation of the flood insurance program, in whole or in part, should be carried out through the facilities of the Federal Government, the fund shall be available for all purposes incident thereto, including—

(1) cost incurred in the adjustment and payment of any claims for losses, and

(2) payment of applicable operating costs set forth in the schedules prescribed under section 4018 of this title,

for so long as the program is so carried out, and in such event any premiums paid shall be deposited by the Administrator to the credit of the fund.

(e) Annual budget

An annual business-type budget for the fund shall be prepared, transmitted to the Congress, considered, and enacted in the manner prescribed by sections 9103 and 9104 of title 31 for wholly-owned Government corporations.

(f) Availability of funds dependent on future appropriations acts

The fund shall be available, with respect to any fiscal year beginning on or after October 1, 1981, only to the extent approved in appropriation Acts; except that the fund shall be available for the purpose described in subsection (d)(1) without such approval.

(Pub. L. 90–448, title XIII, §1310, Aug. 1, 1968, 82 Stat. 577; Pub. L. 97–35, title III, §341(c), Aug. 13, 1981, 95 Stat. 419; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 98–479, title II, §203(j)(1), Oct. 17, 1984, 98 Stat. 2231; Pub. L. 100–242, title V, §545(d), Feb. 5, 1988, 101 Stat. 1942; Pub. L. 101–508, title II, §2302(e)(3), Nov. 5, 1990, 104 Stat. 1388–24; Pub. L. 103–325, title V, §§542, 554(b), 577(h), Sept. 23, 1994, 108 Stat. 2269, 2274, 2283; Pub. L. 108–264, title I, §§102(b), 104(b), June 30, 2004, 118 Stat. 721, 723; Pub. L. 112–141, div. F, title II, §§100225(d), 100238(b)(1), July 6, 2012, 126 Stat. 941, 958; Pub. L. 113–89, §18(b), Mar. 21, 2014, 128 Stat. 1027.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b)(6), was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2014—Subsec. (a)(8). Pub. L. 113–89 added par. (8).

2012—Subsec. (a). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director" in two places.

Subsec. (a)(6) to (9). Pub. L. 112–141, §100225(d), inserted "and" at end of par. (6), substituted period for semicolon at end of par. (7), and struck out pars. (8) and (9) which read as follows:

"(8) for financial assistance under section 4102a of this title to States and communities for taking actions under such section with respect to severe repetitive loss properties, but only to the extent provided in section 4102a(i) of this title; and

"(9) for funding, not to exceed $10,000,000 in any fiscal year, for mitigation actions under section 4030 of this title, except that, notwithstanding any other provision of this chapter, amounts made available pursuant to this paragraph shall not be subject to offsetting collections through premium rates for flood insurance coverage under this chapter."

Subsecs. (b)(5), (c), (d). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director" wherever appearing.

2004—Subsec. (a)(7), (8). Pub. L. 108–264, §102(b), struck out "and" at end of par. (7), added par. (8), and struck out former par. (8) which read as follows: "for costs of preparing the report under section 577 of the Riegle Community Development and Regulatory Improvement Act of 1994, except that the fund shall be available for the purpose under this paragraph in an amount not to exceed an aggregate of $5,000,000 over the 2-year period beginning on September 23, 1994."

Subsec. (a)(9). Pub. L. 108–264, §104(b), added par. (9).

1994—Subsec. (a). Pub. L. 103–325, §§554(b)(1), 577(h)(1), in introductory provisions, substituted "shall" for "is authorized to" after "Director", inserted "an account separate from any other accounts or funds available to the Director and shall be" after "which shall be", and inserted "(except as otherwise provided in this section)" after "without fiscal year limitation".

Subsec. (a)(6) to (8). Pub. L. 103–325, §§542, 554(b)(2), 577(h)(2), added pars. (6) to (8), respectively.

1990—Subsec. (a)(4). Pub. L. 101–508 amended par. (4) generally. Prior to amendment, par. (4) read as follows: "to pay such administrative expenses (or portion of such expenses) of carrying out the flood insurance program as he may deem necessary; and".

1988—Subsec. (e). Pub. L. 100–242 substituted "title 31, United States Code," for "title 31, United States Code", which for purposes of codification was translated as "title 31", requiring no change in text.

1984—Subsec. (e). Pub. L. 98–479 substituted "sections 9103 and 9104 of title 31" for "law (sections 102, 103, and 104 of the Government Corporations Control Act (31 U.S.C. 847–849))".

1983—Subsecs. (a), (b)(5), (c), (d). Pub. L. 98–181 substituted "Director" for "Secretary" wherever appearing.

1981—Subsec. (a). Pub. L. 97–35, §341(c)(1), inserted reference to subsec. (f) of this section.

Subsec. (f). Pub. L. 97–35, §341(c)(2), added subsec. (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4017a. Reserve Fund

(a) Establishment of Reserve Fund

In carrying out the flood insurance program authorized by this subchapter, the Administrator shall establish in the Treasury of the United States a National Flood Insurance Reserve Fund (in this section referred to as the "Reserve Fund") which shall—

(1) be an account separate from any other accounts or funds available to the Administrator; and

(2) be available for meeting the expected future obligations of the flood insurance program, including—

(A) the payment of claims;

(B) claims adjustment expenses; and

(C) the repayment of amounts outstanding under any note or other obligation issued by the Administrator under section 4016(a) of this title.

(b) Reserve ratio

Subject to the phase-in requirements under subsection (d), the Reserve Fund shall maintain a balance equal to—

(1) 1 percent of the sum of the total potential loss exposure of all outstanding flood insurance policies in force in the prior fiscal year; or

(2) such higher percentage as the Administrator determines to be appropriate, taking into consideration any circumstance that may raise a significant risk of substantial future losses to the Reserve Fund.

(c) Maintenance of reserve ratio

(1) In general

The Administrator shall have the authority to establish, increase, or decrease the amount of aggregate annual insurance premiums to be collected for any fiscal year necessary—

(A) to maintain the reserve ratio required under subsection (b); and

(B) to achieve such reserve ratio, if the actual balance of such reserve is below the amount required under subsection (b).

(2) Considerations

In exercising the authority granted under paragraph (1), the Administrator shall consider—

(A) the expected operating expenses of the Reserve Fund;

(B) the insurance loss expenditures under the flood insurance program;

(C) any investment income generated under the flood insurance program; and

(D) any other factor that the Administrator determines appropriate.

(3) Limitations

(A) Rates

In exercising the authority granted under paragraph (1), the Administrator shall be subject to all other provisions of this chapter, including any provisions relating to chargeable premium rates or annual increases of such rates.

(B) Use of additional annual insurance premiums

Notwithstanding any other provision of law or any agreement entered into by the Administrator, the Administrator shall ensure that all amounts attributable to the establishment or increase of annual insurance premiums under paragraph (1) are transferred to the Administrator for deposit into the Reserve Fund, to be available for meeting the expected future obligations of the flood insurance program as described in subsection (a)(2).

(4) Deposit of premium surcharges

The Administrator shall deposit in the Reserve Fund any surcharges collected pursuant to section 4015a of this title.

(d) Phase-in requirements

The phase-in requirements under this subsection are as follows:

(1) In general

Beginning in fiscal year 2013 and not ending until the fiscal year in which the ratio required under subsection (b) is achieved, in each such fiscal year the Administrator shall place in the Reserve Fund an amount equal to not less than 7.5 percent of the reserve ratio required under subsection (b).

(2) Amount satisfied

As soon as the ratio required under subsection (b) is achieved, and except as provided in paragraph (3), the Administrator shall not be required to set aside any amounts for the Reserve

Fund.

(3) Exception

If at any time after the ratio required under subsection (b) is achieved, the Reserve Fund falls below the required ratio under subsection (b), the Administrator shall place in the Reserve Fund for that fiscal year an amount equal to not less than 7.5 percent of the reserve ratio required under subsection (b).

(e) Limitation on reserve ratio

In any given fiscal year, if the Administrator determines that the reserve ratio required under subsection (b) cannot be achieved, the Administrator shall submit, on a calendar quarterly basis, a report to Congress that—

(1) describes and details the specific concerns of the Administrator regarding the consequences of the reserve ratio not being achieved;

(2) demonstrates how such consequences would harm the long-term financial soundness of the flood insurance program; and

(3) indicates the maximum attainable reserve ratio for that particular fiscal year.

(f) Investment

The Secretary of the Treasury shall invest such amounts of the Reserve Fund as the Secretary determines advisable in obligations issued or guaranteed by the United States.

(Pub. L. 90–448, title XIII, §1310A, as added Pub. L. 112–141, div. F, title II, §100212, July 6, 2012, 126 Stat. 922; amended Pub. L. 113–89, §§8(b), 20, Mar. 21, 2014, 128 Stat. 1024, 1028.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(3)(A), was in the original "this Act", and was translated as reading "this title", meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter, to reflect the probable intent of Congress. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2014—Subsec. (c)(4). Pub. L. 113–89, §8(b), added par. (4).

Subsec. (e). Pub. L. 113–89, §20, inserted ", on a calendar quarterly basis," after "submit" in introductory provisions.

§4018. Operating costs and allowances; definitions

(a) The Administrator shall from time to time negotiate with appropriate representatives of the insurance industry for the purpose of establishing—

(1) a current schedule of operating costs applicable both to risk-sharing insurance companies and other insurers and to insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organizations participating on other than a risk-sharing basis, and

(2) a current schedule of operating allowances applicable to risk-sharing insurance companies and other insurers,

which may be payable in accordance with the provisions of subchapter II, and such schedules shall from time to time be prescribed in regulations.

(b) For purposes of subsection (a)—

(1) the term "operating costs" shall (without limiting such term) include—

(A) expense reimbursements covering the direct, actual, and necessary expenses incurred in connection with selling and servicing flood insurance coverage;

(B) reasonable compensation payable for selling and servicing flood insurance coverage, or commissions or service fees paid to producers;

(C) loss adjustment expenses; and

(D) other direct, actual, and necessary expenses which the Administrator finds are incurred in connection with selling or servicing flood insurance coverage; and

(2) the term "operating allowances" shall (without limiting such term) include amounts for profit and contingencies which the Administrator finds reasonable and necessary to carry out the purposes of this chapter.

(Pub. L. 90–448, title XIII, §1311, Aug. 1, 1968, 82 Stat. 579; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(2), was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2012—Subsecs. (a), (b)(1)(D), (2). Pub. L. 112–141 substituted "Administrator" for "Director".

1983—Subsecs. (a), (b)(1)(D), (2). Pub. L. 98–181 substituted "Director" for "Secretary" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4019. Payment of claims

(a) In general

The Administrator is authorized to prescribe regulations establishing the general method or methods by which proved and approved claims for losses may be adjusted and paid for any damage to or loss of property which is covered by flood insurance made available under the provisions of this chapter.

(b) Minimum annual deductible

(1) Pre-firm properties

For any structure which is covered by flood insurance under this chapter, and on which construction or substantial improvement occurred on or before December 31, 1974, or before the effective date of an initial flood insurance rate map published by the Administrator under section 4101 of this title for the area in which such structure is located, the minimum annual deductible for damage to such structure shall be—

(A) $1,500, if the flood insurance coverage for such structure covers loss of, or physical damage to, such structure in an amount equal to or less than $100,000; and

(B) $2,000, if the flood insurance coverage for such structure covers loss of, or physical damage to, such structure in an amount greater than $100,000.

(2) Post-firm properties

For any structure which is covered by flood insurance under this chapter, and on which construction or substantial improvement occurred after December 31, 1974, or after the effective date of an initial flood insurance rate map published by the Administrator under section 4101 of this title for the area in which such structure is located, the minimum annual deductible for damage to such structure shall be—

(A) $1,000, if the flood insurance coverage for such structure covers loss of, or physical damage to, such structure in an amount equal to or less than $100,000; and

(B) $1,250, if the flood insurance coverage for such structure covers loss of, or physical damage to, such structure in an amount greater than $100,000.

(c) Payment of claims to condominium owners

The Administrator may not deny payment for any damage to or loss of property which is covered by flood insurance to condominium owners who purchased such flood insurance separate and apart from the flood insurance purchased by the condominium association in which such owner is a member, based solely, or in any part, on the flood insurance coverage of the condominium association or others on the overall property owned by the condominium association.

(Pub. L. 90–448, title XIII, §1312, Aug. 1, 1968, 82 Stat. 579; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §§100210, 100214, July 6, 2012, 126 Stat. 920, 924.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2012—Pub. L. 112–141, §100210, designated existing provisions as subsec. (a) and inserted heading, substituted "The Administrator is" for "The Director is", and added subsec. (b).

Subsec. (c). Pub. L. 112–141, §100214, added subsec. (c).

1983—Pub. L. 98–181 substituted "Director" for "Secretary".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal

Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4020. Dissemination of flood insurance information

The Administrator shall from time to time take such action as may be necessary in order to make information and data available to the public, and to any State or local agency or official, with regard to—

(1) the flood insurance program, its coverage and objectives, and

(2) estimated and chargeable flood insurance premium rates, including the basis for and differences between such rates in accordance with the provisions of section 4015 of this title.

(Pub. L. 90–448, title XIII, §1313, Aug. 1, 1968, 82 Stat. 579; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958.)

EDITORIAL NOTES

AMENDMENTS

2012—Pub. L. 112–141 substituted "Administrator" for "Director" in introductory provisions.

1983—Pub. L. 98–181 substituted "Director" for "Secretary" in introductory provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4021. Participation in State disaster claims mediation programs

(a) Requirement to participate

In the case of the occurrence of a major disaster, as defined in section 5122 of this title, that may have resulted in flood damage covered under the national flood insurance program established under this chapter and other personal lines residential property insurance coverage offered by a State regulated insurer, upon a request made by the insurance commissioner of a State (or such other official responsible for regulating the business of insurance in the State) for the participation of representatives of the Administrator in a program sponsored by such State for nonbinding mediation

of insurance claims resulting from a major disaster, the Administrator shall cause representatives of the national flood insurance program to participate in such a State program where claims under the national flood insurance program are involved to expedite settlement of flood damage claims resulting from such disaster.

(b) Extent of participation

In satisfying the requirements of subsection (a), the Administrator shall require that each representative of the Administrator—

(1) be certified for purposes of the national flood insurance program to settle claims against such program resulting from such disaster in amounts up to the limits of policies under such program;

(2) attend State-sponsored mediation meetings regarding flood insurance claims resulting from such disaster at such times and places as may be arranged by the State;

(3) participate in good-faith negotiations toward the settlement of such claims with policyholders of coverage made available under the national flood insurance program; and

(4) finalize the settlement of such claims on behalf of the national flood insurance program with such policyholders.

(c) Coordination

Representatives of the Administrator shall at all times coordinate their activities with insurance officials of the State and representatives of insurers for the purposes of consolidating and expediting settlement of claims under the national flood insurance program resulting from such disaster.

(d) Qualifications of mediators

Each State mediator participating in State-sponsored mediation under this section shall be—

(1)(A) a member in good standing of the State bar in the State in which the mediation is to occur with at least 2 years of practical experience; and

(B) an active member of such bar for at least 1 year prior to the year in which such mediator's participation is sought; or

(2) a retired trial judge from any United States jurisdiction who was a member in good standing of the bar in the State in which the judge presided for at least 5 years prior to the year in which such mediator's participation is sought.

(e) Mediation proceedings and documents privileged

As a condition of participation, all statements made and documents produced pursuant to State-sponsored mediation involving representatives of the Administrator shall be deemed privileged and confidential settlement negotiations made in anticipation of litigation.

(f) Liability, rights, or obligations not affected

Participation in State-sponsored mediation, as described in this section does not—

(1) affect or expand the liability of any party in contract or in tort; or

(2) affect the rights or obligations of the parties, as established—

(A) in any regulation issued by the Administrator, including any regulation relating to a standard flood insurance policy;

(B) under this chapter; and

(C) under any other provision of Federal law.

(g) Exclusive Federal jurisdiction

Participation in State-sponsored mediation shall not alter, change, or modify the original exclusive jurisdiction of United States courts, as set forth in this chapter.

(h) Cost limitation

Nothing in this section shall be construed to require the Administrator or a representative of the Administrator to pay additional mediation fees relating to flood insurance claims associated with a State-sponsored mediation program in which such representative of the Administrator participates.

(i) Exception

In the case of the occurrence of a major disaster that results in flood damage claims under the national flood insurance program and that does not result in any loss covered by a personal lines residential property insurance policy—

(1) this section shall not apply; and

(2) the provisions of the standard flood insurance policy under the national flood insurance program and the appeals process established under section 205 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (42 U.S.C. 4011 note) and the regulations issued pursuant to such section shall apply exclusively.

(j) Representatives of the Administrator

For purposes of this section, the term "representatives of the Administrator" means representatives of the national flood insurance program who participate in the appeals process established under section 205 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (42 U.S.C. 4011 note).

(Pub. L. 90–448, title XIII, §1314, as added Pub. L. 112–141, div. F, title II, §100223, July 6, 2012, 126 Stat. 934.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (f)(2)(B), and (g), was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

Section 205 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004, referred to in subsecs. (i)(2) and (j), is section 205 of Pub. L. 108–264, which is set out in a note under section 4011 of this title.

PRIOR PROVISIONS

A prior section 4021, Pub. L. 90–448, title XIII, §1314, Aug. 1, 1968, 82 Stat. 579, which denied Federal disaster assistance after Dec. 31, 1973, to persons who for a period of a year or more could have purchased flood insurance but did not do so, and defined "Federal disaster assistance" and "financial assistance", was repealed by Pub. L. 93–234, title II, §203, Dec. 31, 1973, 87 Stat. 982.

§4022. State and local land use controls

(a) Requirement for participation in flood insurance program

(1) In general

After December 31, 1971, no new flood insurance coverage shall be provided under this chapter in any area (or subdivision thereof) unless an appropriate public body shall have adopted adequate land use and control measures (with effective enforcement provisions) which the Administrator finds are consistent with the comprehensive criteria for land management and use under section 4102 of this title.

(2) Agricultural structures

(A) Activity restrictions

Notwithstanding any other provision of law, the adequate land use and control measures required to be adopted in an area (or subdivision thereof) pursuant to paragraph (1) may provide, at the discretion of the appropriate State or local authority, for the repair and restoration to predamaged conditions of an agricultural structure that—

(i) is a repetitive loss structure; or

(ii) has incurred flood-related damage to the extent that the cost of restoring the structure to its predamaged condition would equal or exceed 50 percent of the market value of the

structure before the damage occurred.

(B) Premium rates and coverage

To the extent applicable, an agricultural structure repaired or restored pursuant to subparagraph (A) shall pay chargeable premium rates established under section 4015 of this title at the estimated risk premium rates under section 4014(a)(1) of this title. If resources are available, the Administrator shall provide technical assistance and counseling, upon request of the owner of the structure, regarding wet flood-proofing and other flood damage reduction measures for agricultural structures. The Administrator shall not be required to make flood insurance coverage available for such an agricultural structure unless the structure is wet flood-proofed through permanent or contingent measures applied to the structure or its contents that prevent or provide resistance to damage from flooding by allowing flood waters to pass through the structure, as determined by the Administrator.

(C) Prohibition on disaster relief

Notwithstanding any other provision of law, any agricultural structure repaired or restored pursuant to subparagraph (A) shall not be eligible for disaster relief assistance under any program administered by the Administrator or any other Federal agency.

(D) Definitions

For purposes of this paragraph—

(i) the term "agricultural structure" means any structure used exclusively in connection with the production, harvesting, storage, raising, or drying of agricultural commodities; and

(ii) the term "agricultural commodities" means agricultural commodities and livestock.

(b) Community rating system and incentives for community floodplain management

(1) Authority and goals

The Administrator shall carry out a community rating system program, under which communities participate voluntarily—

(A) to provide incentives for measures that reduce the risk of flood or erosion damage that exceed the criteria set forth in section 4102 of this title and evaluate such measures;

(B) to encourage adoption of more effective measures that protect natural and beneficial floodplain functions;

(C) to encourage floodplain and erosion management; and

(D) to promote the reduction of Federal flood insurance losses.

(2) Incentives

The program shall provide incentives in the form of credits on premium rates for flood insurance coverage in communities that the Administrator determines have adopted and enforced measures that reduce the risk of flood and erosion damage that exceed the criteria set forth in section 4102 of this title. In providing incentives under this paragraph, the Administrator may provide for credits to flood insurance premium rates in communities that the Administrator determines have implemented measures that protect natural and beneficial floodplain functions.

(3) Credits

The credits on premium rates for flood insurance coverage shall be based on the estimated reduction in flood and erosion damage risks resulting from the measures adopted by the community under this program. If a community has received mitigation assistance under section 4104c of this title, the credits shall be phased in a manner, determined by the Administrator, to recover the amount of such assistance provided for the community.

(4) Reports

Not later than 2 years after September 23, 1994, and not less than every 2 years thereafter, the Administrator shall submit a report to the Congress regarding the program under this subsection.

Each report shall include an analysis of the cost-effectiveness of the program, any other accomplishments or shortcomings of the program, and any recommendations of the Administrator for legislation regarding the program.

(c) Replacement of mobile homes on original sites

(1) Community participation

The placement of any mobile home on any site shall not affect the eligibility of any community to participate in the flood insurance program under this chapter and the Flood Disaster Protection Act of 1973 (notwithstanding that such placement may fail to comply with any elevation or flood damage mitigation requirements), if—

(A) such mobile home was previously located on such site;

(B) such mobile home was relocated from such site because of flooding that threatened or affected such site; and

(C) such replacement is conducted not later than the expiration of the 180-day period that begins upon the subsidence (in the area of such site) of the body of water that flooded to a level considered lower than flood levels.

(2) Definition

For purposes of this subsection, the term "mobile home" has the meaning given such term in the law of the State in which the mobile home is located.

(Pub. L. 90–448, title XIII, §1315, Aug. 1, 1968, 82 Stat. 580; Pub. L. 91–152, title IV, §410(b), Dec. 24, 1969, 83 Stat. 397; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 103–325, title V, §§541, 580, Sept. 23, 1994, 108 Stat. 2268, 2285; Pub. L. 108–264, title I, §108, June 30, 2004, 118 Stat. 724; Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1) and (c)(1), was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

The Flood Disaster Protection Act of 1973, referred to in subsec. (c)(1), is Pub. L. 93–234, Dec. 31, 1973, 87 Stat. 975. For complete classification of this Act to the Code, see Short Title of 1973 Amendment note set out under section 4001 of this title and Tables.

AMENDMENTS

2012—Subsecs. (a)(1), (2)(B), (C), (b). Pub. L. 112–141 substituted "Administrator" for "Director" wherever appearing.

2004—Subsec. (c). Pub. L. 108–264 added subsec. (c).

1994—Subsec. (a)(1). Pub. L. 103–325, §541(1), designated existing provisions as subsec. (a)(1) and inserted headings.

Subsec. (a)(2). Pub. L. 103–325, §580, added par. (2).

Subsec. (b). Pub. L. 103–325, §541(2), added subsec. (b).

1983—Pub. L. 98–181 substituted "Director" for "Secretary".

1969—Pub. L. 91–152 substituted provisions prohibiting new flood insurance coverage after Dec. 31, 1971, unless adequate land use measures have been adopted, for provisions prohibiting such coverage after June 30, 1970, unless permanent land use measures have been adopted.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under

section 4001 of this title.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4023. Properties in violation of State and local law

No new flood insurance coverage shall be provided under this chapter for any property which the Administrator finds has been declared by a duly constituted State or local zoning authority, or other authorized public body, to be in violation of State or local laws, regulations, or ordinances which are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

(Pub. L. 90–448, title XIII, §1316, Aug. 1, 1968, 82 Stat. 580; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2012—Pub. L. 112–141 substituted "Administrator" for "Director".

1983—Pub. L. 98–181 substituted "Director" for "Secretary".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4024. Coordination with other programs

In carrying out this chapter, the Administrator shall consult with other departments and agencies of the Federal Government, and with interstate, State, and local agencies having responsibilities for flood control, flood forecasting, or flood damage prevention, in order to assure that the programs of such agencies and the flood insurance program authorized under this chapter are mutually consistent.

(Pub. L. 90–448, title XIII, §1317, Aug. 1, 1968, 82 Stat. 581; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2012—Pub. L. 112–141 substituted "Administrator" for "Director".
1983—Pub. L. 98–181 substituted "Director" for "Secretary".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4025. Flood insurance advisory committee

(a) Appointment; duties

The Administrator shall appoint a flood insurance advisory committee without regard to the provisions of title 5 governing appointments in the competitive service, and such committee shall advise the Administrator in the preparation of any regulations prescribed in accordance with this chapter and with respect to policy matters arising in the administration of this chapter, and shall perform such other responsibilities as the Administrator may, from time to time, assign to such committee.

(b) Membership

Such committee shall consist of not more than fifteen persons and such persons shall be selected from among representatives of—

(1) the insurance industry,
(2) State and local governments,
(3) lending institutions,

(4) the homebuilding industry, and
(5) the general public.

(c) Compensation and travel expenses

Members of the committee shall, while attending conferences or meetings thereof, be entitled to receive compensation at a rate fixed by the Administrator but not exceeding $100 per day, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as is authorized under section 5703 of title 5 for persons in the Government service employed intermittently.

(Pub. L. 90–448, title XIII, §1318, Aug. 1, 1968, 82 Stat. 581; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2012—Subsecs. (a), (c). Pub. L. 112–141 substituted "Administrator" for "Director" wherever appearing.
1983—Subsecs. (a), (c). Pub. L. 98–181 substituted "Director" for "Secretary" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 1013 of Title 5, Government Organization and Employees.

§4026. Expiration of program

No new contract for flood insurance under this chapter shall be entered into after September 30, 2026.

(Pub. L. 90–448, title XIII, §1319, Aug. 1, 1968, 82 Stat. 581; Pub. L. 93–4, Feb. 2, 1973, 87 Stat. 4; Pub. L. 93–38, June 5, 1973, 87 Stat. 73; Pub. L. 93–234, title I, §105, Dec. 31, 1973, 87 Stat. 979; Pub. L. 95–60, §3, June 30, 1977, 91 Stat. 257; Pub. L. 95–80, §3, July 31, 1977, 91 Stat. 339; Pub. L. 95–128, title VII, §701(a), Oct. 12, 1977, 91 Stat. 1144; Pub. L. 95–406, §6(a), Sept. 30, 1978, 92 Stat. 880; Pub. L. 95–557, title III, §308(a), Oct. 31, 1978, 92 Stat. 2098; Pub. L. 96–153, title VI, §602(a), Dec. 21, 1979, 93 Stat. 1137; Pub. L. 97–35, title III, §341(b)(1), Aug. 13, 1981, 95 Stat. 418; Pub. L. 97–289, §4(a), Oct. 6, 1982, 96 Stat. 1231; Pub. L. 98–35, §4(a), May 26, 1983, 97 Stat. 198; Pub. L. 98–109, §5(a), Oct. 1, 1983, 97 Stat. 746; Pub. L. 98–181, title I [title IV, §451(a)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 99–120, §4(a)(1), Oct. 8, 1985, 99 Stat. 503; Pub. L. 99–156, §4(a)(1), Nov. 15, 1985, 99 Stat. 816; Pub. L. 99–219, §4(a)(1), Dec. 26, 1985, 99 Stat. 1731; Pub. L. 99–267, §4(a)(1), Mar. 27, 1986, 100 Stat. 74; Pub. L. 99–272, title III, §3010(a)(1), Apr. 7, 1986, 100 Stat. 106; Pub. L. 99–289, §1(b), May 2, 1986, 100 Stat. 412; Pub. L. 99–345, §1, June 24, 1986, 100 Stat. 673; Pub. L. 99–430, Sept. 30, 1986, 100 Stat. 986; Pub. L. 100–122, §1, Sept. 30, 1987, 101 Stat. 793; Pub. L. 100–154, Nov. 5, 1987, 101 Stat. 890; Pub. L. 100–170, Nov. 17, 1987, 101 Stat. 914; Pub. L. 100–179, Dec. 3, 1987, 101 Stat. 1018; Pub. L. 100–200, Dec. 21, 1987, 101 Stat. 1327; Pub. L. 100–242, title V, §541(a), Feb. 5, 1988, 101 Stat. 1939; Pub. L. 101–137, §1(a), Nov. 3, 1989, 103 Stat. 824; Pub. L. 101–508, title II, §2302(a), Nov. 5, 1990, 104 Stat. 1388–23; Pub. L. 103–325, title V, §571(a), Sept. 23, 1994, 108 Stat. 2277; Pub. L. 104–204, title III, Sept. 26, 1996, 110 Stat. 2915; Pub. L. 105–46, §118, Sept. 30, 1997, 111 Stat. 1157; Pub. L. 105–65, title III, Oct. 27, 1997, 111 Stat. 1377; Pub. L. 105–276, title III, title V, §599D(a), Oct. 21, 1998, 112 Stat. 2502, 2663; Pub. L. 107–73, title III, Nov. 26, 2001, 115 Stat. 689; Pub. L. 108–3, §2(a)(2), Jan. 13, 2003, 117 Stat. 7; Pub. L. 108–171, §2(a)(1), Dec. 6, 2003, 117 Stat. 2064; Pub. L. 108–199, div. H, §136(a)(1), Jan. 23, 2004, 118 Stat. 442; Pub. L. 108–264, title I, §101(b), June 30, 2004, 118 Stat. 714; Pub. L. 111–196, §2(a), July 2, 2010, 124 Stat. 1352; Pub. L. 111–250, §2(a), Sept. 30, 2010, 124 Stat. 2630; Pub. L. 112–74, div. D, title V, §573, Dec. 23, 2011, 125 Stat. 985; Pub. L. 112–123, §1(a), May 31, 2012, 126 Stat. 365; Pub. L. 112–141, div. F, title II, §100203(b), July 6, 2012, 126 Stat. 916; Pub. L. 115–225, §2(b), July 31, 2018, 132 Stat. 1624; Pub. L. 115–281, §2(b), Dec. 1, 2018, 132 Stat. 4191; Pub. L. 115–396, §2(b), Dec. 21, 2018, 132 Stat. 5296; Pub. L. 116–19, §2(b), May 31, 2019, 133 Stat. 870; Pub. L. 116–20, title XII, §1207(b), June 6, 2019, 133 Stat. 901; Pub. L. 116–159, div. A, §146(b), Oct. 1, 2020, 134 Stat. 718; Pub. L. 117–103, div. O, title I, §101(b), Mar. 15, 2022, 136 Stat. 787; Pub. L. 117–328, div. AA, title IX, §901(b), Dec. 29, 2022, 136 Stat. 5551; Pub. L. 119–75, div. I, §5004(b), Feb. 3, 2026, 140 Stat. 630.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2026—Pub. L. 119–75 substituted "September 30, 2026" for "September 30, 2023".
2022—Pub. L. 117–328 substituted "September 30, 2023" for "September 30, 2022".
Pub. L. 117–103 substituted "September 30, 2022" for "September 30, 2021".
2020—Pub. L. 116–159 substituted "September 30, 2021" for "September 30, 2019".
2019—Pub. L. 116–20 substituted "September 30, 2019" for "June 14, 2019".
Pub. L. 116–19 substituted "June 14, 2019" for "May 31, 2019".
2018—Pub. L. 115–396 substituted "May 31, 2019" for "December 7, 2018".
Pub. L. 115–281 substituted "December 7, 2018" for "November 30, 2018".
Pub. L. 115–225 substituted "November 30, 2018" for "September 30, 2017".
2012—Pub. L. 112–141 substituted "September 30, 2017" for "July 31, 2012".

Pub. L. 112–123 substituted "July 31, 2012" for "the earlier of the date of the enactment into law of an Act that specifically amends the date specified in this section or May 31, 2012".

2011—Pub. L. 112–74 substituted "the earlier of the date of the enactment into law of an Act that specifically amends the date specified in this section or May 31, 2012" for "September 30, 2011".

2010—Pub. L. 111–250 substituted "September 30, 2011" for "September 30, 2010".

Pub. L. 111–196 substituted "September 30, 2010" for "September 30, 2008".

2004—Pub. L. 108–264 substituted "after September 30, 2008" for "after March 31, 2004".

Pub. L. 108–199, which directed the substitution of "June 30, 2004." for "December 31, 2003", could not be executed because of the amendment by Pub. L. 108–171. See 2003 Amendment note below.

2003—Pub. L. 108–171 substituted "March 31, 2004" for "December 31, 2003".

Pub. L. 108–3 substituted "after December 31, 2003" for "after December 31, 2002".

2001—Pub. L. 107–73 substituted "December 31, 2002" for "September 30, 2001".

1998—Pub. L. 105–276, §599D(a), which directed the substitution of "2001" for "1998", was executed by substituting "2001" for "1999" to reflect the probable intent of Congress and the amendment by Pub. L. 105–276, title III, see below.

Pub. L. 105–276, title III, substituted "1999" for "1998".

1997—Pub. L. 105–65 substituted "September 30, 1998" for "October 23, 1997".

Pub. L. 105–46 substituted "October 23, 1997" for "September 30, 1997".

1996—Pub. L. 104–204 substituted "September 30, 1997" for "September 30, 1996".

1994—Pub. L. 103–325 substituted "September 30, 1996" for "September 30, 1995".

1990—Pub. L. 101–508 substituted "September 30, 1995" for "September 30, 1991".

1989—Pub. L. 101–137 substituted "September 30, 1991" for "September 30, 1989".

1988—Pub. L. 100–242 substituted "September 30, 1989" for "March 15, 1988".

1987—Pub. L. 100–200 substituted "March 15, 1988" for "December 16, 1987".

Pub. L. 100–179 substituted "December 16, 1987" for "December 2, 1987".

Pub. L. 100–170 substituted "December 2, 1987" for "November 15, 1987".

Pub. L. 100–154 substituted "November 15, 1987" for "October 31, 1987".

Pub. L. 100–122 substituted "October 31, 1987" for "September 30, 1987".

1986—Pub. L. 99–430 substituted "September 30, 1987" for "September 30, 1986".

Pub. L. 99–345 substituted "September 30, 1986" for "June 6, 1986".

Pub. L. 99–289 substituted "June 6, 1986" for "April 30, 1986".

Pub. L. 99–272 directed amendment identical to Pub. L. 99–219 substituting "March 17, 1986" for "December 15, 1985".

Pub. L. 99–267 substituted "April 30, 1986" for "March 17, 1986".

1985—Pub. L. 99–219 substituted "March 17, 1986" for "December 15, 1985".

Pub. L. 99–156 substituted "December 15, 1985" for "November 14, 1985".

Pub. L. 99–120 substituted "November 14, 1985" for "September 30, 1985".

1983—Pub. L. 98–181 substituted "September 30, 1985" for "November 30, 1983".

Pub. L. 98–109 substituted "November 30, 1983" for "September 30, 1983".

Pub. L. 98–35 substituted "September 30, 1983" for "May 20, 1983".

1982—Pub. L. 97–289 substituted "May 20, 1983" for "September 30, 1982".

1981—Pub. L. 97–35 substituted "1982" for "1981".

1979—Pub. L. 96–153 substituted "September 30, 1981" for "September 30, 1980".

1978—Pub. L. 95–557 substituted "September 30, 1980" for "October 31, 1978".

Pub. L. 95–406 substituted "October 31, 1978" for "September 30, 1978".

1977—Pub. L. 95–128 substituted "September 30, 1978" for "September 30, 1977".

Pub. L. 95–80 substituted "September 30, 1977" for "July 31, 1977".

Pub. L. 95–60 substituted "July 31, 1977" for "June 30, 1977".

1973—Pub. L. 93–234 substituted expiration of program provisions for $6,000,000,000 limitation on flood insurance coverage outstanding.

Pub. L. 93–38 substituted "$6,000,000,000" for "$4,000,000,000".

Pub. L. 93–4 substituted "$4,000,000,000" for "$2,500,000,000".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2026 AMENDMENT

Amendment by Pub. L. 119–75 effective as if enacted on Jan. 30, 2026, see section 5004(c) of div. I of Pub.

L. 119–75, set out as a note under section 4016 of this title.

EFFECTIVE DATE OF 2022 AMENDMENT

Amendment by Pub. L. 117–328 effective as if enacted on Sept. 30, 2022, see section 901(c) of div. AA of Pub. L. 117–328, set out as a note under section 4016 of this title.

EFFECTIVE DATE OF 2020 AMENDMENT

Amendment by Pub. L. 116–159 effective immediately upon enactment (Oct. 1, 2020), and applicable as if it were in effect on Sept. 30, 2020, see section 146(c) of Pub. L. 116–159, set out as a note under section 4016 of this title.

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–396 effective as if enacted on Dec. 7, 2018, see section 2(c) of Pub. L. 115–396, set out as a note under section 4016 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–196 considered effective on May 31, 2010, see section 2(c) of Pub. L. 111–196, set out as a note under section 4016 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–199 considered to have taken effect on Dec. 31, 2003, see section 136(b) of div. H of Pub. L. 108–199, set out as a note under section 4016 of this title.

EFFECTIVE DATE OF 2003 AMENDMENTS

Amendment by Pub. L. 108–171 effective Dec. 31, 2003, see section 2(b) of Pub. L. 108–171, set out as a note under section 4016 of this title.

Amendment by Pub. L. 108–3 effective Dec. 31, 2002, see section 2(b) of Pub. L. 108–3, set out as a note under section 4016 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–276, title V, §599D(c), Oct. 21, 1998, 112 Stat. 2663, provided that: "The amendments made by this section [amending this section and section 4056 of this title] are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998]."

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

EXTENSION OF PROGRAM

Pub. L. 119–4, div. A, title VII, §1709, Mar. 15, 2025, 139 Stat. 29, provided that:

"(a) Sections 1309(a) and 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4016(a) and 4026) shall be applied by substituting the date specified in section 1106 of this Act [Sept. 30, 2025] for 'September 30, 2023'.

"(b)(1) Subject to paragraph (2), this section shall become effective immediately upon enactment of this Act [div. A of Pub. L. 119–4, approved Mar. 15, 2025].

"(2) If this Act is enacted after March 14, 2025, this section shall be applied as if it were in effect on March 14, 2025."

Prior provisions generally extending the authority of sections 1309(a) and 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4016(a) and 4026) were contained in the following acts:

Pub. L. 118–83, div. A, §137, Sept. 26, 2024, 138 Stat. 1531 (to Dec. 20, 2024).

Pub. L. 118–47, div. G, title I, §101(b), Mar. 23, 2024, 138 Stat. 856 (to Sept. 30, 2024).

Pub. L. 116–94, div. I, title II, §201, Dec. 20, 2019, 133 Stat. 3019 (to Sept. 30, 2020).

Pub. L. 115–141, div. M, title III, §301, Mar. 23, 2018, 132 Stat. 1049 (to July 31, 2018).

Pub. L. 110–329, div. A, §145, Sept. 30, 2008, 122 Stat. 3581, as amended by Pub. L. 111–8, div. J, §101, Mar. 11, 2009, 123 Stat. 988 (to Sept. 30, 2009).

Pub. L. 105–64, Oct. 23, 1997, 111 Stat. 1343 (to Nov. 7, 1997).

§4027. Biennial report to President

(a) In general

The Administrator shall biennially submit a report of operations under this chapter to the President for submission to the Congress.

(b) Effects of flood insurance program

The Administrator shall include, as part of the biennial report submitted under subsection (a), a chapter reporting on the effects on the flood insurance program observed through implementation of requirements under the Riegle Community Development and Regulatory Improvement Act of 1994.

(Pub. L. 90–448, title XIII, §1320, Aug. 1, 1968, 82 Stat. 581; Pub. L. 96–470, title II, §205(b), Oct. 19, 1980, 94 Stat. 2244; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 103–325, title V, §581, Sept. 23, 1994, 108 Stat. 2286; Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

The Riegle Community Development and Regulatory Improvement Act of 1994, referred to in subsec. (b), is Pub. L. 103–325, Sept. 23, 1994, 108 Stat. 2160. For complete classification of this Act to the Code, see Short Title note set out under section 4701 of Title 12, Banks and Banking, and Tables.

AMENDMENTS

2012—Pub. L. 112–141 substituted "Administrator" for "Director" in subsecs. (a) and (b).

1994—Pub. L. 103–325 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1983—Pub. L. 98–181 substituted "Director" for "Secretary".

1980—Pub. L. 96–470 substituted "biennially submit" for "include" and struck out "in the annual report" after "under this chapter" and "required by section 3536 of this title" after "the Congress".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4027a. Report of the Administrator on activities under the National Flood Insurance Program

(1) In general

The Administrator shall, on an annual basis, submit a full report on the operations, activities, budget, receipts, and expenditures of the National Flood Insurance Program for the preceding 12-month period to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

(2) Timing

Each report required under paragraph (1) shall be submitted to the committees described in paragraph (1) not later than 3 months following the end of each fiscal year.

(3) Contents

Each report required under paragraph (1) shall include—

(A) the current financial condition and income statement of the National Flood Insurance Fund established under section 4017 of this title, including—

(i) premiums paid into such Fund;

(ii) policy claims against such Fund; and

(iii) expenses in administering such Fund;

(B) the number and face value of all policies issued under the National Flood Insurance Program that are in force;

(C) a description and summary of the losses attributable to repetitive loss structures;

(D) a description and summary of all losses incurred by the National Flood Insurance Program due to—

(i) hurricane related damage; and

(ii) nonhurricane related damage;

(E) the amounts made available by the Administrator for mitigation assistance under section 4104c(c)(4) of this title, as so redesignated by this Act, for the purchase of properties substantially damaged by flood for that fiscal year, and the actual number of flood damaged properties purchased and the total cost expended to purchase such properties;

(F) the estimate of the Administrator as to the average historical loss year, and the basis for that estimate;

(G) the estimate of the Administrator as to the maximum amount of claims that the National Flood Insurance Program would have to expend in the event of a catastrophic year;

(H) the average—

(i) amount of insurance carried per flood insurance policy;

(ii) premium per flood insurance policy; and

(iii) loss per flood insurance policy; and

(I) the number of claims involving damages in excess of the maximum amount of flood insurance available under the National Flood Insurance Program and the sum of the amount of all damages in excess of such amount.

(Pub. L. 112–141, div. F, title II, §100231(b), July 6, 2012, 126 Stat. 950.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in par. (3)(E), is Pub. L. 112–141, July 6, 2012, 126 Stat. 405, known as the Moving Ahead for Progress in the 21st Century Act and also as the MAP–21. For complete classification of this Act to the Code, see Short Title of 2012 Amendment note set out under section 101 of Title 23, Highways, and Tables.

CODIFICATION

Section was enacted as part of the Biggert-Waters Flood Insurance Reform Act of 2012, and also as part of the Moving Ahead for Progress in the 21st Century Act, also known as the MAP–21, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 4004 of this title.

§4027b. Assessment of claims-paying ability

(1) Assessment

(A) Assessment required

(i) In general

Not later than September 30 of each year, the Administrator shall conduct an assessment of the ability of the National Flood Insurance Program to pay claims.

(ii) Private market reinsurance

The assessment under this paragraph for any year in which the Administrator exercises the authority under section 4055(a)(2) of this title, as added by this section,[1] to secure reinsurance of coverage provided by the National Flood Insurance Program from the private market shall include information relating the use of private sector reinsurance and reinsurance equivalents by the Administrator, whether or not the Administrator used the borrowing authority under section 4016 of this title.

(iii) First assessment

The Administrator shall conduct the first assessment required under this paragraph not later than September 30, 2012.

(B) Considerations

In conducting an assessment under subparagraph (A), the Administrator shall take into consideration regional concentrations of coverage written by the National Flood Insurance Program, peak flood zones, and relevant mitigation measures.

(2) Annual report of the Administrator of activities under the National Flood Insurance Program

The Administrator shall—

(A) include the results of each assessment in the report required under section 4027a of this title; and

(B) not later than 30 days after the date on which the Administrator completes an assessment required under paragraph (1), make the results of the assessment available to the public.

(Pub. L. 112–141, div. F, title II, §100232(e), July 6, 2012, 126 Stat. 955.)

EDITORIAL NOTES

REFERENCES IN TEXT

This section, referred to in par. (1)(A)(ii), means section 100232 of Pub. L. 112–141, which enacted this section and amended sections 4051, 4052, 4055, 4082, and 4121 of this title.

CODIFICATION

Section was enacted as part of the Biggert-Waters Flood Insurance Reform Act of 2012, and also as part of the Moving Ahead for Progress in the 21st Century Act, also known as the MAP–21, and not as part of the

National Flood Insurance Act of 1968 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 4004 of this title.

[1] *See References in Text note below.*

§4028. John H. Chafee Coastal Barrier Resources System

(a) No new flood insurance coverage may be provided under this chapter on or after October 1, 1983, for any new construction or substantial improvements of structures located on any coastal barrier within the John H. Chafee Coastal Barrier Resources System established by section 3503 of title 16. A federally insured financial institution may make loans secured by structures which are not eligible for flood insurance by reason of this section.

(b) No new flood insurance coverage may be provided under this chapter after the expiration of the 1-year period beginning on November 16, 1990, for any new construction or substantial improvements of structures located in any area identified and depicted on the maps referred to in section 3503(a) of title 16 as an area that is (1) not within the John H. Chafee Coastal Barrier Resources System and (2) is in an otherwise protected area. Notwithstanding the preceding sentence, new flood insurance coverage may be provided for structures in such protected areas that are used in a manner consistent with the purpose for which the area is protected.

(Pub. L. 90–448, title XIII, §1321, as added Pub. L. 97–35, title III, §341(d)(1), Aug. 13, 1981, 95 Stat. 419; amended Pub. L. 97–348, §11(a), Oct. 18, 1982, 96 Stat. 1658; Pub. L. 101–591, §9, Nov. 16, 1990, 104 Stat. 2938; Pub. L. 106–167, §3(c)(7), Dec. 9, 1999, 113 Stat. 1804.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

1999—Pub. L. 106–167 amended section catchline and substituted "John H. Chafee Coastal Barrier Resources System" for "Coastal Barrier Resources System" in subsecs. (a) and (b).

1990—Pub. L. 101–591 designated existing provisions as subsec. (a) and added subsec. (b).

1982—Subsecs. (a) to (c). Pub. L. 97–348 struck out subsec. designations in subsecs. (a) and (c), in provisions of former subsec. (a) substituted "on any coastal barrier within the Coastal Barrier Resources System established by section 3503 of title 16" for "on undeveloped coastal barriers which shall be designated by the Secretary of the Interior", and struck out subsec. (b) which provided definitions for purposes of this section.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as a note under section 3701 of Title 12, Banks and Banking.

STUDY FOR DESIGNATION OF UNDEVELOPED COASTAL BARRIERS; REPORT AND RECOMMENDATIONS TO CONGRESS

Pub. L. 97–35, title III, §341(d)(2), Aug. 13, 1981, 95 Stat. 419, relating to a study by the Secretary of the

Interior for the purpose of designating the undeveloped coastal barriers affected by this section, and transmittal to Congress of a report on such study, was repealed by Pub. L. 97–348, §11(b), Oct. 18, 1982, 96 Stat. 1659.

§4029. Colorado River Floodway

(a) Renewal and transfer of policies; acquisition of policies after filing of maps

Owners of existing National Flood Insurance Act policies with respect to structures located within the Floodway established under section 1600c of title 43 shall have the right to renew and transfer such policies. Owners of existing structures located within said Floodway on October 8, 1986, who have not acquired National Flood Insurance Act policies shall have the right to acquire policies with respect to such structures for six months after the Secretary of the Interior files the Floodway maps required by section 1600c(b)(2) [1] of title 43 and to renew and transfer such policies.

(b) New coverage for new construction or substantial improvements

No new flood insurance coverage may be provided under this chapter on or after a date six months after October 8, 1986, for any new construction or substantial improvements of structures located within the Colorado River Floodway established by section 1600c of title 43. New construction includes all structures that are not insurable prior to that date.

(c) Establishment of temporary boundaries

The Secretary of the Interior may by rule after notice and comment pursuant to section 553 of title 5 establish temporary Floodway boundaries to be in effect until the maps required by section 1600c(b)(2) [1] of title 43 are filed, for the purpose of enforcing subsections (b) and (d) of this section.

(d) Loans by federally supervised, approved, regulated, or insured financial institutions

A regulated lending institution or Federal agency lender may make loans secured by structures which are not eligible for flood insurance by reason of this section: *Provided*, That prior to making such a loan, such institution determines that the loans or structures securing the loan are within the Floodway.

(Pub. L. 90–448, title XIII, §1322, as added Pub. L. 99–450, §12, Oct. 8, 1986, 100 Stat. 1135; amended Pub. L. 100–242, title V, §545(e), Feb. 5, 1988, 101 Stat. 1942; Pub. L. 103–325, title V, §512(b), Sept. 23, 1994, 108 Stat. 2257.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Flood Insurance Act, referred to in subsec. (a), probably means the National Flood Insurance Act of 1968, title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, which is classified principally to this chapter (§4001 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

Section 1600c(b)(2) of title 43, referred to in subsecs. (a) and (c), was struck out and former subsec. (b)(1)(ii) redesignated (b)(2) of section 1600c by Pub. L. 105–362, title IX, §901(d)(1), Nov. 10, 1998, 112 Stat. 3289. As amended, section 1600c(b)(2) no longer relates to maps required to be prepared and filed by the Secretary.

This chapter, referred to in subsec. (b), was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

1994—Subsec. (d). Pub. L. 103–325 substituted "regulated lending institution or Federal agency lender" for "federally supervised, approved, regulated or insured financial institution".

1988—Pub. L. 100–242 inserted section catchline.

[1] *See References in Text note below.*

§4030. Repealed. Pub. L. 112–141, div. F, title II, §100225(b), July 6, 2012, 126 Stat. 941

Section, Pub. L. 90–448, title XIII, §1323, as added Pub. L. 108–264, title I, §104(a), June 30, 2004, 118 Stat. 722, provided funding for mitigation actions that reduce flood damages to individual properties for which 1 or more claim payments for losses have been made under flood insurance coverage under this chapter.

§4031. Treatment of certain payments

Assistance provided under a program under this chapter for flood mitigation activities (including any assistance provided under the mitigation pilot program under section 4102a [1] of this title, any assistance provided under the mitigation assistance program under section 4104c of this title, and any funding provided under section 4030 [1] of this title) with respect to a property shall not be considered income or a resource of the owner of the property when determining eligibility for or benefit levels under any income assistance or resource-tested program that is funded in whole or in part by an agency of the United States or by appropriated funds of the United States.

(Pub. L. 90–448, title XIII, §1324, as added Pub. L. 109–64, §1, Sept. 20, 2005, 119 Stat. 1997.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

Section 4102a of this title, referred to in text, was repealed by Pub. L. 112–141, div. F, title II, §100225(c), July 6, 2012, 126 Stat. 941.

Section 4030 of this title, referred to in text, was repealed by Pub. L. 112–141, div. F, title II, §100225(b), July 6, 2012, 126 Stat. 941.

[1] *See References in Text note below.*

§4032. Treatment of swimming pool enclosures outside of hurricane season

(a) In general

Notwithstanding any other provision of law, including the adequate land use and control measures developed pursuant to section 4102 of this title and applicable to non-one- and two-family structures located within coastal areas, as identified by the Administrator, the following may be permitted:

(1) Nonsupporting breakaway walls in the space below the lowest elevated floor of a building, if the space is used solely for a swimming pool between November 30 and June 1 of any year, in an area designated as Zone V on a flood insurance rate map.

(2) Openings in walls in the space below the lowest elevated floor of a building, if the space is used solely for a swimming pool between November 30 and June 1 of any year, in an area designated as Zone A on a flood insurance rate map.

(b) Rule of construction

Nothing in subsection (a) shall be construed to alter the terms and conditions of eligibility and insurability of coverage for a building under the standard flood insurance policy under the national flood insurance program.

(Pub. L. 90–448, title XIII, §1325, as added Pub. L. 112–141, div. F, title II, §100242, July 6, 2012, 126 Stat. 962.)

§4033. Designation of Flood Insurance Advocate

(a) In general

The Administrator shall designate a Flood Insurance Advocate to advocate for the fair treatment of policy holders under the National Flood Insurance Program and property owners in the mapping of flood hazards, the identification of risks from flood, and the implementation of measures to minimize the risk of flood.

(b) Duties and responsibilities

The duties and responsibilities of the Flood Insurance Advocate designated under subsection (a) shall be to—

(1) educate property owners and policyholders under the National Flood Insurance Program on—

(A) individual flood risks;

(B) flood mitigation;

(C) measures to reduce flood insurance rates through effective mitigation;

(D) the flood insurance rate map review and amendment process; and

(E) any changes in the flood insurance program as a result of any newly enacted laws (including this Act);

(2) assist policy holders under the National Flood Insurance Program and property owners to understand the procedural requirements related to appealing preliminary flood insurance rate maps and implementing measures to mitigate evolving flood risks;

(3) assist in the development of regional capacity to respond to individual constituent concerns about flood insurance rate map amendments and revisions;

(4) coordinate outreach and education with local officials and community leaders in areas impacted by proposed flood insurance rate map amendments and revisions; and

(5) aid potential policy holders under the National Flood Insurance Program in obtaining and verifying accurate and reliable flood insurance rate information when purchasing or renewing a flood insurance policy.

(Pub. L. 113–89, §24, Mar. 21, 2014, 128 Stat. 1030.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (b)(1)(E), is Pub. L. 113–89, Mar. 21, 2014, 128 Stat. 1020, known as the Homeowner Flood Insurance Affordability Act of 2014. For complete classification of this Act to the Code, see Short Title of 2014 Amendment note set out under section 4001 of this title and Tables.

CODIFICATION

Section was enacted as part of the Homeowner Flood Insurance Affordability Act of 2014, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 4005 of this title.

SUBCHAPTER II—ORGANIZATION AND ADMINISTRATION OF FLOOD INSURANCE PROGRAM

§4041. Implementation of program

Following such consultation with representatives of the insurance industry as may be necessary, the Administrator shall implement the flood insurance program authorized under subchapter I in accordance with the provisions of part A of this subchapter and, if a determination is made by him under section 4071 of this title, under part B of this subchapter.

(Pub. L. 90–448, title XIII, §1330, Aug. 1, 1968, 82 Stat. 581; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958.)

EDITORIAL NOTES

AMENDMENTS

2012—Pub. L. 112–141 substituted "Administrator" for "Director".
1983—Pub. L. 98–181 substituted "Director" for "Secretary".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

PART A—INDUSTRY PROGRAM WITH FEDERAL FINANCIAL ASSISTANCE

§4051. Industry flood insurance pool; requirements for participation

(a) The Administrator is authorized to encourage and otherwise assist any insurance companies and other insurers which meet the requirements prescribed under subsection (b) to form, associate, or otherwise join together in a pool—

(1) in order to provide the flood insurance coverage authorized under subchapter I; and

(2) for the purpose of assuming, including as reinsurance of coverage provided by the flood insurance program, on such terms and conditions as may be agreed upon, such financial

responsibility as will enable such companies and other insurers, with the Federal financial and other assistance available under this chapter, to assume a reasonable proportion of responsibility for the adjustment and payment of claims for losses under the flood insurance program.

(b) In order to promote the effective administration of the flood insurance program under this part, and to assure that the objectives of this chapter are furthered, the Administrator is authorized to prescribe appropriate requirements for insurance companies and other insurers participating in such pool including, but not limited to, minimum requirements for capital or surplus or assets.

(Pub. L. 90–448, title XIII, §1331, Aug. 1, 1968, 82 Stat. 582; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §§100232(d)(1), 100238(b)(1), July 6, 2012, 126 Stat. 954, 958.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(2) and (b), was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2012—Subsec. (a). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director" in introductory provisions.

Subsec. (a)(2). Pub. L. 112–141, §100232(d)(1), inserted ", including as reinsurance of coverage provided by the flood insurance program" before ", on such terms".

Subsec. (b). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director".

1983—Pub. L. 98–181 substituted "Director" for "Secretary" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4052. Agreements with flood insurance pool

(a) Authorization

The Administrator is authorized to enter into such agreements with the pool formed or otherwise created under this part as he deems necessary to carry out the purposes of this chapter.

(b) Terms and conditions

Such agreements shall specify—

(1) the terms and conditions under which risk capital will be available for the adjustment and

payment of claims,

(2) the terms and conditions under which the pool (and the companies and other insurers participating therein) shall participate in premiums received and profits or losses realized or sustained,

(3) the maximum amount of profit, established by the Administrator and set forth in the schedules prescribed under section 4018 of this title, which may be realized by such pool (and the companies and other insurers participating therein),

(4) the terms and conditions under which operating costs and allowances set forth in the schedules prescribed under section 4018 of this title may be paid, and

(5) the terms and conditions under which premium equalization payments under section 4054 of this title will be made and reinsurance claims under section 4055 of this title will be paid.

(c) Additional provisions

In addition, such agreements shall contain such provisions as the Administrator finds necessary to assure that—

(1) no insurance company or other insurer which meets the requirements prescribed under section 4051(b) of this title, and which has indicated an intention to participate in the flood insurance program on a risk-sharing basis, will be excluded from participating in the pool,

(2) the insurance companies and other insurers participating in the pool will take whatever action may be necessary to provide continuity of flood insurance coverage or reinsurance by the pool, and

(3) any insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organizations will be permitted to cooperate with the pool as fiscal agents or otherwise, on other than a risk-sharing basis, to the maximum extent practicable.

(Pub. L. 90–448, title XIII, §1332, Aug. 1, 1968, 82 Stat. 582; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §§100232(d)(2), 100238(b)(1), July 6, 2012, 126 Stat. 954, 958.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2012—Subsecs. (a), (b)(3), (c). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director".
Subsec. (c)(2). Pub. L. 112–141, §100232(d)(2), inserted "or reinsurance" after "flood insurance coverage".
1983—Subsecs. (a), (b)(3), (c). Pub. L. 98–181 substituted "Director" for "Secretary".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the

Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4053. Adjustment and payment of claims; judicial review; limitations; jurisdiction

The insurance companies and other insurers which form, associate, or otherwise join together in the pool under this part may adjust and pay all claims for proved and approved losses covered by flood insurance in accordance with the provisions of this chapter and, upon the disallowance by any such company or other insurer of any such claim, or upon the refusal of the claimant to accept the amount allowed upon any such claim, the claimant, within one year after the date of mailing of notice of disallowance or partial disallowance of the claim, may institute an action on such claim against such company or other insurer in the United States district court for the district in which the insured property or the major part thereof shall have been situated, and original exclusive jurisdiction is hereby conferred upon such court to hear and determine such action without regard to the amount in controversy.

(Pub. L. 90–448, title XIII, §1333, Aug. 1, 1968, 82 Stat. 583; Pub. L. 98–181, title I [title IV, §451(d)(3)], Nov. 30, 1983, 97 Stat. 1229.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

1983—Pub. L. 98–181 inserted "original exclusive" before "jurisdiction".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

§4054. Premium equalization payments; basis; aggregate amount; establishment of designated periods

(a) The Administrator, on such terms and conditions as he may from time to time prescribe, shall make periodic payments to the pool formed or otherwise created under section 4051 of this title, in recognition of such reductions in chargeable premium rates under section 4015 of this title below estimated premium rates under section 4014(a)(1) of this title as are required in order to make flood insurance available on reasonable terms and conditions.

(b) Designated periods under this section and the methods for determining the sum of premiums paid or payable during such periods shall be established by the Administrator.

(Pub. L. 90–448, title XIII, §1334, Aug. 1, 1968, 82 Stat. 583; Pub. L. 93–234, title I, §111, Dec. 31, 1973, 87 Stat. 981; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958.)

EDITORIAL NOTES

AMENDMENTS

2012—Pub. L. 112–141 substituted "Administrator" for "Director" in subsecs. (a) and (b).

1983—Pub. L. 98–181 substituted "Director" for "Secretary" in subsecs. (a) and (b).

1973—Subsecs. (b), (c). Pub. L. 93–234 redesignated subsec. (c) as (b) and struck out former subsec. (b) prescribing formula for sharing losses between Government and industry and permit necessary flexibility in loss sharing to take into account longer-term loss experience trends and to compensate for lack of precision in actuarial computations.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4055. Reinsurance coverage

(a) Availability for excess losses

(1) In general

The Administrator is authorized to take such action as may be necessary in order to make available, to the pool formed or otherwise created under section 4051 of this title, reinsurance for losses (due to claims for proved and approved losses covered by flood insurance) which are in excess of losses assumed by such pool in accordance with the excess loss agreement entered into under subsection (c).

(2) Private reinsurance

The Administrator is authorized to secure reinsurance of coverage provided by the flood insurance program from the private market at rates and on terms determined by the Administrator to be reasonable and appropriate, in an amount sufficient to maintain the ability of the program to pay claims.

(b) Availability pursuant to contract, agreement, or other arrangement; payment of premium, fee, or other charge

Such reinsurance shall be made available pursuant to contract, agreement, or any other arrangement, in consideration of such payment of a premium, fee, or other charge as the Administrator finds necessary to cover anticipated losses and other costs of providing such reinsurance.

(c) Excess loss agreement; negotiation

The Administrator is authorized to negotiate an excess loss agreement, from time to time, under which the amount of flood insurance retained by the pool, after ceding reinsurance, shall be adequate to further the purposes of this chapter, consistent with the objective of maintaining appropriate

financial participation and risk sharing to the maximum extent practicable on the part of participating insurance companies and other insurers.

(d) Submission of excess losses on portfolio basis

All reinsurance claims for losses in excess of losses assumed by the pool shall be submitted on a portfolio basis by such pool in accordance with terms and conditions established by the Administrator.

(Pub. L. 90–448, title XIII, §1335, Aug. 1, 1968, 82 Stat. 583; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §§100232(d)(3), 100238(b)(1), July 6, 2012, 126 Stat. 954, 958.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2012—Subsec. (a). Pub. L. 112–141, §100232(d)(3), designated existing provisions as par. (1), inserted heading, substituted "The Administrator" for "The Director" and added par. (2).

Subsecs. (b) to (d). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director".

1983—Pub. L. 98–181 substituted "Director" for "Secretary" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4056. Emergency implementation of flood insurance program; applicability of other provisions of law

(a) Notwithstanding any other provisions of this chapter, for the purpose of providing flood insurance coverage at the earliest possible time, the Administrator shall carry out the flood insurance program authorized under subchapter I during the period ending on the date specified in section 4026 of this title, in accordance with the provisions of this part and the other provisions of this chapter insofar as they relate to this part but subject to the modifications made by or under subsection (b).

(b) In carrying out the flood insurance program pursuant to subsection (a), the Administrator—

(1) shall provide insurance coverage without regard to any estimated risk premium rates which would otherwise be determined under section 4014 of this title; and

(2) shall utilize the provisions and procedures contained in or prescribed by this part (other than

section 4054 of this title) and sections 4081 and 4082 of this title to such extent and in such manner as he may consider necessary or appropriate to carry out the purpose of this section.

(Pub. L. 90–448, title XIII, §1336, as added Pub. L. 91–152, title IV, §408, Dec. 24, 1969, 83 Stat. 396; amended Pub. L. 92–213, §2(a), Dec. 22, 1971, 85 Stat. 775; Pub. L. 93–234, title I, §106, Dec. 31, 1973, 87 Stat. 979; Pub. L. 94–173, §5, Dec. 23, 1975, 89 Stat. 1028; Pub. L. 94–375, §14(b), Aug. 3, 1976, 90 Stat. 1075; Pub. L. 95–128, title VII, §701(b), Oct. 12, 1977, 91 Stat. 1144; Pub. L. 95–406, §6(b), Sept. 30, 1978, 92 Stat. 880; Pub. L. 95–557, title III, §308(b), Oct. 31, 1978, 92 Stat. 2098; Pub. L. 96–153, title VI, §602(b), Dec. 21, 1979, 93 Stat. 1137; Pub. L. 97–35, title III, §341(b)(2), Aug. 13, 1981, 95 Stat. 419; Pub. L. 97–289, §4(b), Oct. 6, 1982, 96 Stat. 1231; Pub. L. 98–35, §4(b), May 26, 1983, 97 Stat. 198; Pub. L. 98–109, §5(b), Oct. 1, 1983, 97 Stat. 746; Pub. L. 98–181, title I [title IV, §451(b), (d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 99–120, §4(a)(2), Oct. 8, 1985, 99 Stat. 503; Pub. L. 99–156, §4(a)(2), Nov. 15, 1985, 99 Stat. 816; Pub. L. 99–219, §4(a)(2), Dec. 26, 1985, 99 Stat. 1731; Pub. L. 99–267, §4(a)(2), Mar. 27, 1986, 100 Stat. 74; Pub. L. 99–272, title III, §3010(a)(2), Apr. 7, 1986, 100 Stat. 106; Pub. L. 99–289, §1(b), May 2, 1986, 100 Stat. 412; Pub. L. 99–345, §1, June 24, 1986, 100 Stat. 673; Pub. L. 99–430, Sept. 30, 1986, 100 Stat. 986; Pub. L. 100–122, §1, Sept. 30, 1987, 101 Stat. 793; Pub. L. 100–154, Nov. 5, 1987, 101 Stat. 890; Pub. L. 100–170, Nov. 17, 1987, 101 Stat. 914; Pub. L. 100–179, Dec. 3, 1987, 101 Stat. 1018; Pub. L. 100–200, Dec. 21, 1987, 101 Stat. 1327; Pub. L. 100–242, title V, §541(b), Feb. 5, 1988, 101 Stat. 1939; Pub. L. 101–137, §1(b), Nov. 3, 1989, 103 Stat. 824; Pub. L. 101–508, title II, §2302(b), Nov. 5, 1990, 104 Stat. 1388–23; Pub. L. 103–325, title V, §571(b), Sept. 23, 1994, 108 Stat. 2277; Pub. L. 105–46, §118, Sept. 30, 1997, 111 Stat. 1157; Pub. L. 105–65, title III, Oct. 27, 1997, 111 Stat. 1377; Pub. L. 105–276, title III, title V, §599D(b), Oct. 21, 1998, 112 Stat. 2502, 2663; Pub. L. 107–73, title III, Nov. 26, 2001, 115 Stat. 689; Pub. L. 108–3, §2(a)(3), Jan. 13, 2003, 117 Stat. 7; Pub. L. 108–171, §2(a)(3), Dec. 6, 2003, 117 Stat. 2064; Pub. L. 108–199, div. H, §136(a)(3), Jan. 23, 2004, 118 Stat. 442; Pub. L. 108–264, title I, §101(c), June 30, 2004, 118 Stat. 714; Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2012—Pub. L. 112–141 substituted "Administrator" for "Director" in subsecs. (a) and (b).

2004—Subsec. (a). Pub. L. 108–264 substituted "during the period ending on the date specified in section 4026 of this title, in accordance" for identical language.

Pub. L. 108–199 made amendment identical to that made by Pub. L. 108–171. See 2003 Amendment note below.

2003—Subsec. (a). Pub. L. 108–171 substituted "on the date specified in section 4026 of this title" for "December 31, 2003".

Pub. L. 108–3 substituted "ending December 31, 2003, in" for "ending December 31, 2002, in".

2001—Subsec. (a). Pub. L. 107–73 substituted "December 31, 2002" for "September 30, 2001".

1998—Subsec. (a). Pub. L. 105–276, §599D(b), which directed the substitution of "2001" for "1998", was executed by substituting "2001" for "1999" to reflect the probable intent of Congress and the amendment by Pub. L. 105–276, title III, see below.

Pub. L. 105–276, title III, substituted "1999" for "1998".

1997—Subsec. (a). Pub. L. 105–65 substituted "September 30, 1998" for "October 23, 1997".

Pub. L. 105–46 substituted "October 23, 1997" for "September 30, 1996".

1994—Subsec. (a). Pub. L. 103–325 substituted "September 30, 1996" for "September 30, 1995".

1990—Subsec. (a). Pub. L. 101–508 substituted "September 30, 1995" for "September 30, 1991".

1989—Subsec. (a). Pub. L. 101–137 substituted "September 30, 1991" for "September 30, 1989".

1988—Subsec. (a). Pub. L. 100–242 substituted "September 30, 1989" for "March 15, 1988".

1987—Subsec. (a). Pub. L. 100–200 substituted "March 15, 1988" for "December 16, 1987".
Pub. L. 100–179 substituted "December 16, 1987" for "December 2, 1987".
Pub. L. 100–170 substituted "December 2, 1987" for "November 15, 1987".
Pub. L. 100–154 substituted "November 15, 1987" for "October 31, 1987".
Pub. L. 100–122 substituted "October 31, 1987" for "September 30, 1987".
1986—Subsec. (a). Pub. L. 99–430 substituted "September 30, 1987" for "September 30, 1986".
Pub. L. 99–345 substituted "September 30, 1986" for "June 6, 1986".
Pub. L. 99–289 substituted "June 6, 1986" for "April 30, 1986".
Pub. L. 99–272 directed amendment identical to Pub. L. 99–219 substituting "March 17, 1986" for "December 15, 1985".
Pub. L. 99–267 substituted "April 30, 1986" for "March 17, 1986".
1985—Subsec. (a). Pub. L. 99–219 substituted "March 17, 1986" for "December 15, 1985".
Pub. L. 99–156 substituted "December 15, 1985" for "November 14, 1985".
Pub. L. 99–120 substituted "November 14, 1985" for "September 30, 1985".
1983—Subsec. (a). Pub. L. 98–181, §451(d)(1), substituted "Director" for "Secretary".
Pub. L. 98–181, §451(b), substituted "September 30, 1985" for "November 30, 1983".
Pub. L. 98–109 substituted "November 30, 1983" for "September 30, 1983".
Pub. L. 98–35 substituted "September 30, 1983" for "May 20, 1983".
Subsec. (b). Pub. L. 98–181, §451(d)(1), substituted "Director" for "Secretary".
1982—Subsec. (a). Pub. L. 97–289 substituted "May 20, 1983" for "September 30, 1982".
1981—Subsec. (a). Pub. L. 97–35 substituted "1982" for "1981".
1979—Subsec. (a). Pub. L. 96–153 substituted "1981" for "1980".
1978—Subsec. (a). Pub. L. 95–557 substituted "September 30, 1980" for "October 31, 1978".
Pub. L. 95–406 substituted "October 31, 1978" for "September 30, 1978".
1977—Subsec. (a). Pub. L. 95–128 substituted "1978" for "1977".
1976—Subsec. (a). Pub. L. 94–375 substituted "September 30, 1977" for "December 31, 1976".
1975—Subsec. (a). Pub. L. 94–173 substituted "1976" for "1975".
1973—Subsec. (a). Pub. L. 93–234 substituted "1975" for "1973".
1971—Subsec. (a). Pub. L. 92–213 substituted "1973" for "1971".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–199 considered to have taken effect on Dec. 31, 2003, see section 136(b) of div. H of Pub. L. 108–199, set out as a note under section 4016 of this title.

EFFECTIVE DATE OF 2003 AMENDMENTS

Amendment by Pub. L. 108–171 effective Dec. 31, 2003, see section 2(b) of Pub. L. 108–171, set out as a note under section 4016 of this title.

Amendment by Pub. L. 108–3 effective Dec. 31, 2002, see section 2(b) of Pub. L. 108–3, set out as a note under section 4016 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1998

The expiration date of Oct. 23, 1997 (see 1997 Amendment note above) was temporarily extended to Nov. 7, 1997, by Pub. L. 105–64, Oct. 23, 1997, 111 Stat. 1343.

§4057. Alternative loss allocation system for indeterminate claims

(a) Definitions

In this section:

(1) Administrator

The term "Administrator" means the Administrator of the Federal Emergency Management Agency.

(2) COASTAL Formula

The term "COASTAL Formula" means the formula established under subsection (b).

(3) Coastal State

The term "coastal State" has the meaning given the term "coastal state" in section 1453 of title 16, except that the term shall not apply with respect to a State or territory that has an operational wind and flood loss allocation system.

(4) Indeterminate loss

(A) In general

The term "indeterminate loss" means, as determined by an insurance claims adjuster certified under the national flood insurance program and in consultation with an engineer as appropriate, a loss resulting from physical damage to, or loss of, property located in any coastal State arising from the combined perils of flood and wind associated with a named storm.

(B) Requirements

An insurance claims adjuster certified under the national flood insurance program shall only determine that a loss is an indeterminate loss if the claims adjuster determines that—

(i) no material remnant of physical buildings or man-made structures remain except building foundations for the specific property for which the claim is made; and

(ii) there is insufficient or no tangible evidence created, yielded, or otherwise left behind of the specific property for which the claim is made as a result of the named storm.

(5) Named storm

The term "named storm" means any organized weather system with a defined surface circulation and maximum sustained winds of not less than 39 miles per hour which the National Hurricane Center of the United States National Weather Service names as a tropical storm or a hurricane.

(6) Post-storm assessment

The term "post-storm assessment" means the post-storm assessment developed under section 3611(b) of title 33.

(7) State

The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(8) Secretary

The term "Secretary" means the Secretary of Homeland Security.

(9) Standard insurance policy

The term "standard insurance policy" means any insurance policy issued under the national flood insurance program that covers loss or damage to property resulting from water peril.

(10) Property

The term "property" means real or personal property that is insured under a standard insurance policy for loss or damage to structure or contents.

(11) Under Secretary

The term "Under Secretary" means the Under Secretary of Commerce for Oceans and Atmosphere, in the Under Secretary's capacity as Administrator of the National Oceanic and Atmospheric Administration.

(b) Establishment of flood loss allocation formula for indeterminate claims

(1) In general

Not later than 180 days after the date on which the protocol is established under section 3611(c)(1) of title 33, the Secretary, acting through the Administrator and in consultation with the Under Secretary, shall publish for comment in the Federal Register a standard formula to determine and allocate wind losses and flood losses for claims involving indeterminate losses.

(2) Contents

The standard formula established under paragraph (1) shall—

(A) incorporate data available from the Coastal Wind and Water Event Database established under section 3611(f) of title 33;

(B) use relevant data provided on the National Flood Insurance Program Elevation Certificate, or other data or information used to determine a property's current risk of flood, as determined by the Administrator, for each indeterminate loss for which the formula is used;

(C) consider any sufficient and credible evidence, approved by the Administrator, of the pre-event condition of a specific property, including the findings of any policyholder or insurance claims adjuster in connection with the indeterminate loss to that specific property;

(D) include other measures, as the Administrator considers appropriate, required to determine and allocate by mathematical formula the property damage caused by flood or storm surge associated with a named storm; and

(E) subject to paragraph (3), for each indeterminate loss, use the post-storm assessment to allocate water damage (flood or storm surge) associated with a named storm.

(3) Degree of accuracy required

The standard formula established under paragraph (1) shall specify that the Administrator may only use the post-storm assessment for purposes of the formula if the Under Secretary certifies that the post-storm assessment has a degree of accuracy of not less than 90 percent in connection with the specific indeterminate loss for which the assessment and formula are used.

(c) Authorized use of post-storm assessment and COASTAL Formula

(1) In general

Subject to paragraph (3), the Administrator may use the post-storm assessment and the COASTAL Formula to—

(A) review flood loss payments for indeterminate losses, including as part of the quality assurance reinspection program of the Federal Emergency Management Agency for claims under the national flood insurance program and any other process approved by the Administrator to review and validate payments under the national flood insurance program for indeterminate losses following a named storm; and

(B) assist the national flood insurance program to—

(i) properly cover qualified flood loss for claims for indeterminate losses; and

(ii) avoid paying for any loss or damage to property caused by any peril (including wind), other than flood or storm surge, that is not covered under a standard policy under the national flood insurance program.

(2) Federal disaster declaration

Subject to paragraph (3), in order to expedite claims and reduce costs to the national flood insurance program, following any major disaster declared by the President under section 5170 of

this title relating to a named storm in a coastal State, the Administrator may use the COASTAL Formula to determine and pay for any flood loss covered under a standard insurance policy under the national flood insurance program, if the loss is an indeterminate loss.

(3) National Academy of Sciences evaluation

(A) Evaluation required

(i) Evaluation

Upon publication of the COASTAL Formula in the Federal Register as required by subsection (b)(1), and each time the Administrator modifies the COASTAL Formula, the National Academy of Sciences shall—

(I) evaluate the expected financial impact on the national flood insurance program of the use of the COASTAL Formula as so established or modified; and

(II) evaluate the validity of the scientific assumptions upon which the formula is based and determine whether the COASTAL formula [1] can achieve a degree of accuracy of not less than 90 percent in allocating flood losses for indeterminate losses.

(ii) Report

The National Academy of Sciences shall submit a report containing the results of each evaluation under clause (i) to the Administrator, the Committee on Banking, Housing, and Urban Affairs and the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Financial Services and the Committee on Science, Space, and Technology of the House of Representatives.

(B) Effective date and applicability

(i) Effective date

Paragraphs (1) and (2) of this subsection shall not take effect unless the report under subparagraph (A) relating to the establishment of the COASTAL Formula concludes that the use of the COASTAL Formula for purposes of paragraph [2] (1) and (2) would not have an adverse financial impact on the national flood insurance program and that the COASTAL Formula is based on valid scientific assumptions that would allow a degree of accuracy of not less than 90 percent to be achieved in allocating flood losses for indeterminate losses.

(ii) Effect of modifications

Unless the report under subparagraph (A) relating to a modification of the COASTAL Formula concludes that the use of the COASTAL Formula, as so modified, for purposes of paragraphs (1) and (2) would not have an adverse financial impact on the national flood insurance program and that the COASTAL Formula is based on valid scientific assumptions that would allow a degree of accuracy of not less than 90 percent to be achieved in allocating flood losses for indeterminate losses the Administrator may not use the COASTAL Formula, as so modified, for purposes of paragraphs (1) and (2).

(C) Funding

Notwithstanding section 4017 of this title, there shall be available to the Administrator from the National Flood Insurance Fund, of amounts not otherwise obligated, not more than $750,000 to carry out this paragraph.

(d) Disclosure of COASTAL Formula

Not later than 30 days after the date on which a post-storm assessment is submitted to the Secretary under section 3611(b)(2)(E) of title 33, for each indeterminate loss for which the COASTAL Formula is used pursuant to subsection (c)(2), the Administrator shall disclose to the policyholder that makes a claim relating to the indeterminate loss—

(1) that the Administrator used the COASTAL Formula with respect to the indeterminate loss; and

(2) a summary of the results of the use of the COASTAL Formula.

(e) Consultation

In carrying out subsections (b) and (c), the Secretary shall consult with—

(1) the Under Secretary for Oceans and Atmosphere;

(2) the Director of the National Institute of Standards and Technology;

(3) the Chief of Engineers of the Corps of Engineers;

(4) the Director of the United States Geological Survey;

(5) the Office of the Federal Coordinator for Meteorology;

(6) State insurance regulators of coastal States; and

(7) such public, private, and academic sector entities as the Secretary considers appropriate for purposes of carrying out such subsections.

(f) Recordkeeping

Each consideration and measure the Administrator determines necessary to carry out subsection (b) may be required, with advanced approval of the Administrator, to be provided for on the National Flood Insurance Program Elevation Certificate, or maintained otherwise on record if approved by the Administrator, for any property that qualifies for the COASTAL Formula under subsection (c).

(g) Civil penalty

(1) In general

If an insurance claims adjuster knowingly and willfully makes a false or inaccurate determination relating to an indeterminate loss, the Administrator may, after notice and opportunity for hearing, impose on the insurance claims adjuster a civil penalty of not more than $1,000.

(2) Deposit

Notwithstanding section 3302 of title 31 or any other law relating to the crediting of money, the Administrator shall deposit in the National Flood Insurance Fund any amounts received under this subsection, which shall remain available until expended and be available to the Administrator for purposes authorized for the National Flood Insurance Fund without further appropriation.

(h) Rule of construction

Nothing in this subsection [3] shall be construed to require the Administrator to make any payment under the national flood insurance program, or an insurance company that issues a standard flood insurance policy under the national flood insurance program to make any payment, for an indeterminate loss based upon post-storm assessment, the COASTAL Formula, or any other loss allocation or post-storm assessment arising under the laws or ordinances of any State.

(i) Applicability

Subsection (c) shall apply with respect to an indeterminate loss associated with a named storm that occurs 60 days after publication of the COASTAL Formula in the Federal Register as required by subsection (b)(1).

(j) Rule of Construction

Nothing in this subsection [3] shall be construed to negate, set aside, or void any policy limit, including any loss limitation, set forth in a standard insurance policy.

(k) Rule of construction

Nothing in this section shall be construed to create a cause of action under this chapter.

(Pub. L. 90–448, title XIII, §1337, as added Pub. L. 112–141, div. F, title II, §100253, July 6, 2012, 126 Stat. 974; amended Pub. L. 116–271, title II, §201(b), Dec. 31, 2020, 134 Stat. 3346.)

EDITORIAL NOTES

AMENDMENTS

2020—Subsec. (a)(3). Pub. L. 116–271, §201(b)(1)(A), inserted ", except that the term shall not apply with

respect to a State or territory that has an operational wind and flood loss allocation system" before period at end.

Subsec. (a)(5). Pub. L. 116–271, §201(b)(1)(B), inserted "sustained" after "maximum".

Subsec. (b)(1). Pub. L. 116–271, §201(b)(2)(A), substituted "publish for comment in the Federal Register" for "establish by rule".

Subsec. (b)(2)(B). Pub. L. 116–271, §201(b)(2)(B), inserted ", or other data or information used to determine a property's current risk of flood, as determined by the Administrator," after "Elevation Certificate".

Subsec. (c)(3)(A)(i). Pub. L. 116–271, §201(b)(3), substituted "publication of the COASTAL Formula in the Federal Register as required by subsection (b)(1)" for "the issuance of the rule establishing the COASTAL Formula".

Subsec. (d). Pub. L. 116–271, §201(b)(4), substituted "section 3611(b)(2)(E)" for "section 3611(b)(2)(C)".

Subsec. (h). Pub. L. 116–271, §201(b)(5), inserted "that issues a standard flood insurance policy under the national flood insurance program" after "company" and substituted ", the COASTAL Formula, or any other loss allocation or post-storm assessment arising under the laws or ordinances of any State" for "or the COASTAL Formula".

Subsec. (i). Pub. L. 116–271, §201(b)(6), substituted "60 days after publication of the COASTAL Formula in the Federal Register as required by subsection (b)(1)" for "after the date on which the Administrator issues the rule establishing the COASTAL Formula under subsection (b)".

Subsec. (k). Pub. L. 116–271, §201(b)(7), added subsec. (k).

[1] So in original. Probably should be capitalized.

[2] So in original. Probably should be "paragraphs".

[3] So in original. Probably should be "this section".

PART B—GOVERNMENT PROGRAM WITH INDUSTRY ASSISTANCE

§4071. Federal operation of program; determination by Administrator; fiscal agents; report to Congress

(a) If at any time, after consultation with representatives of the insurance industry, the Administrator determines that operation of the flood insurance program as provided under part A cannot be carried out, or that such operation, in itself, would be assisted materially by the Federal Government's assumption, in whole or in part, of the operational responsibility for flood insurance under this chapter (on a temporary or other basis) he shall promptly undertake any necessary arrangements to carry out the program of flood insurance authorized under subchapter I through the facilities of the Federal Government, utilizing, for purposes of providing flood insurance coverage, either—

(1) insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organizations, as fiscal agents of the United States,

(2) such other officers and employees of any executive agency (as defined in section 105 of title 5) as the Administrator and the head of any such agency may from time to time, agree upon, on a reimbursement or other basis, or

(3) both the alternatives specified in paragraphs (1) and (2).

(b) Upon making the determination referred to in subsection (a), the Administrator shall make a report to the Congress and, at the same time, to the private insurance companies participating in the National Flood Insurance Program pursuant to section 4017 of this title. Such report shall—

(1) state the reason for such determinations,

(2) be supported by pertinent findings,

(3) indicate the extent to which it is anticipated that the insurance industry will be utilized in

providing flood insurance coverage under the program, and

(4) contain such recommendations as the Administrator deems advisable.

The Administrator shall not implement the program of flood insurance authorized under subchapter I through the facilities of the Federal Government until 9 months after the date of submission of the report under this subsection unless it would be impossible to continue to effectively carry out the National Flood Insurance Program operations during this time.

(Pub. L. 90–448, title XIII, §1340, Aug. 1, 1968, 82 Stat. 584; Pub. L. 98–181, title I [title IV, §451(d)(1), (4)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 101–137, §3, Nov. 3, 1989, 103 Stat. 824; Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2012—Pub. L. 112–141 substituted "Administrator" for "Director" wherever appearing in text.

1989—Subsec. (b). Pub. L. 101–137 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "Upon making the determination referred to in subsection (a) of this section, and at least thirty days prior to implementing the program of flood insurance authorized under subchapter I of this chapter through the facilities of the Federal Government, the Director shall make a report to the Congress and such report shall—

"(1) state the reasons for such determination,

"(2) be supported by pertinent findings,

"(3) indicate the extent to which it is anticipated that the insurance industry will be utilized in providing flood insurance coverage under the program, and

"(4) contain such recommendations as the Director deems advisable."

1983—Subsec. (a). Pub. L. 98–181, §451(d)(1), in provisions preceding par. (1), substituted "Director" for "Secretary".

Subsec. (a)(2). Pub. L. 98–181, §451(d)(4), struck out "officers and employees of the Department of Housing and Urban Development, and" before "such other officers".

Pub. L. 98–181, §451(d)(1), substituted "Director" for "Secretary".

Subsec. (b). Pub. L. 98–181, §451(d)(1), substituted "Director" for "Secretary" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4072. Adjustment and payment of claims; judicial review; limitations; jurisdiction

In the event the program is carried out as provided in section 4071 of this title, the Administrator shall be authorized to adjust and make payment of any claims for proved and approved losses covered by flood insurance, and upon the disallowance by the Administrator of any such claim, or upon the refusal of the claimant to accept the amount allowed upon any such claim, the claimant, within one year after the date of mailing of notice of disallowance or partial disallowance by the Administrator, may institute an action against the Administrator on such claim in the United States district court for the district in which the insured property or the major part thereof shall have been situated, and original exclusive jurisdiction is hereby conferred upon such court to hear and determine such action without regard to the amount in the controversy.

(Pub. L. 90–448, title XIII, §1341, Aug. 1, 1968, 82 Stat. 584; Pub. L. 98–181, title I [title IV, §451(d)(1), (5)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958.)

EDITORIAL NOTES

AMENDMENTS

2012—Pub. L. 112–141 substituted "Administrator" for "Director" wherever appearing.
1983—Pub. L. 98–181, §451(d)(5), inserted "original exclusive" before "jurisdiction".
Pub. L. 98–181, §451(d)(1), substituted "Director" for "Secretary" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

PART C—GENERAL PROVISIONS

§4081. Services by insurance industry

(a) Contracting for services and facilities

In administering the flood insurance program under this subchapter, the Administrator is authorized to enter into any contracts, agreements, or other appropriate arrangements which may, from time to time, be necessary for the purpose of utilizing, on such terms and conditions as may be agreed upon, the facilities and services of any insurance companies or other insurers, insurance agents and brokers, or insurance adjustment organizations; and such contracts, agreements, or

arrangements may include provision for payment of applicable operating costs and allowances for such facilities and services as set forth in the schedules prescribed under section 4018 of this title.

(b) Certain laws inapplicable to contracting

Any such contracts, agreements, or other arrangements may be entered into without regard to the provisions of section 6101 of title 41 or any other provision of law requiring competitive bidding and without regard to the provisions of chapter 10 of title 5.

(c) Hold harmless

The Administrator of the Federal Emergency Management Agency shall hold any agent or broker selling or undertaking to sell flood insurance under this chapter harmless from any judgment for damages against such agent or broker as a result of any court action by a policyholder or applicant arising out of an error or omission on the part of the Federal Emergency Management Agency, and shall provide any such agent or broker with indemnification, including court costs and reasonable attorney fees, arising out of and caused by an error or omission on the part of the Federal Emergency Management Agency and its contractors. The Administrator of the Federal Emergency Management Agency may not hold harmless or indemnify an agent or broker for his or her error or omission.

(d) FEMA authority on transfer of policies

Notwithstanding any other provision of this chapter, the Administrator may, at the discretion of the Administrator, refuse to accept the transfer of the administration of policies for coverage under the flood insurance program under this chapter that are written and administered by any insurance company or other insurer, or any insurance agent or broker.

(e) Risk transfer

The Administrator may secure reinsurance of coverage provided by the flood insurance program from the private reinsurance and capital markets at rates and on terms determined by the Administrator to be reasonable and appropriate, in an amount sufficient to maintain the ability of the program to pay claims.

(Pub. L. 90–448, title XIII, §1345, Aug. 1, 1968, 82 Stat. 585; Pub. L. 97–35, title III, §341(e), Aug. 13, 1981, 95 Stat. 419; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 103–325, title V, §574, Sept. 23, 1994, 108 Stat. 2278; Pub. L. 112–141, div. F, title II, §§100238(b)(1), 100245, July 6, 2012, 126 Stat. 958, 966; Pub. L. 113–89, §10, Mar. 21, 2014, 128 Stat. 1025; Pub. L. 117–286, §4(a)(263), Dec. 27, 2022, 136 Stat. 4334.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (c) and (d), was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

CODIFICATION

In subsec. (b), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes (41 U.S.C. 5)" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2022—Subsec. (b). Pub. L. 117–286 substituted "chapter 10 of title 5." for "the Federal Advisory Committee Act (5 U.S.C. App.)."

2014—Subsec. (e). Pub. L. 113–89 added subsec. (e).

2012—Subsecs. (a), (c). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director" wherever appearing.

Subsec. (d). Pub. L. 112–141, §100245, added subsec. (d).

1994—Subsec. (b). Pub. L. 103–325 inserted before period at end "and without regard to the provisions of

the Federal Advisory Committee Act (5 U.S.C. App.)".

1983—Subsec. (a). Pub. L. 98–181 substituted "Director" for "Secretary".

1981—Subsec. (c). Pub. L. 97–35 added subsec. (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

OVERSIGHT AND EXPENSE REIMBURSEMENTS OF INSURANCE COMPANIES

Pub. L. 112–141, div. F, title II, §100224, July 6, 2012, 126 Stat. 936, provided that:

"(a) SUBMISSION OF BIENNIAL REPORTS.—

"(1) TO THE ADMINISTRATOR.—Not later than 20 days after the date of enactment of this Act [July 6, 2012], each property and casualty insurance company participating in the Write Your Own program shall submit to the Administrator any biennial report required by the Federal Emergency Management Agency to be prepared in the prior 5 years by such company.

"(2) TO GAO.—Not later than 10 days after the submission of the biennial reports under paragraph (1), the Administrator shall submit all such reports to the Comptroller General of the United States.

"(3) NOTICE TO CONGRESS OF FAILURE TO COMPLY.—The Administrator shall notify and report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on any property and casualty insurance company participating in the Write Your Own program that failed to submit its biennial reports as required under paragraph (1).

"(4) FAILURE TO COMPLY.—A property and casualty insurance company participating in the Write Your Own program which fails to comply with the reporting requirement under this subsection or the requirement under section 62.23(j)(1) of title 44, Code of Federal Regulations (relating to biennial audit of the flood insurance financial statements) shall be subject to a civil penalty in an amount of not more than $1,000 per day for each day that the company remains in noncompliance with either such requirement.

"(b) METHODOLOGY TO DETERMINE REIMBURSED EXPENSES.—Not later than 180 days after the date of enactment of this Act [July 6, 2012], the Administrator shall develop a methodology for determining the appropriate amounts that property and casualty insurance companies participating in the Write Your Own program should be reimbursed for selling, writing, and servicing flood insurance policies and adjusting flood insurance claims on behalf of the National Flood Insurance Program. The methodology shall be developed using actual expense data for the flood insurance line and can be derived from—

"(1) flood insurance expense data produced by the property and casualty insurance companies;

"(2) flood insurance expense data collected by the National Association of Insurance Commissioners; or

"(3) a combination of the methodologies described in paragraphs (1) and (2).

"(c) SUBMISSION OF EXPENSE REPORTS.—To develop the methodology established under subsection (b), the Administrator may require each property and casualty insurance company participating in the Write Your Own program to submit a report to the Administrator, in a format determined by the Administrator and

within 60 days of the request, that details the expense levels of each such company for selling, writing, and servicing standard flood insurance policies and adjusting and servicing claims.

"(d) FEMA RULEMAKING ON REIMBURSEMENT OF EXPENSES UNDER THE WRITE YOUR OWN PROGRAM.—Not later than 12 months after the date of enactment of this Act [July 6, 2012], the Administrator shall issue a rule to formulate revised expense reimbursements to property and casualty insurance companies participating in the Write Your Own program for their expenses (including their operating and administrative expenses for adjustment of claims) in selling, writing, and servicing standard flood insurance policies, including how such companies shall be reimbursed in both catastrophic and noncatastrophic years. Such reimbursements shall be structured to ensure reimbursements track the actual expenses, including standard business costs and operating expenses, of such companies as closely as practicably possible.

"(e) REPORT OF THE ADMINISTRATOR.—Not later than 60 days after the effective date of the final rule issued pursuant to subsection (d), the Administrator shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report containing—

"(1) the specific rationale and purposes of such rule;

"(2) the reasons for the adoption of the policies contained in such rule; and

"(3) the degree to which such rule accurately represents the true operating costs and expenses of property and casualty insurance companies participating in the Write Your Own program.

"(f) GAO STUDY AND REPORT ON EXPENSES OF WRITE YOUR OWN PROGRAM.—

"(1) STUDY.—Not later than 180 days after the effective date of the final rule issued pursuant to subsection (d), the Comptroller General of the United States shall—

"(A) conduct a study on the efficacy, adequacy, and sufficiency of the final rules issued pursuant to subsection (d); and

"(B) report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the findings of the study conducted under subparagraph (A).

"(2) GAO AUTHORITY.—In conducting the study and report required under paragraph (1), the Comptroller General—

"(A) may use any previous findings, studies, or reports that the Comptroller General previously completed on the Write Your Own program;

"(B) shall determine if—

"(i) the final rule issued pursuant to subsection (d) allows the Federal Emergency Management Agency to access adequate information regarding the actual expenses of property and casualty insurance companies participating in the Write Your Own program; and

"(ii) the actual reimbursements paid out under the final rule issued pursuant to subsection (d) accurately reflect the expenses reported by property and casualty insurance companies participating in the Write Your Own program, including the standard business costs and operating expenses of such companies; and

"(C) shall analyze the effect of the final rule issued pursuant to subsection (d) on the level of participation of property and casualty insurers in the Write Your Own program."

[For definitions of terms used in section 100224 of Pub. L. 112–141, set out above, see section 4004 of this title.]

§4082. Use of insurance pool, companies, or other private organizations for certain payments

(a) Authorization to enter into contracts for certain responsibilities

In order to provide for maximum efficiency in the administration of the flood insurance program and in order to facilitate the expeditious payment of any Federal funds under such program, the Administrator may enter into contracts with pool formed or otherwise created under section 4051 of this title, or any insurance company or other private organizations, for the purpose of securing reinsurance of insurance coverage provided by the program or for the purpose of securing performance by such pool, company, or organization of any or all of the following responsibilities:

(1) Estimating and later determining any amounts of payments to be made.

(2) Receiving from the Administrator, disbursing, and accounting for funds in making such

payments.

(3) Making such audits of the records of any insurance company or other insurer, insurance agent or broker, or insurance adjustment organization as may be necessary to assure that proper payments are made.

(4) Placing reinsurance coverage on insurance provided by such program.

(5) Otherwise assisting in such manner as the contract may provide to further the purposes of this chapter.

(b) Terms and conditions of contract

Any contract with the pool or an insurance company or other private organization under this section may contain such terms and conditions as the Administrator finds necessary or appropriate for carrying out responsibilities under subsection (a), and may provide for payment of any costs which the Administrator determines are incidental to carrying out such responsibilities which are covered by the contract.

(c) Competitive bidding

Any contract entered into under subsection (a) may be entered into without regard to section 6101 of title 41 or any other provision of law requiring competitive bidding.

(d) Findings of Administrator

No contract may be entered into under this section unless the Administrator finds that the pool, company, or organization will perform its obligations under the contract efficiently and effectively, and will meet such requirements as to financial responsibility, legal authority, and other matters as he finds pertinent.

(e) Bond; liability of certifying officers and disbursing officers

(1) Any such contract may require the pool, company, or organization or any of its officers or employees certifying payments or disbursing funds pursuant to the contract, or otherwise participating in carrying out the contract, to give surety bond to the United States in such amount as the Administrator may deem appropriate.

(2) No individual designated pursuant to a contract under this section to certify payments shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment certified by him under this section.

(3) No officer disbursing funds shall in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this section if it was based upon a voucher signed by an individual designated to certify payments as provided in paragraph (2) of this subsection.

(f) Term of contract; renewals; termination

Any contract entered into under this section shall be for a term of one year, and may be made automatically renewable from term to term in the absence of notice by either party of an intention to terminate at the end of the current term; except that the Administrator may terminate any such contract at any time (after reasonable notice to the pool, company, or organization involved) if he finds that the pool, company, or organization has failed substantially to carry out the contract, or is carrying out the contract in a manner inconsistent with the efficient and effective administration of the flood insurance program authorized under this chapter.

(Pub. L. 90–448, title XIII, §1346, Aug. 1, 1968, 82 Stat. 585; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §§100232(d)(4), 100238(b)(1), July 6, 2012, 126 Stat. 954, 958.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(5) and (f), was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968,

which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

CODIFICATION

In subsec. (c), "section 6101 of title 41" substituted for "section 3709 of the Revised Statute (41 U.S.C. 5)" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2012—Subsec. (a). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director" in introductory provisions.

Pub. L. 112–141, §100232(d)(4)(A), inserted "securing reinsurance of insurance coverage provided by the program or for the purpose of" after "for the purpose of" in introductory provisions.

Subsec. (a)(1). Pub. L. 112–141, §100232(d)(4)(B), substituted "Estimating" for "estimating" and period for semicolon at end.

Subsec. (a)(2). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director".

Pub. L. 112–141, §100232(d)(4)(C), substituted "Receiving" for "receiving" and period for semicolon at end.

Subsec. (a)(3). Pub. L. 112–141, §100232(d)(4)(D)(ii), which directed substitution of period for " '; and' " was executed by making the substitution for "; and" to reflect the probable intent of Congress.

Pub. L. 112–141, §100232(d)(4)(D)(i), substituted "Making" for "making".

Subsec. (a)(4). Pub. L. 112–141, §100232(d)(4)(G), added par. (4). Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 112–141, §100232(d)(4)(E), (F), redesignated par. (4) as (5) and substituted "Otherwise" for "otherwise".

Subsecs. (b), (d), (e)(1), (f). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director" wherever appearing.

1983—Subsecs. (a), (b), (d), (e)(1), (f). Pub. L. 98–181 substituted "Director" for "Secretary" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4083. Settlement of claims; arbitration

(a) The Administrator is authorized to make final settlement of any claims or demands which may arise as a result of any financial transactions which he is authorized to carry out under this subchapter, and may, to assist him in making any such settlement, refer any disputes relating to such claims or demands to arbitration, with the consent of the parties concerned.

(b) Such arbitration shall be advisory in nature, and any award, decision, or recommendation which may be made shall become final only upon the approval of the Administrator.

(Pub. L. 90–448, title XIII, §1347, Aug. 1, 1968, 82 Stat. 586; Pub. L. 98–181, title I [title IV,

§451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958.)

EDITORIAL NOTES

AMENDMENTS

2012—Pub. L. 112–141 substituted "Administrator" for "Director" in subsecs. (a) and (b).
1983—Pub. L. 98–181 substituted "Director" for "Secretary" in subsecs. (a) and (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4084. Records and audits

(a) The flood insurance pool formed or otherwise created under part A of this subchapter, and any insurance company or other private organization executing any contract, agreement, or other appropriate arrangement with the Administrator under part B of this subchapter or this part, shall keep such records as the Administrator shall prescribe, including records which fully disclose the total costs of the program undertaken or the services being rendered, and such other records as will facilitate an effective audit.

(b) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the pool and any such insurance company or other private organization that are pertinent to the costs of the program undertaken or the services being rendered.

(Pub. L. 90–448, title XIII, §1348, Aug. 1, 1968, 82 Stat. 586; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958.)

EDITORIAL NOTES

AMENDMENTS

2012—Pub. L. 112–141 substituted "Administrator" for "Director" wherever appearing.
1983—Pub. L. 98–181 substituted "Director" for "Secretary" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no

event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

SUBCHAPTER III—COORDINATION OF FLOOD INSURANCE WITH LAND-MANAGEMENT PROGRAMS IN FLOOD-PRONE AREAS

§4101. Identification of flood-prone areas

(a) Publication of information; establishment of flood-risk zones; estimates of flood-caused loss

The Administrator is authorized to consult with, receive information from, and enter into any agreements or other arrangements with the Secretaries of the Army, the Interior, Agriculture, and Commerce, the Tennessee Valley Authority, and the heads of other Federal departments or agencies, on a reimbursement basis, or with the head of any State or local agency, or enter into contracts with any persons or private firms, in order that he may—

(1) identify and publish information with respect to all flood plain areas, including coastal areas located in the United States, which has special flood hazards, within five years following August 1, 1968, and

(2) establish or update flood-risk zone data in all such areas, and make estimates with respect to the rates of probable flood caused loss for the various flood risk zones for each of these areas until the date specified in section 4026 of this title.

(b) Accelerated identification of flood-risk zones; authority of Administrator: grants, technical assistance, transactions, and payments

The Administrator is directed to accelerate the identification of risk zones within flood-prone and mudslide-prone areas, as provided by subsection (a)(2) of this section, in order to make known the degree of hazard within each such zone at the earliest possible date. To accomplish this objective, the Administrator is authorized, without regard to subsections (a) and (b) of section 3324 of title 31 and section 6101 of title 41, to make grants, provide technical assistance, and enter into contracts, cooperative agreements, or other transactions, on such terms as he may deem appropriate, or consent to modifications thereof, and to make advance or progress payments in connection therewith.

(c) Priority in allocation of manpower and other available resources for identification and mapping of flood hazard areas and flood-risk zones

The Secretary of Defense (through the Army Corps of Engineers), the Secretary of the Interior (through the United States Geological Survey), the Secretary of Agriculture (through the Soil Conservation Service), the Secretary of Commerce (through the National Oceanic and Atmospheric Administration), the head of the Tennessee Valley Authority, and the heads of all other Federal agencies engaged in the identification or delineation of flood-risk zones within the several States shall, in consultation with the Administrator, give the highest practicable priority in the allocation of

available manpower and other available resources to the identification and mapping of flood hazard areas and flood-risk zones, in order to assist the Administrator to meet the deadline established by this section.

(d) Plan for bringing communities with flood-risk zones into full program status

The Administrator shall, not later than September 30, 1984, submit to the Congress a plan for bringing all communities containing flood-risk zones into full program status by September 30, 1987.

(e) Review of flood maps

Once during each 5-year period (the 1st such period beginning on September 23, 1994) or more often as the Administrator determines necessary, the Administrator shall assess the need to revise and update all floodplain areas and flood risk zones identified, delineated, or established under this section, based on an analysis of all natural hazards affecting flood risks.

(f) Updating flood maps

The Administrator shall revise and update any floodplain areas and flood-risk zones—

(1) upon the determination of the Administrator, according to the assessment under subsection (e), that revision and updating are necessary for the areas and zones; or

(2) upon the request from any State or local government stating that specific floodplain areas or flood-risk zones in the State or locality need revision or updating, if sufficient technical data justifying the request is submitted and the unit of government making the request agrees to provide funds in an amount determined by the Administrator.

(g) Availability of flood maps

To promote compliance with the requirements of this chapter, the Administrator shall make flood insurance rate maps and related information available free of charge to the Federal entities for lending regulation, Federal agency lenders, State agencies directly responsible for coordinating the national flood insurance program, and appropriate representatives of communities participating in the national flood insurance program, and at a reasonable cost to all other persons. Any receipts resulting from this subsection shall be deposited in the National Flood Insurance Fund, pursuant to section 4017(b)(6) of this title.

(h) Notification of flood map changes

The Administrator shall cause notice to be published in the Federal Register (or shall provide notice by another comparable method) of any change to flood insurance map panels and any change to flood insurance map panels issued in the form of a letter of map amendment or a letter of map revision. Such notice shall be published or otherwise provided not later than 30 days after the map change or revision becomes effective. Notice by any method other than publication in the Federal Register shall include all pertinent information, provide for regular and frequent distribution, and be at least as accessible to map users as notice in the Federal Register. All notices under this subsection shall include information on how to obtain copies of the changes or revisions.

(i) Compendia of flood map changes

Every 6 months, the Administrator shall publish separately in their entirety within a compendium, all changes and revisions to flood insurance map panels and all letters of map amendment and letters of map revision for which notice was published in the Federal Register or otherwise provided during the preceding 6 months. The Administrator shall make such compendia available, free of charge, to Federal entities for lending regulation, Federal agency lenders, and States and communities participating in the national flood insurance program pursuant to section 4017 of this title and at cost to all other parties. Any receipts resulting from this subsection shall be deposited in the National Flood Insurance Fund, pursuant to section 4017(b)(6) of this title.

(j) Provision of information

In the implementation of revisions to and updates of flood insurance rate maps, the Administrator shall share information, to the extent appropriate, with the Under Secretary of Commerce for Oceans

and Atmosphere and representatives from State coastal zone management programs.

(Pub. L. 90–448, title XIII, §1360, Aug. 1, 1968, 82 Stat. 587; Pub. L. 93–234, title II, §204, Dec. 31, 1973, 87 Stat. 983; Pub. L. 98–181, title I [title IV, §451(d)(1), (6), (7)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 98–479, title II, §203(j)(2), Oct. 17, 1984, 98 Stat. 2231; Pub. L. 99–120, §4(a)(3), Oct. 8, 1985, 99 Stat. 503; Pub. L. 99–156, §4(a)(3), Nov. 15, 1985, 99 Stat. 816; Pub. L. 99–219, §4(a)(3), Dec. 26, 1985, 99 Stat. 1731; Pub. L. 99–267, §4(a)(3), Mar. 27, 1986, 100 Stat. 74; Pub. L. 99–272, title III, §3010(a)(3), Apr. 7, 1986, 100 Stat. 106; Pub. L. 99–289, §1(b), May 2, 1986, 100 Stat. 412; Pub. L. 99–345, §1, June 24, 1986, 100 Stat. 673; Pub. L. 99–430, Sept. 30, 1986, 100 Stat. 986; Pub. L. 100–122, §1, Sept. 30, 1987, 101 Stat. 793; Pub. L. 100–154, Nov. 5, 1987, 101 Stat. 890; Pub. L. 100–170, Nov. 17, 1987, 101 Stat. 914; Pub. L. 100–179, Dec. 3, 1987, 101 Stat. 1018; Pub. L. 100–200, Dec. 21, 1987, 101 Stat. 1327; Pub. L. 100–242, title V, §541(c), Feb. 5, 1988, 101 Stat. 1939; Pub. L. 101–137, §2, Nov. 3, 1989, 103 Stat. 824; Pub. L. 103–325, title V, §575, Sept. 23, 1994, 108 Stat. 2278; Pub. L. 112–141, div. F, title II, §§100219, 100238(b)(1), July 6, 2012, 126 Stat. 932, 958.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (g), was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

CODIFICATION

In subsec. (b), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes (41 U.S.C. 5)" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2012—Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director" wherever appearing.

Subsec. (f)(2). Pub. L. 112–141, §100219, struck out ", but which may not exceed 50 percent of the cost of carrying out the requested revision or update" before period at end.

1994—Subsecs. (e) to (j). Pub. L. 103–325 added subsecs. (e) to (j).

1989—Subsec. (a)(2). Pub. L. 101–137 added par. (2) and struck out former par. (2) which read as follows: "establish flood-risk zones in all such areas, and make estimates with respect to the rates of probable flood-caused loss for the various flood-risk zones for each of these areas, by September 30, 1989."

1988—Subsec. (a)(2). Pub. L. 100–242 substituted "September 30, 1989" for "March 15, 1988".

1987—Subsec. (a)(2). Pub. L. 100–200 substituted "March 15, 1988" for "December 16, 1987".

Pub. L. 100–179 substituted "December 16, 1987" for "December 2, 1987".

Pub. L. 100–170 substituted "December 2, 1987" for "November 15, 1987".

Pub. L. 100–154 substituted "November 15, 1987" for "October 31, 1987".

Pub. L. 100–122 substituted "October 31, 1987" for "September 30, 1987".

1986—Subsec. (a)(2). Pub. L. 99–430 substituted "September 30, 1987" for "September 30, 1986".

Pub. L. 99–345 substituted "September 30, 1986" for "June 6, 1986".

Pub. L. 99–289 substituted "June 6, 1986" for "April 30, 1986".

Pub. L. 99–272 directed amendment identical to Pub. L. 99–219 substituting "March 17, 1986" for "December 15, 1985".

Pub. L. 99–267 substituted "April 30, 1986" for "March 17, 1986".

1985—Subsec. (a)(2). Pub. L. 99–219 substituted "March 17, 1986" for "December 15, 1985".

Pub. L. 99–156 substituted "December 15, 1985" for "November 14, 1985".

Pub. L. 99–120 substituted "November 14, 1985" for "September 30, 1985".

1984—Subsec. (b). Pub. L. 98–479 substituted reference to subsections (a) and (b) of section 3324 of title 31 for reference to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529).

1983—Subsec. (a). Pub. L. 98–181, §451(d)(1), in provisions preceding par. (1) substituted "Director" for "Secretary".

Subsec. (a)(2). Pub. L. 98–181, §451(d)(6), substituted "by September 30, 1985" for "within fifteen years

following such date".

Subsecs. (b), (c). Pub. L. 98–181, §451(d)(1), substituted "Director" for "Secretary" wherever appearing.

Subsec. (d). Pub. L. 98–181, §451(d)(7), added subsec. (d).

1973—Pub. L. 93–234 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

FLOOD PROTECTION STRUCTURE ACCREDITATION TASK FORCE

Pub. L. 112–141, div. F, title II, §100226, July 6, 2012, 126 Stat. 942, provided that:

"(a) DEFINITIONS.—In this section—

"(1) the term 'flood protection structure accreditation requirements' means the requirements established under section 65.10 of title 44, Code of Federal Regulations, for levee systems to be recognized on maps created for purposes of the National Flood Insurance Program;

"(2) the term 'National Committee on Levee Safety' means the Committee on Levee Safety established under section 9003 of the National Levee Safety Act of 2007 (33 U.S.C. 3302); and

"(3) the term 'task force' means the Flood Protection Structure Accreditation Task Force established under subsection (b).

"(b) ESTABLISHMENT.—

"(1) IN GENERAL.—The Administrator and the Secretary of the Army, acting through the Chief of Engineers, in cooperation with the National Committee on Levee Safety, shall jointly establish a Flood Protection Structure Accreditation Task Force.

"(2) DUTIES.—

"(A) DEVELOPING PROCESS.—The task force shall develop a process to better align the information and data collected by or for the Corps of Engineers under the Inspection of Completed Works Program with the flood protection structure accreditation requirements so that—

"(i) information and data collected for either purpose can be used interchangeably; and

"(ii) information and data collected by or for the Corps of Engineers under the Inspection of Completed Works Program is sufficient to satisfy the flood protection structure accreditation requirements.

"(B) GATHERING RECOMMENDATIONS.—The task force shall gather, and consider in the process developed under subparagraph (A), recommendations from interested persons in each region relating to the information, data, and accreditation requirements described in subparagraph (A).

"(3) CONSIDERATIONS.—In developing the process under paragraph (2), the task force shall consider changes to—

"(A) the information and data collected by or for the Corps of Engineers under the Inspection of Completed Works Program; and

"(B) the flood protection structure accreditation requirements.

"(4) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require a reduction in the level of public safety and flood control provided by accredited levees, as determined by the Administrator for purposes of this section.

"(c) IMPLEMENTATION.—The Administrator and the Secretary of the Army, acting through the Chief of Engineers, shall implement the process developed by the task force under subsection (b) not later than 1 year

after the date of enactment of this Act [July 6, 2012] and shall complete the process under subsection (b) not later than 2 years after the date of enactment of this Act.

"(d) REPORTS.—The Administrator and the Secretary of the Army, acting through the Chief of Engineers, in cooperation with the National Committee on Levee Safety, shall jointly submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Environment and Public Works of the Senate and the Committee on Financial Services, the Committee on Transportation and Infrastructure, and the Committee on Natural Resources of the House of Representatives reports concerning the activities of the task force and the implementation of the process developed by the task force under subsection (b), including—

"(1) an interim report, not later than 180 days after the date of enactment of this Act [July 6, 2012]; and

"(2) a final report, not later than 1 year after the date of enactment of this Act.

"(e) TERMINATION.—The task force shall terminate on the date of submission of the report under subsection (d)(2)."

[For definitions of terms used in section 100226 of Pub. L. 112–141, set out above, see section 4004 of this title.]

GEOSPATIAL DIGITAL FLOOD HAZARD DATA

Pub. L. 108–264, title I, §107, June 30, 2004, 118 Stat. 724, provided that: "For the purposes of flood insurance and floodplain management activities conducted pursuant to the National Flood Insurance Program under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), geospatial digital flood hazard data distributed by the Federal Emergency Management Agency, or its designee, or the printed products derived from that data, are interchangeable and legally equivalent for the determination of the location of 1 in 100 year and 1 in 500 year flood planes [sic], provided that all other geospatial data shown on the printed product meets or exceeds any accuracy standard promulgated by the Federal Emergency Management Agency."

REITERATION OF FEMA RESPONSIBILITY TO MAP MUDSLIDES

Pub. L. 108–264, title I, §109, June 30, 2004, 118 Stat. 725, as amended by Pub. L. 109–295, title VI, §612(c), Oct. 4, 2006, 120 Stat. 1410, provided that: "As directed in section 1360(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4101(b)), the Administrator of the Federal Emergency Management Agency is again directed to accelerate the identification of risk zones within flood-prone and mudslide-prone areas, as provided by subsection (a)(2) of such section 1360, in order to make known the degree of hazard within each such zone at the earliest possible date."

TECHNICAL MAPPING ADVISORY COUNCIL

Pub. L. 103–325, title V, §576, Sept. 23, 1994, 108 Stat. 2280, established the Technical Mapping Advisory Council to help improve flood insurance rate maps and provided for its termination 5 years after the appointment of all its members.

§4101a. Technical Mapping Advisory Council

(a) Establishment

There is established a council to be known as the Technical Mapping Advisory Council (in this section referred to as the "Council").

(b) Membership

(1) In general

The Council shall consist of—

(A) the Administrator (or the designee thereof);

(B) the Secretary of the Interior (or the designee thereof);

(C) the Secretary of Agriculture (or the designee thereof);

(D) the Under Secretary of Commerce for Oceans and Atmosphere (or the designee thereof); and

(E) 16 additional members appointed by the Administrator or the designee of the Administrator, who shall be—

(i) a member of a recognized professional surveying association or organization;

(ii) a member of a recognized professional mapping association or organization;

(iii) a member of a recognized professional engineering association or organization;

(iv) a member of a recognized professional association or organization representing flood hazard determination firms;

(v) a representative of the United States Geological Survey;

(vi) a representative of a recognized professional association or organization representing State geographic information;

(vii) a representative of State national flood insurance coordination offices;

(viii) a representative of the Corps of Engineers;

(ix) a member of a recognized regional flood and storm water management organization;

(x) 2 representatives of different State government agencies that have entered into cooperating technical partnerships with the Administrator and have demonstrated the capability to produce flood insurance rate maps;

(xi) 2 representatives of different local government agencies that have entered into cooperating technical partnerships with the Administrator and have demonstrated the capability to produce flood insurance maps;

(xii) a member of a recognized floodplain management association or organization;

(xiii) a member of a recognized risk management association or organization; and

(xiv) a State mitigation officer.

(2) Qualifications

Members of the Council shall be appointed based on their demonstrated knowledge and competence regarding surveying, cartography, remote sensing, geographic information systems, or the technical aspects of preparing and using flood insurance rate maps. In appointing members under paragraph (1)(E), the Administrator shall, to the maximum extent practicable, ensure that the membership of the Council has a balance of Federal, State, local, tribal, and private members, and includes geographic diversity, including representation from areas with coastline on the Gulf of Mexico and other States containing areas identified by the Administrator as at high risk for flooding or as areas having special flood hazards.

(c) Duties

The Council shall—

(1) recommend to the Administrator how to improve in a cost-effective manner the—

(A) accuracy, general quality, ease of use, and distribution and dissemination of flood insurance rate maps and risk data; and

(B) performance metrics and milestones required to effectively and efficiently map flood risk areas in the United States;

(2) recommend to the Administrator mapping standards and guidelines for—

(A) flood insurance rate maps; and

(B) data accuracy, data quality, data currency, and data eligibility;

(3) recommend to the Administrator how to maintain, on an ongoing basis, flood insurance rate maps and flood risk identification;

(4) recommend procedures for delegating mapping activities to State and local mapping partners;

(5) recommend to the Administrator and other Federal agencies participating in the Council—

(A) methods for improving interagency and intergovernmental coordination on flood mapping and flood risk determination; and

(B) a funding strategy to leverage and coordinate budgets and expenditures across Federal agencies; and

(6) submit an annual report to the Administrator that contains—

(A) a description of the activities of the Council;

(B) an evaluation of the status and performance of flood insurance rate maps and mapping

activities to revise and update flood insurance rate maps, as required under section 4101b of this title; and

(C) a summary of recommendations made by the Council to the Administrator.

(d) Future conditions risk assessment and modeling report

(1) In general

The Council shall consult with scientists and technical experts, other Federal agencies, States, and local communities to—

(A) develop recommendations on how to—

(i) ensure that flood insurance rate maps incorporate the best available climate science to assess flood risks; and

(ii) ensure that the Federal Emergency Management Agency uses the best available methodology to consider the impact of—

(I) the rise in the sea level; and

(II) future development on flood risk; and

(B) not later than 1 year after July 6, 2012, prepare written recommendations in a future conditions risk assessment and modeling report and to submit such recommendations to the Administrator.

(2) Responsibility of the Administrator

The Administrator, as part of the ongoing program to review and update National Flood Insurance Program rate maps under section 4101b of this title, shall incorporate any future risk assessment submitted under paragraph (1)(B) in any such revision or update.

(e) Chairperson

The members of the Council shall elect 1 member to serve as the chairperson of the Council (in this section referred to as the "Chairperson").

(f) Coordination

To ensure that the Council's recommendations are consistent, to the maximum extent practicable, with national digital spatial data collection and management standards, the Chairperson shall consult with the Chairperson of the Federal Geographic Data Committee (established pursuant to Office of Management and Budget Circular A–16).

(g) Compensation

Members of the Council shall receive no additional compensation by reason of their service on the Council.

(h) Meetings and actions

(1) In general

The Council shall meet not less frequently than twice each year at the request of the Chairperson or a majority of its members, and may take action by a vote of the majority of the members.

(2) Initial meeting

The Administrator, or a person designated by the Administrator, shall request and coordinate the initial meeting of the Council.

(i) Officers

The Chairperson may appoint officers to assist in carrying out the duties of the Council under subsection (c).

(j) Staff

(1) Staff of FEMA

Upon the request of the Chairperson, the Administrator may detail, on a nonreimbursable basis,

personnel of the Federal Emergency Management Agency to assist the Council in carrying out its duties.

(2) Staff of other Federal agencies

Upon request of the Chairperson, any other Federal agency that is a member of the Council may detail, on a nonreimbursable basis, personnel to assist the Council in carrying out its duties.

(k) Powers

In carrying out this section, the Council may hold hearings, receive evidence and assistance, provide information, and conduct research, as it considers appropriate.

(l) Report to Congress

The Administrator, on an annual basis, shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Financial Services of the House of Representatives, and the Office of Management and Budget on the—

(1) recommendations made by the Council;

(2) actions taken by the Federal Emergency Management Agency to address such recommendations to improve flood insurance rate maps and flood risk data; and

(3) any recommendations made by the Council that have been deferred or not acted upon, together with an explanatory statement.

(Pub. L. 112–141, div. F, title II, §100215, July 6, 2012, 126 Stat. 924.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Biggert-Waters Flood Insurance Reform Act of 2012, and also as part of the Moving Ahead for Progress in the 21st Century Act, also known as the MAP–21, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 4004 of this title.

§4101b. National Flood Mapping Program

(a) Reviewing, updating, and maintaining maps

The Administrator, in coordination with the Technical Mapping Advisory Council established under section 4101a of this title, shall establish an ongoing program under which the Administrator shall review, update, and maintain National Flood Insurance Program rate maps in accordance with this section.

(b) Mapping

(1) In general

In carrying out the program established under subsection (a), the Administrator shall—

(A) identify, review, update, maintain, and publish National Flood Insurance Program rate maps with respect to—

(i) all populated areas and areas of possible population growth located within the 100-year floodplain;

(ii) all populated areas and areas of possible population growth located within the 500-year floodplain;

(iii) areas of residual risk, including areas that are protected by levees, dams, and other flood control structures;

(iv) areas that could be inundated as a result of the failure of a levee, dam, or other flood control structure;

(v) areas that are protected by non-structural flood mitigation features; and

(vi) the level of protection provided by flood control structures and by non-structural flood mitigation features;

(B) establish or update flood-risk zone data in all such areas, and make estimates with respect to the rates of probable flood caused loss for the various flood risk zones for each such area; and

(C) use, in identifying, reviewing, updating, maintaining, or publishing any National Flood Insurance Program rate map required under this section or under the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.), the most accurate topography and elevation data available.

(2) Mapping elements

Each map updated under this section shall—

(A) assess the accuracy of current ground elevation data used for hydrologic and hydraulic modeling of flooding sources and mapping of the flood hazard and wherever necessary acquire new ground elevation data utilizing the most up-to-date geospatial technologies in accordance with guidelines and specifications of the Federal Emergency Management Agency; and

(B) develop National Flood Insurance Program flood data on a watershed basis—

(i) to provide the most technically effective and efficient studies and hydrologic and hydraulic modeling; and

(ii) to eliminate, to the maximum extent possible, discrepancies in base flood elevations between adjacent political subdivisions.

(3) Other inclusions

In updating maps under this section, the Administrator shall include—

(A) any relevant information on coastal inundation from—

(i) an applicable inundation map of the Corps of Engineers; and

(ii) data of the National Oceanic and Atmospheric Administration relating to storm surge modeling;

(B) any relevant information of the United States Geological Survey on stream flows, watershed characteristics, and topography that is useful in the identification of flood hazard areas, as determined by the Administrator;

(C) any relevant information on land subsidence, coastal erosion areas, changing lake levels, and other flood-related hazards;

(D) any relevant information or data of the National Oceanic and Atmospheric Administration and the United States Geological Survey relating to the best available science regarding future changes in sea levels, precipitation, and intensity of hurricanes; and

(E) any other relevant information as may be recommended by the Technical Mapping Advisory Committee.

(c) Standards

In updating and maintaining maps under this section, the Administrator shall—

(1) establish standards to—

(A) ensure that maps are adequate for—

(i) flood risk determinations; and

(ii) use by State and local governments in managing development to reduce the risk of flooding; and

(B) facilitate identification and use of consistent methods of data collection and analysis by the Administrator, in conjunction with State and local governments, in developing maps for communities with similar flood risks, as determined by the Administrator; and

(2) publish maps in a format that is—

(A) digital geospatial data compliant;

(B) compliant with the open publishing and data exchange standards established by the Open Geospatial Consortium; and

(C) aligned with official data defined by the National Geodetic Survey.

(d) Communication and outreach

(1) In general

The Administrator shall—

(A) before commencement of any mapping or map updating process, notify each community affected of the model or models that the Administrator plans to use in such process and provide an explanation of why such model or models are appropriate;

(B) provide each community affected a 30-day period beginning upon notification under subparagraph (A) to consult with the Administrator regarding the appropriateness, with respect to such community, of the mapping model or models to be used; provided that consultation by a community pursuant to this subparagraph shall not waive or otherwise affect any right of the community to appeal any flood hazard determinations;

(C) upon completion of the first Independent Data Submission, transmit a copy of such Submission to the affected community, provide the affected community a 30-day period during which the community may provide data to Administrator [1] that can be used to supplement or modify the existing data, and incorporate any data that is consistent with prevailing engineering principles;

(D) work with States, local communities, and property owners to identify areas and features described in subsection (b)(1)(A)(v);

(E) work to enhance communication and outreach to States, local communities, and property owners about the effects—

(i) of any potential changes to National Flood Insurance Program rate maps that may result from the mapping program required under this section; and

(ii) that any such changes may have on flood insurance purchase requirements;

(F) engage with local communities to enhance communication and outreach to the residents of such communities, including tenants (with regard to contents insurance), on the matters described under subparagraph (E);

(G) not less than 30 days before issuance of any preliminary map, notify the Senators for each State affected and each Member of the House of Representatives for each congressional district affected by the preliminary map in writing of—

(i) the estimated schedule for—

(I) community meetings regarding the preliminary map;

(II) publication of notices regarding the preliminary map in local newspapers; and

(III) the commencement of the appeals process regarding the map; and

(ii) the estimated number of homes and businesses that will be affected by changes contained in the preliminary map, including how many structures will be [2] that were not previously located in an area having special flood hazards will be located within such an area under the preliminary map; and

(H) upon the issuance of any proposed map and any notice of an opportunity to make an appeal relating to the proposed map, notify the Senators for each State affected and each Member of the House of Representatives for each congressional district affected by the proposed map of any action taken by the Administrator with respect to the proposed map or an appeal relating to the proposed map.

(2) Required activities

The communication and outreach activities required under paragraph (1) shall include—

(A) notifying property owners when their properties become included in, or when they are excluded from, an area covered by the mandatory flood insurance purchase requirement under section 4012a of this title;

(B) educating property owners regarding the flood risk and reduction of this risk in their community, including the continued flood risks to areas that are no longer subject to the flood insurance mandatory purchase requirement;

(C) educating property owners regarding the benefits and costs of maintaining or acquiring flood insurance, including, where applicable, lower-cost preferred risk policies under the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.) for such properties and the contents of such properties;

(D) educating property owners about flood map revisions and the process available to such owners to appeal proposed changes in flood elevations through their community, including by notifying local radio and television stations; and

(E) encouraging property owners to maintain or acquire flood insurance coverage.

(e) Community remapping request

Upon the adoption by the Administrator of any recommendation by the Technical Mapping Advisory Council for reviewing, updating, or maintaining National Flood Insurance Program rate maps in accordance with this section, a community that believes that its flood insurance rates in effect prior to adoption would be affected by the adoption of such recommendation may submit a request for an update of its rate maps, which may be considered at the Administrator's sole discretion. The Administrator shall establish a protocol for the evaluation of such community map update requests.

(f) Authorization of appropriations

There is authorized to be appropriated to the Administrator to carry out this section $400,000,000 for each of fiscal years 2013 through 2017.

(Pub. L. 112–141, div. F, title II, §100216, July 6, 2012, 126 Stat. 927; Pub. L. 113–89, §§27, 30, Mar. 21, 2014, 128 Stat. 1033, 1034.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Flood Insurance Act of 1968, referred to in subsecs. (b)(1)(C) and (d)(2)(C), is title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

CODIFICATION

Section was enacted as part of the Biggert-Waters Flood Insurance Reform Act of 2012, and also as part of the Moving Ahead for Progress in the 21st Century Act, also known as the MAP–21, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

AMENDMENTS

2014—Subsec. (b)(1)(A)(v), (vi). Pub. L. 113–89, §27(1), added cl. (v), redesignated former cl. (v) as (vi), and, in cl. (vi), inserted "and by non-structural flood mitigation features" before semicolon at end.

Subsec. (d)(1)(A). Pub. L. 113–89, §30(3), added subpar. (A). Former subpar. (A) redesignated (D).

Pub. L. 113–89, §27(2)(C), added subpar. (A). Former subpar. (A) redesignated (B).

Subsec. (d)(1)(B). Pub. L. 113–89, §30(3), added subpar. (B). Former subpar. (B) redesignated (E).

Pub. L. 113–89, §27(2)(A), redesignated subpar. (A) as (B). Former subpar. (B) redesignated (C).

Subsec. (d)(1)(C). Pub. L. 113–89, §30(3), added subpar. (C). Former subpar. (C) redesignated (F).

Pub. L. 113–89, §30(1), substituted "subparagraph (E)" for "subparagraph (B)" and struck out "and" at end.

Pub. L. 113–89, §27(2)(A), (B), redesignated subpar. (B) as (C) and substituted "subparagraph (B)" for "subparagraph (A)". Former subpar. (C) redesignated (D).

Subsec. (d)(1)(D). Pub. L. 113–89, §30(2), redesignated subpar. (A) as (D). Former subpar. (D) redesignated (H).

Pub. L. 113–89, §27(2)(A), redesignated subpar. (C) as (D).

Subsec. (d)(1)(E), (F). Pub. L. 113–89, §30(2), redesignated subpars. (B) and (C) as (E) and (F), respectively.

Subsec. (d)(1)(G). Pub. L. 113–89, §30(4), added subpar. (G).

Subsec. (d)(1)(H). Pub. L. 113–89, §30(2), redesignated subpar. (D) as (H).

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 4004 of this title.

[1] So in original. Probably should be preceded by "the".

[2] So in original. The words "will be" probably should not appear.

§4101c. Coordination

(a) Interagency budget crosscut and coordination report

(1) In general

The Secretary of Homeland Security, the Administrator, the Director of the Office of Management and Budget, and the heads of each Federal department or agency carrying out activities under sections 4101a and 4101b of this title shall work together to ensure that flood risk determination data and geospatial data are shared among Federal agencies in order to coordinate the efforts of the Nation to reduce its vulnerability to flooding hazards.

(2) Report

Not later than 30 days after the submission of the budget of the United States Government by the President to Congress, the Director of the Office of Management and Budget, in coordination with the Federal Emergency Management Agency, the United States Geological Survey, the National Oceanic and Atmospheric Administration, the Corps of Engineers, and other Federal agencies, as appropriate, shall submit to the appropriate authorizing and appropriating committees of the Senate and the House of Representatives an interagency budget crosscut and coordination report, certified by the Secretary or head of each such agency, that—

(A) contains an interagency budget crosscut report that displays relevant sections of the budget proposed for each of the Federal agencies working on flood risk determination data and digital elevation models, including any planned interagency or intra-agency transfers; and

(B) describes how the efforts aligned with such sections complement one another.

(b) Duties of the Administrator

In carrying out sections 4101a and 4101b of this title, the Administrator shall—

(1) participate, pursuant to section 216 of the E–Government Act of 2002 (44 U.S.C. 3501 note), in the establishment of such standards and common protocols as are necessary to assure the interoperability of geospatial data for all users of such information;

(2) coordinate with, seek assistance and cooperation of, and provide a liaison to the Federal Geographic Data Committee pursuant to the Office of Management and Budget Circular A–16 and Executive Order 12906 (43 U.S.C. 1457 note; relating to the National Spatial Data Infrastructure) for the implementation of and compliance with such standards;

(3) integrate with, leverage, and coordinate funding of, to the maximum extent practicable, the current flood mapping activities of each unit of State and local government;

(4) integrate with, leverage, and coordinate, to the maximum extent practicable, the current geospatial activities of other Federal agencies and units of State and local government; and

(5) develop a funding strategy to leverage and coordinate budgets and expenditures, and to maintain or establish joint funding and other agreement mechanisms with other Federal agencies and units of State and local government to share in the collection and utilization of geospatial data among all governmental users.

(Pub. L. 112–141, div. F, title II, §100220, July 6, 2012, 126 Stat. 932.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 216 of the E–Government Act of 2002, referred to in subsec. (b)(1), is section 216 of Pub. L. 107–347, which is set out in a note under section 3501 of Title 44, Public Printing and Documents.

Executive Order 12906, referred to in subsec. (b)(2), is Ex. Ord. No. 12906, Apr. 11, 1994, 59 F.R. 17671, which is set out as a note under section 1457 of Title 43, Public Lands.

CODIFICATION

Section was enacted as part of the Biggert-Waters Flood Insurance Reform Act of 2012, and also as part of the Moving Ahead for Progress in the 21st Century Act, also known as the MAP–21, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 4004 of this title.

§4101d. Flood insurance rate map certification

The Administrator shall implement a flood mapping program for the National Flood Insurance Program, only after review by the Technical Mapping Advisory Council, that, when applied, results in technically credible flood hazard data in all areas where Flood Insurance Rate Maps are prepared or updated, shall certify in writing to the Congress when such a program has been implemented, and shall provide to the Congress the Technical Mapping Advisory Council review report.

(Pub. L. 113–89, §17, Mar. 21, 2014, 128 Stat. 1027.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Homeowner Flood Insurance Affordability Act of 2014, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 4005 of this title.

§4101e. Exemption from fees for certain map change requests

Notwithstanding any other provision of law, a requester shall be exempt from submitting a review or processing fee for a request for a flood insurance rate map change based on a habitat restoration project that is funded in whole or in part with Federal or State funds, including dam removal, culvert redesign or installation, or the installation of fish passage.

(Pub. L. 113–89, §22, Mar. 21, 2014, 128 Stat. 1028.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Homeowner Flood Insurance Affordability Act of 2014, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

§4102. Criteria for land management and use

(a) Studies and investigations

The Administrator is authorized to carry out studies and investigations, utilizing to the maximum extent practicable the existing facilities and services of other Federal departments or agencies, and State and local governmental agencies, and any other organizations, with respect to the adequacy of State and local measures in flood-prone areas as to land management and use, flood control, flood zoning, and flood damage prevention, and may enter into any contracts, agreements, or other appropriate arrangements to carry out such authority.

(b) Extent of studies and investigations

Such studies and investigations shall include, but not be limited to, laws, regulations, or ordinances relating to encroachments and obstructions on stream channels and floodways, the orderly development and use of flood plains of rivers or streams, floodway encroachment lines, and flood plain zoning, building codes, building permits, and subdivision or other building restrictions.

(c) Development of comprehensive criteria designed to encourage adoption of adequate State and local measures

On the basis of such studies and investigations, and such other information as he deems necessary, the Administrator shall from time to time develop comprehensive criteria designed to encourage, where necessary, the adoption of adequate State and local measures which, to the maximum extent feasible, will—

(1) constrict the development of land which is exposed to flood damage where appropriate,

(2) guide the development of proposed construction away from locations which are threatened by flood hazards,

(3) assist in reducing damage caused by floods, and

(4) otherwise improve the long-range land management and use of flood-prone areas,

and he shall work closely with and provide any necessary technical assistance to State, interstate, and local governmental agencies, to encourage the application of such criteria and the adoption and enforcement of such measures.

(d) Flood mitigation methods for buildings

The Administrator shall establish guidelines for property owners that—

(1) provide alternative methods of mitigation, other than building elevation, to reduce flood risk to residential buildings that cannot be elevated due to their structural characteristics, including—

(A) types of building materials; and

(B) types of floodproofing; and

(2) inform property owners about how the implementation of mitigation methods described in paragraph (1) may affect risk premium rates for flood insurance coverage under the National Flood Insurance Program.

(Pub. L. 90–448, title XIII, §1361, Aug. 1, 1968, 82 Stat. 587; Pub. L. 91–152, title IV, §410(c), Dec. 24, 1969, 83 Stat. 397; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958; Pub. L. 113–89, §26(a)(1), Mar. 21, 2014, 128 Stat. 1032.)

EDITORIAL NOTES

AMENDMENTS

2014—Subsec. (d). Pub. L. 113–89 added subsec. (d).

2012—Subsecs. (a), (c). Pub. L. 112–141 substituted "Administrator" for "Director".

1983—Subsecs. (a), (c). Pub. L. 98–181 substituted "Director" for "Secretary".

1969—Subsec. (c). Pub. L. 91–152 substituted provisions requiring development of criteria designed to encourage adoption of adequate State and local measures, for provisions requiring development of criteria designed to encourage adoption of permanent State and local measures.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

GUIDELINES

Pub. L. 113–89, §26(a)(2), Mar. 21, 2014, 128 Stat. 1032, provided that: "The Administrator [of the Federal Emergency Management Agency] shall issue the guidelines required under section 1361(d) of the National Flood Insurance Act of 1968 (42 U.S.C. 4102(d)), as added by the amendment made by paragraph (1) of this subsection, not later than the expiration of the 1-year period beginning on the date of the enactment of this Act [Mar. 21, 2014]."

TASK FORCE ON NATURAL AND BENEFICIAL FUNCTIONS OF THE FLOODPLAIN

Pub. L. 103–325, title V, §562, Sept. 23, 1994, 108 Stat. 2276, established the Task Force on Natural and Beneficial Functions of the Floodplain to conduct a study on the functions of the floodplain that reduce flood-related losses and provided for its termination 24 months after its last member was designated.

§4102a. Repealed. Pub. L. 112–141, div. F, title II, §100225(c), July 6, 2012, 126 Stat. 941

Section, Pub. L. 90–448, title XIII, §1361A, as added Pub. L. 108–264, title I, §102(a), June 30, 2004, 118 Stat. 714, created a pilot program for mitigation of severe repetitive loss properties by mitigating flood damage to such properties and losses to the National Flood Insurance Fund from such properties.

§4103. Repealed. Pub. L. 103–325, title V, §551(a), Sept. 23, 1994, 108 Stat. 2269

Section, Pub. L. 90–448, title XIII, §1362, Aug. 1, 1968, 82 Stat. 588; Pub. L. 95–128, title VII, §704(b), Oct. 12, 1977, 91 Stat. 1145; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229, related to purchase, by Director, of insured properties damaged substantially beyond repair by flood, for subsequent transfer to State or local agency upon negotiated conditions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SAVINGS PROVISION

Pub. L. 103–325, title V, §551(c), Sept. 23, 1994, 108 Stat. 2269, required the Director of the Federal Emergency Management Agency to comply with any purchase or loan commitment entered into before the expiration of the 1-year period beginning on Sept. 23, 1994, pursuant to authority under this section or section 551(b) of Pub. L. 103–325.

TRANSITION PHASE

Pub. L. 103–325, title V, §551(b), Sept. 23, 1994, 108 Stat. 2269, permitted the Director of the Federal Emergency Management Agency to enter into loan and purchase commitments as provided under this section (as in effect immediately before the enactment of Pub. L. 103–325) during the 1-year period beginning on Sept. 23, 1994.

§4104. Flood elevation determinations

(a) Publication or notification of proposed flood elevation determinations

In establishing projected flood elevations and designating areas having special flood hazards for land use purposes with respect to any community pursuant to section 4102 of this title, the Administrator shall first propose such determinations and designations by publication for comment in the Federal Register, by direct notification to the chief executive officer of the community, and by publication in a prominent local newspaper.

(b) Publication of flood elevation determinations; appeal of owner or lessee to local government; scientific or technical knowledge or information as basis for appeal; modification of proposed determinations

The Administrator shall publish notification of flood elevation determinations and designations of areas having special flood hazards in a prominent local newspaper at least twice during the ten-day period following notification to the local government. During the ninety-day period following the second publication, any owner or lessee of real property within the community who believes his property rights to be adversely affected by the Administrator's proposed determination may appeal such determination to the local government. The sole grounds for appeal shall be the possession of knowledge or information indicating that (1) the elevations being proposed by the Administrator with respect to an identified area having special flood hazards are scientifically or technically incorrect, or (2) the designation of an identified special flood hazard area is scientifically or technically incorrect.

(c) Appeals by private persons; submission of negativing or contradicting data to community; opinion of community respecting justification for appeal by community; transmission of individual appeals to Administrator; filing of community action with Administrator

Appeals by private persons shall be made to the chief executive officer of the community, or to such agency as he shall publicly designate, and shall set forth the data that tend to negate or contradict the Administrator's finding in such form as the chief executive officer may specify. The community shall review and consolidate all such appeals and issue a written opinion stating whether the evidence presented is sufficient to justify an appeal on behalf of such persons by the community in its own name. Whether or not the community decides to appeal the Administrator's determination, copies of individual appeals shall be sent to the Administrator as they are received by the community, and the community's appeal or a copy of its decision not to appeal shall be filed with the Administrator not later than ninety days after the date of the second newspaper publication of the Administrator's notification.

(d) Administrative review of appeals by private persons; modification of proposed determinations; decision of Administrator: form and distribution

In the event the Administrator does not receive an appeal from the community within the ninety days provided, he shall consolidate and review on their own merits, in accordance with the procedures set forth in subsection (e), the appeals filed within the community by private persons and

shall make such modifications of his proposed determinations as may be appropriate, taking into account the written opinion, if any, issued by the community in not supporting such appeals. The Administrator's decision shall be in written form, and copies thereof shall be sent both to the chief executive officer of the community and to each individual appellant.

(e) Administrative review of appeals by community; agencies for resolution of conflicting data; availability of flood insurance pending such resolution; time for determination of Administrator; community adoption of local land use and control measures within reasonable time of final determination; public inspection and admissibility in evidence of reports and other administrative information

Upon appeal by any community, as provided by this section, the Administrator shall review and take fully into account any technical or scientific data submitted by the community that tend to negate or contradict the information upon which his proposed determination is based. The Administrator shall resolve such appeal by consultation with officials of the local government involved, by administrative hearing, or by submission of the conflicting data to the Scientific Resolution Panel provided for in section 4104–1 of this title. Until the conflict in data is resolved, and the Administrator makes a final determination on the basis of his findings in the Federal Register, and so notifies the governing body of the community, flood insurance previously available within the community shall continue to be available, and no person shall be denied the right to purchase such insurance at chargeable rates. The Administrator shall make his determination within a reasonable time. The community shall be given a reasonable time after the Administrator's final determination in which to adopt local land use and control measures consistent with the Administrator's determination. The reports and other information used by the Administrator in making his final determination shall be made available for public inspection and shall be admissible in a court of law in the event the community seeks judicial review as provided by this section.

(f) Reimbursement of certain expenses

When, incident to any appeal under subsection (b) or (c) of this section, the owner or lessee of real property or the community, as the case may be, or, in the case of an appeal that is resolved by submission of conflicting data to the Scientific Resolution Panel provided for in section 4104–1 of this title, the community, incurs expense in connection with the services of surveyors, engineers, or similar services, but not including legal services, in the effecting of an appeal based on a scientific or technical error on the part of the Federal Emergency Management Agency, which is successful in whole or part, the Administrator shall reimburse such individual or community to an extent measured by the ratio of the successful portion of the appeal as compared to the entire appeal and applying such ratio to the reasonable value of all such services, but no reimbursement shall be made by the Administrator in respect to any fee or expense payment, the payment of which was agreed to be contingent upon the result of the appeal. The Administrator may use such amounts from the National Flood Insurance Fund established under section 4017 of this title as may be necessary to carry out this subsection. The Administrator shall promulgate regulations to carry out this subsection.

(g) Judicial review of final administrative determinations; venue; time for appeal; scope of review; good cause for stay of final determinations

Except as provided in section 4104–1 of this title, any appellant aggrieved by any final determination of the Administrator upon administrative appeal, as provided by this section, may appeal such determination to the United States district court for the district within which the community is located not more than sixty days after receipt of notice of such determination. The scope of review by the court shall be as provided by chapter 7 of title 5. During the pendency of any such litigation, all final determinations of the Administrator shall be effective for the purposes of this chapter unless stayed by the court for good cause shown.

(Pub. L. 90–448, title XIII, §1363, as added Pub. L. 93–234, title I, §110, Dec. 31, 1973, 87 Stat. 980; amended Pub. L. 95–128, title VII, §704(c), Oct. 12, 1977, 91 Stat. 1146; Pub. L. 98–181, title I

[title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §§100217, 100218(b), 100238(b)(1), (2), 100246, July 6, 2012, 126 Stat. 930, 932, 958, 967; Pub. L. 113–89, §18(a), Mar. 21, 2014, 128 Stat. 1027.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (g), was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2014—Subsec. (f). Pub. L. 113–89 inserted "or, in the case of an appeal that is resolved by submission of conflicting data to the Scientific Resolution Panel provided for in section 4104–1 of this title, the community," after "as the case may be," and substituted "The Administrator may use such amounts from the National Flood Insurance Fund established under section 4017 of this title as may be necessary to carry out this subsection." for "The amounts available for implementing this subsection shall not exceed $250,000."

2012—Subsec. (a). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director".

Pub. L. 112–141, §100217(1), inserted "and designating areas having special flood hazards" after "flood elevations" and substituted "such determinations and designations" for "such determinations".

Subsec. (b). Pub. L. 112–141, §100238(b)(1), (2), substituted "Administrator" for "Director" in first sentence and "Administrator's" for "Director's" in second sentence.

Pub. L. 112–141, §100217(2), inserted "and designations of areas having special flood hazards" after "flood elevation determinations" and substituted "The sole grounds for appeal shall be the possession of knowledge or information indicating that (1) the elevations being proposed by the Administrator with respect to an identified area having special flood hazards are scientifically or technically incorrect, or (2) the designation of an identified special flood hazard area is scientifically or technically incorrect." for "The sole basis for such appeal shall be the possession of knowledge or information indicating that the elevations being proposed by the Director with respect to an identified area having special flood hazards are scientifically or technically incorrect, and the sole relief which shall be granted under the authority of this section in the event that such appeal is sustained in accordance with subsection (e) or (f) of this section is a modification of the Director's proposed determination accordingly."

Subsecs. (c), (d). Pub. L. 112–141, §100238(b)(1), (2), substituted "Administrator" for "Director" and "Administrator's" for "Director's" wherever appearing.

Subsec. (e). Pub. L. 112–141, §100238(b)(1), (2), substituted "Administrator" for "Director" wherever appearing and "Administrator's" for "Director's" in two places.

Pub. L. 112–141, §100218(b)(1), substituted "the Scientific Resolution Panel provided for in section 4104–1 of this title" for "an independent scientific body or appropriate Federal agency for advice".

Subsec. (f). Pub. L. 112–141, §100246, added subpar. (f) and struck out former subpar. (f) which read as follows: "When, incident to any appeal under subsection (b) or (c) of this section, the owner or lessee of real property or the community, as the case may be, incurs expense in connection with the services of surveyors, engineers, or similar services, but not including legal services, in the effecting of an appeal which is successful in whole or part, the Director shall reimburse such individual or community to an extent measured by the ratio of the successful portion of the appeal as compared to the entire appeal and applying such ratio to the reasonable value of all such services, but no reimbursement shall be made by the Director in respect to any fee or expense payment, the payment of which was agreed to be contingent upon the result of the appeal. There is authorized to be appropriated for purposes of implementing this subsection, not to exceed $250,000."

Subsec. (g). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director" in two places.

Pub. L. 112–141, §100218(b)(2), substituted "Except as provided in section 4104–1 of this title, any appellant" for "Any appellant".

1983—Pub. L. 98–181 substituted "Director" for "Secretary" and "Director's" for "Secretary's" wherever appearing.

1977—Subsecs. (f), (g). Pub. L. 95–128 added subsec. (f) and redesignated former subsec. (f) as (g).

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4104–1. Scientific Resolution Panel

(a) Availability

(1) In general

Pursuant to the authority provided under section 4104(e) of this title, the Administrator shall make available an independent review panel, to be known as the Scientific Resolution Panel, to any community—

(A) that has—

(i) filed a timely map appeal in accordance with section 4104 of this title;

(ii) completed 60 days of consultation with the Federal Emergency Management Agency on the appeal; and

(iii) not allowed more than 120 days, or such longer period as may be provided by the Administrator by waiver, to pass since the end of the appeal period; or

(B) that has received an unsatisfactory ruling under the map revision process established pursuant to section 4101(f) of this title.

(2) Appeals by owners and lessees

If a community and an owner or lessee of real property within the community appeal a proposed determination of a flood elevation under section 4104(b) of this title, upon the request of the community—

(A) the owner or lessee shall submit scientific and technical data relating to the appeals to the Scientific Resolution Panel; and

(B) the Scientific Resolution Panel shall make a determination with respect to the appeals in accordance with subsection (c).

(3) Definition

For purposes of paragraph (1)(B), an "unsatisfactory ruling" means that a community—

(A) received a revised Flood Insurance Rate Map from the Federal Emergency Management Agency, via a Letter of Final Determination, after September 30, 2008, and prior to July 6, 2012;

(B) has subsequently applied for a Letter of Map Revision or Physical Map Revision with the Federal Emergency Management Agency; and

(C) has received an unfavorable ruling on their request for a map revision.

(b) Membership

The Scientific Resolution Panel made available under subsection (a) shall consist of 5 members with expertise that relates to the creation and study of flood hazard maps and flood insurance. The Scientific Resolution Panel may include representatives from Federal agencies not involved in the mapping study in question and from other impartial experts. Employees of the Federal Emergency Management Agency may not serve on the Scientific Resolution Panel.

(c) Determination

(1) In general

Following deliberations, and not later than 90 days after its formation, the Scientific Resolution Panel shall issue a determination of resolution of the dispute. Such determination shall set forth recommendations for the base flood elevation determination or the designation of an area having special flood hazards that shall be reflected in the Flood Insurance Rate Maps.

(2) Basis

The determination of the Scientific Resolution Panel shall be based on—

(A) data previously provided to the Administrator by the community, and, in the case of a dispute submitted under subsection (a)(2), an owner or lessee of real property in the community; and

(B) data provided by the Administrator.

(3) No alternative determinations permissible

The Scientific Resolution Panel—

(A) shall provide a determination of resolution of a dispute that—

(i) is either in favor of the Administrator or in favor of the community on each distinct element of the dispute; or

(ii) in the case of a dispute submitted under subsection (a)(2), is in favor of the Administrator, in favor of the community, or in favor of the owner or lessee of real property in the community on each distinct element of the dispute; and

(B) may not offer as a resolution any other alternative determination.

(4) Effect of determination

(A) Binding

The recommendations of the Scientific Resolution Panel shall be binding on all appellants and not subject to further judicial review unless the Administrator determines that implementing the determination of the panel would—

(i) pose a significant threat due to failure to identify a substantial risk of special flood hazards; or

(ii) violate applicable law.

(B) Written justification not to enforce

If the Administrator elects not to implement the determination of the Scientific Resolution Panel pursuant to subparagraph (A), then not later than 60 days after the issuance of the determination, the Administrator shall issue a written justification explaining such election.

(C) Appeal of determination not to enforce

If the Administrator elects not to implement the determination of the Scientific Resolution Panel pursuant to subparagraph (A), the community may appeal the determination of the Administrator as provided for under section 4104(g) of this title.

(d) Maps used for insurance and mandatory purchase requirements

With respect to any community that has a dispute that is being considered by the Scientific Resolution Panel formed pursuant to this subsection, the Federal Emergency Management Agency shall ensure that for each such community that—

(1) the Flood Insurance Rate Map described in the most recently issued Letter of Final Determination shall be in force and effect with respect to such community; and

(2) flood insurance shall continue to be made available to the property owners and residents of the participating community.

(Pub. L. 90–448, title XIII, §1363A, as added Pub. L. 112–141, div. F, title II, §100218(a), July 6, 2012, 126 Stat. 930.)

§4104a. Notice requirements

(a) Notification of special flood hazards

(1) Regulated lending institutions

Each Federal entity for lending regulation (after consultation and coordination with the Financial Institutions Examination Council) shall by regulation require regulated lending institutions, as a condition of making, increasing, extending, or renewing any loan secured by improved real estate or a mobile home that the regulated lending institution determines is located or is to be located in an area that has been identified by the Administrator under this chapter or the Flood Disaster Protection Act of 1973 as an area having special flood hazards, to notify the purchaser or lessee (or obtain satisfactory assurances that the seller or lessor has notified the purchaser or lessee) and the servicer of the loan of such special flood hazards, in writing, a reasonable period in advance of the signing of the purchase agreement, lease, or other documents involved in the transaction. The regulations shall also require that the regulated lending institution retain a record of the receipt of the notices by the purchaser or lessee and the servicer.

(2) Federal agency lenders

Each Federal agency lender shall by regulation require notification in the manner provided under paragraph (1) with respect to any loan that is made by the Federal agency lender and secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Administrator under this chapter or the Flood Disaster Protection Act of 1973 as an area having special flood hazards. Any regulations issued under this paragraph shall be consistent with and substantially identical to the regulations issued under paragraph (1).

(3) Contents of notice

Written notification required under this subsection shall include—

(A) a warning, in a form to be established by the Administrator, stating that the building on the improved real estate securing the loan is located, or the mobile home securing the loan is or is to be located, in an area having special flood hazards;

(B) a description of the flood insurance purchase requirements under section 102(b) of the Flood Disaster Protection Act of 1973 [42 U.S.C. 4012a(b)];

(C) a statement that flood insurance coverage may be purchased under the national flood insurance program and is also available from private insurers, as required under section 102(b)(6) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(b)(6)); and

(D) any other information that the Administrator considers necessary to carry out the purposes of the national flood insurance program.

(b) Notification of change of servicer

(1) Lending institutions

Each Federal entity for lending regulation (after consultation and coordination with the Financial Institutions Examination Council) shall by regulation require regulated lending institutions, in connection with the making, increasing, extending, renewing, selling, or transferring any loan described in subsection (a)(1), to notify the Administrator (or the designee of the Administrator) in writing during the term of the loan of the servicer of the loan. Such institutions shall also notify the Administrator (or such designee) of any change in the servicer of the loan, not later than 60 days after the effective date of such change. The regulations under this subsection shall provide that upon any change in the servicing of a loan, the duty to provide notification under this subsection shall transfer to the transferee servicer of the loan.

(2) Federal agency lenders

Each Federal agency lender shall by regulation provide for notification in the manner provided under paragraph (1) with respect to any loan described in subsection (a)(1) that is made by the Federal agency lender. Any regulations issued under this paragraph shall be consistent with and substantially identical to the regulations issued under paragraph (1) of this subsection.

(c) Notification of expiration of insurance

The Administrator (or the designee of the Administrator) shall, not less than 45 days before the expiration of any contract for flood insurance under this chapter, issue notice of such expiration by first class mail to the owner of the property covered by the contract, the servicer of any loan secured by the property covered by the contract, and (if known to the Administrator) the owner of the loan.

(Pub. L. 90–448, title XIII, §1364, as added Pub. L. 93–383, title VIII, §816(a), Aug. 22, 1974, 88 Stat. 739; amended Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 103–325, title V, §527, Sept. 23, 1994, 108 Stat. 2263; Pub. L. 112–141, div. F, title II, §§100238(b)(1), 100239(b), July 6, 2012, 126 Stat. 958, 960.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1), (2) and (c), was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

The Flood Disaster Protection Act of 1973, referred to in subsec. (a)(1), (2), is Pub. L. 93–234, Dec. 31, 1973, 87 Stat. 975, which enacted sections 4002, 4003, 4012a, 4104, 4104a, 4105 to 4107, and 4128 of this title, amended sections 4001, 4013 to 4016, 4026, 4054, 4056, 4101, and 4121 of this title and sections 24 and 1709–1 of Title 12, Banks and Banking, repealed section 4021 of this title, and enacted provision set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title of 1973 Amendment note set out under section 4001 of this title and Tables.

AMENDMENTS

2012—Subsec. (a). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director" wherever appearing.

Subsec. (a)(3)(C). Pub. L. 112–141, §100239(b), inserted ", as required under section 102(b)(6) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(b)(6))" after "private insurers".

Subsecs. (b)(1), (c). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director" wherever appearing.

1994—Pub. L. 103–325 amended section generally. Prior to amendment, section read as follows: "Each Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions shall by regulation require such institutions, as a condition of making, increasing, extending, or renewing (after the expiration of thirty days following August 22, 1974) any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Director under this chapter or Public Law 93–234 as an area having special flood hazards, to notify the purchaser or lessee (or obtain satisfactory assurances that the seller or lessor has notified the purchaser or lessee) of such special flood hazards, in writing, a reasonable period in advance of the signing of the purchase agreement, lease, or other documents involved in the transaction."

1983—Pub. L. 98–181 substituted "Director" for "Secretary".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4104b. Standard hazard determination forms

(a) Development

The Administrator, in consultation with representatives of the mortgage and lending industry, the Federal entities for lending regulation, the Federal agency lenders, and any other appropriate individuals, shall develop a standard form for determining, in the case of a loan secured by improved real estate or a mobile home, whether the building or mobile home is located in an area identified by the Administrator as an area having special flood hazards and in which flood insurance under this chapter is available. The form shall be established by regulations issued not later than 270 days after September 23, 1994.

(b) Design and contents

(1) Purpose

The form under subsection (a) shall be designed to facilitate compliance with the flood insurance purchase requirements of this chapter.

(2) Contents

The form shall require identification of the type of flood-risk zone in which the building or mobile home is located, the complete map and panel numbers for the improved real estate or property on which the mobile home is located, the community identification number and community participation status (for purposes of the national flood insurance program) of the community in which the improved real estate or such property is located, and the date of the map used for the determination, with respect to flood hazard information on file with the Administrator. If the building or mobile home is not located in an area having special flood hazards the form shall require a statement to such effect and shall indicate the complete map and panel numbers of the improved real estate or property on which the mobile home is located. If the complete map and panel numbers are not available because the building or mobile home is not located in a community that is participating in the national flood insurance program or because no map exists for the relevant area, the form shall require a statement to such effect. The form shall provide for inclusion or attachment of any relevant documents indicating revisions or amendments to maps.

(c) Required use

The Federal entities for lending regulation shall by regulation require the use of the form under this section by regulated lending institutions. Each Federal agency lender shall by regulation provide for the use of the form with respect to any loan made by such Federal agency lender. The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation and the Government National Mortgage Association shall require the use of the form with respect to any loan purchased by such entities. A lender or other person may comply with the requirement under this subsection by using the form in a printed, computerized, or electronic manner.

(d) Guarantees regarding information

In providing information regarding special flood hazards on the form developed under this section, any lender (or other person required to use the form) who makes, increases, extends, or renews a loan secured by improved real estate or a mobile home may provide for the acquisition or determination of such information to be made by a person other than such lender (or other person), only to the extent such person guarantees the accuracy of the information.

(e) Reliance on previous determination

Any person increasing, extending, renewing, or purchasing a loan secured by improved real estate or a mobile home may rely on a previous determination of whether the building or mobile home is located in an area having special flood hazards (and shall not be liable for any error in such previous determination), if the previous determination was made not more than 7 years before the date of the transaction and the basis for the previous determination has been set forth on a form under this section, unless—

(1) map revisions or updates pursuant to section 4101(f) of this title after such previous determination have resulted in the building or mobile home being located in an area having special flood hazards; or

(2) the person contacts the Administrator to determine when the most recent map revisions or updates affecting such property occurred and such revisions and updates have occurred after such previous determination.

(f) Effective date

The regulations under this section requiring use of the form established pursuant to this section shall be issued together with the regulations required under subsection (a) and shall take effect upon the expiration of the 180-day period beginning on such issuance.

(Pub. L. 90–448, title XIII, §1365, as added Pub. L. 103–325, title V, §528, Sept. 23, 1994, 108 Stat. 2264; amended Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b)(1), was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2012—Subsecs. (a), (b)(2), (e)(2). Pub. L. 112–141 substituted "Administrator" for "Director" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4104c. Mitigation assistance

(a) Authority

The Administrator shall carry out a program to provide financial assistance to States and communities, using amounts made available from the National Flood Mitigation Fund under section 4104d of this title, for planning and carrying out activities designed to reduce the risk of flood damage to structures covered under contracts for flood insurance under this chapter. Such financial assistance shall be made available—

(1) to States and communities in the form of grants under this section for carrying out mitigation activities;

(2) to States and communities in the form of grants under this section for carrying out mitigation activities that reduce flood damage to severe repetitive loss structures; and

(3) to property owners in the form of direct grants under this section for carrying out mitigation activities that reduce flood damage to individual structures for which 2 or more claim payments for losses have been made under flood insurance coverage under this chapter if the Administrator,

after consultation with the State and community, determines that neither the State nor community in which such a structure is located has the capacity to manage such grants.

(b) Eligibility for mitigation assistance

To be eligible to receive financial assistance under this section for mitigation activities, a State or community shall develop, and have approved by the Administrator, a flood risk mitigation plan (in this section referred to as a "mitigation plan"), that describes the mitigation activities to be carried out with assistance provided under this section, is consistent with the criteria established by the Administrator under section 4102 of this title, provides for reduction of flood losses to structures for which contracts for flood insurance are available under this chapter, and may be included in a multihazard mitigation plan. The mitigation plan shall be consistent with a comprehensive strategy for mitigation activities for the area affected by the mitigation plan, that has been adopted by the State or community following a public hearing.

(c) Eligible mitigation activities

(1) Requirement of consistency with approved mitigation plan

Amounts provided under this section may be used only for mitigation activities that are consistent with mitigation plans that are approved by the Administrator and identified under paragraph (4). The Administrator shall provide assistance under this section to the extent amounts are available in the National Flood Mitigation Fund pursuant to appropriation Acts, subject only to the absence of approvable mitigation plans.

(2) Requirements of technical feasibility, cost effectiveness, and interest of National Flood Insurance Fund

(A) In general

The Administrator may approve only mitigation activities that the Administrator determines—

(i) are technically feasible and cost-effective; or

(ii) will eliminate future payments from the National Flood Insurance Fund for severe repetitive loss structures through an acquisition or relocation activity.

(B) Considerations

In making a determination under subparagraph (A), the Administrator shall take into consideration recognized ancillary benefits.

(3) Eligible activities

Eligible activities under a mitigation plan may include—

(A) demolition or relocation of any structure located on land that is along the shore of a lake or other body of water and is certified by an appropriate State or local land use authority to be subject to imminent collapse or subsidence as a result of erosion or flooding;

(B) elevation, relocation, demolition, or floodproofing of structures (including public structures) located in areas having special flood hazards or other areas of flood risk;

(C) acquisition by States and communities of properties (including public properties) located in areas having special flood hazards or other areas of flood risk and properties substantially damaged by flood, for public use, as the Administrator determines is consistent with sound land management and use in such area;

(D) elevation, relocation, or floodproofing of utilities (including equipment that serves structures);

(E) minor physical mitigation efforts that do not duplicate the flood prevention activities of other Federal agencies and that lessen the frequency or severity of flooding and decrease predicted flood damages, which shall not include major flood control projects such as dikes, levees, seawalls, groins, and jetties unless the Administrator specifically determines in approving a mitigation plan that such activities are the most cost-effective mitigation activities for the National Flood Mitigation Fund;

(F) the development or update of mitigation plans by a State or community which meet the planning criteria established by the Administrator, except that the amount from grants under this section that may be used under this subparagraph may not exceed $50,000 for any mitigation plan of a State or $25,000 for any mitigation plan of a community;

(G) the provision of technical assistance by States to communities and individuals to conduct eligible mitigation activities;

(H) other activities that the Administrator considers appropriate and specifies in regulation;

(I) other mitigation activities not described in subparagraphs (A) through (G) or the regulations issued under subparagraph (H), that are described in the mitigation plan of a State or community; and

(J) without regard to the requirements under paragraphs (1) and (2) of subsection (d), and if the State applied for and was awarded at least $1,000,000 in grants available under this section in the prior fiscal year, technical assistance to communities to identify eligible activities, to develop grant applications, and to implement grants awarded under this section, not to exceed $50,000 to any 1 State in any fiscal year.

(4) Eligibility of demolition and rebuilding of properties

The Administrator shall consider as an eligible activity the demolition and rebuilding of properties to at least base flood elevation or greater, if required by the Administrator or if required by any State regulation or local ordinance, and in accordance with criteria established by the Administrator.

(d) Matching requirement

The Administrator may provide grants for eligible mitigation activities as follows:

(1) Severe repetitive loss structures

In the case of mitigation activities to severe repetitive loss structures, in an amount up to—

(A) 100 percent of all eligible costs, if the activities are approved under subsection (c)(2)(A)(i); or

(B) the expected savings to the National Flood Insurance Fund from expected avoided damages through acquisition or relocation activities, if the activities are approved under subsection (c)(2)(A)(ii).

(2) Repetitive loss structures

In the case of mitigation activities to repetitive loss structures, in an amount up to 90 percent of all eligible costs.

(3) Other mitigation activities

In the case of all other mitigation activities, in an amount up to 75 percent of all eligible costs.

(e) Recapture

(1) Noncompliance with plan

If the Administrator determines that a State or community that has received mitigation assistance under this section has not carried out the mitigation activities as set forth in the mitigation plan, the Administrator shall recapture any unexpended amounts and deposit the amounts in the National Flood Mitigation Fund under section 4104d of this title.

(2) Failure to provide matching funds

If the Administrator determines that a State or community that has received mitigation assistance under this section has not provided matching funds in the amount required under subsection (d), the Administrator shall recapture any unexpended amounts of mitigation assistance exceeding the amount of such matching funds actually provided and deposit the amounts in the National Flood Mitigation Fund under section 4104d of this title.

(f) Reports

Not later than 1 year after July 6, 2012, and biennially thereafter, the Administrator shall submit a

report to the Congress describing the status of mitigation activities carried out with assistance provided under this section.

(g) Failure to make grant award within 5 years

For any application for a grant under this section for which the Administrator fails to make a grant award within 5 years of the date of the application, the grant application shall be considered to be denied and any funding amounts allocated for such grant applications shall remain in the National Flood Mitigation Fund under section 4104d of this title and shall be made available for grants under this section.

(h) Definitions

For purposes of this section, the following definitions shall apply:

(1) Community

The term "community" means—

(A) a political subdivision that—

(i) has zoning and building code jurisdiction over a particular area having special flood hazards; and

(ii) is participating in the national flood insurance program; or

(B) a political subdivision of a State, or other authority, that is designated by political subdivisions, all of which meet the requirements of subparagraph (A), to administer grants for mitigation activities for such political subdivisions.

(2) Repetitive loss structure

The term "repetitive loss structure" has the meaning given such term in section 4121 of this title.

(3) Severe repetitive loss structure

The term "severe repetitive loss structure" means a structure that—

(A) is covered under a contract for flood insurance made available under this chapter; and

(B) has incurred flood-related damage—

(i) for which 4 or more separate claims payments have been made under flood insurance coverage under this chapter, with the amount of each such claim exceeding $5,000, and with the cumulative amount of such claims payments exceeding $20,000; or

(ii) for which at least 2 separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the value of the insured structure.

(Pub. L. 90–448, title XIII, §1366, as added Pub. L. 103–325, title V, §553(a), Sept. 23, 1994, 108 Stat. 2270; amended Pub. L. 108–264, title I, §103(a)–(c), (e), (f), June 30, 2004, 118 Stat. 721, 722; Pub. L. 112–95, title VIII, §815(b), Feb. 14, 2012, 126 Stat. 125; Pub. L. 112–141, div. F, title II, §§100225(a), 100238(b)(1), July 6, 2012, 126 Stat. 938, 958.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b), and (h)(3)(A), (B)(i), was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2012—Subsec. (a). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director" in introductory provisions.

Pub. L. 112–141, §100225(a)(3), substituted "Such financial assistance shall be made available—" for "Such financial assistance shall be made available to States and communities in the form of grants under subsection (b) of this section for planning assistance and in the form of grants under this section for carrying

out mitigation activities." and added pars. (1) to (3).

Subsec. (b). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director" in two places.

Pub. L. 112–141, §100225(a)(4), substituted "provides for reduction of" for "and provides protection against" and inserted ", and may be included in a multihazard mitigation plan" after "under this chapter".

Pub. L. 112–141, §100225(a)(1), (2), redesignated subsec. (c) as (b) and struck out former subsec. (b) which related to mitigation planning assistance grants.

Subsec. (c). Pub. L. 112–141, §100225(a)(2), redesignated subsec. (e) as (c). Former subsec. (c) redesignated (b).

Subsec. (c)(1). Pub. L. 112–141, §100238(b)(1), substituted "Administrator shall" for "Director shall".

Pub. L. 112–141, §100225(a)(5)(A), substituted "Requirement of consistency with approved mitigation plan" for "Use of amounts" in heading and "Amounts provided under this section may be used only for mitigation activities that are consistent with mitigation plans that are approved by the Administrator and identified under paragraph (4)." for "Amounts provided under this section (other than under subsection (b) of this section) may be used only for mitigation activities specified in a mitigation plan approved by the Director under subsection (d) of this section." in text.

Subsec. (c)(2). Pub. L. 112–141, §100225(a)(5)(B), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "The Director may approve only mitigation plans that specify mitigation activities that the Director determines are technically feasible and cost-effective and only such plans that propose activities that are cost-beneficial to the National Flood Mitigation Fund."

Subsec. (c)(3). Pub. L. 112–141, §100225(a)(5)(D)(i), substituted "Eligible activities under a mitigation plan may" for "The Director shall determine whether mitigation activities described in a mitigation plan submitted under subsection (d) of this section comply with the requirements under paragraph (1). Such activities may" in introductory provisions.

Pub. L. 112–141, §100225(a)(5)(B), (C), redesignated par. (5) as (3) and struck out former par. (3). Prior to amendment, text of par. (3) read as follows: "The Director shall approve mitigation plans meeting the requirements for approval under paragraph (1) that will be most cost-beneficial to the National Flood Mitigation Fund. The Director may approve only mitigation plans that give priority for funding to such properties, or to such subsets of properties, as are in the best interest of the National Flood Insurance Fund."

Subsec. (c)(3)(C). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director".

Subsec. (c)(3)(D). Pub. L. 112–141, §100225(a)(5)(D)(iv), added subpar. (D). Former subpar. (D) redesignated (E).

Subsec. (c)(3)(E). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director".

Pub. L. 112–141, §100225(a)(5)(D)(ii), (iii), redesignated subpar. (D) as (E) and struck out former subpar. (E) which read as follows: "beach nourishment activities;".

Subsec. (c)(3)(F), (G). Pub. L. 112–141, §100225(a)(5)(D)(iii), (v), added subpar. (F) and redesignated former subpar. (F) as (G). Former subpar. (G) redesignated (H).

Subsec. (c)(3)(H). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director".

Pub. L. 112–141, §100225(a)(5)(D)(ii), (iii), redesignated subpar. (G) as (H) and struck out former subpar. (H) which read as follows: "other mitigation activities not described in subparagraphs (A) through (F) or the regulations issued under subparagraph (G), that are described in the mitigation plan of a State or community."

Subsec. (c)(3)(I), (J). Pub. L. 112–141, §100225(a)(5)(D)(vi), (vii), added subpars. (I) and (J).

Subsec. (c)(4). Pub. L. 112–141, §100225(a)(5)(B), (E), added par. (4) and struck out former par. (4). Prior to amendment, text read as follows: "In providing grants under this subsection for mitigation activities, the Director shall give first priority for funding to such properties, or to such subsets of such properties as the Director may establish, that the Director determines are in the best interests of the National Flood Insurance Fund and for which matching amounts under subsection (f) of this section are available."

Subsec. (c)(5). Pub. L. 112–141, §100225(a)(5)(C), redesignated par. (5) as (3).

Subsec. (c)(6). Pub. L. 112–141, §100225(a)(5)(E), struck out par. (6). Text read as follows: "The Director shall consider as an eligible activity the demolition and rebuilding of properties to at least base flood levels or higher, if required by the Director or if required by any State or local ordinance, and in accordance with project implementation criteria established by the Director."

Subsec. (d). Pub. L. 112–141, §100225(a)(1), (6), added subsec. (d) and struck out former subsec. (d) which related to notification of mitigation plan approval and grant award.

Subsec. (e). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director" wherever appearing.

Pub. L. 112–141, §100225(a)(2), redesignated subsec. (i) as (e). Former subsec. (e) redesignated (c).

Subsec. (e)(2). Pub. L. 112–141, §100225(a)(7), substituted "required under subsection (d)" for "certified under subsection (g)" and "the amount" for "3 times the amount".

Subsec. (e)(6). Pub. L. 112–95 added par. (6).

Subsec. (f). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director".

Pub. L. 112–141, §100225(a)(8), substituted "July 6, 2012" for "September 23, 1994".

Pub. L. 112–141, §100225(a)(1), (2), redesignated subsec. (j) as (f) and struck out former subsec. (f) which related to limitations on amount of mitigation assistance during any 5-year period.

Subsecs. (g), (h). Pub. L. 112–141, §100225(a)(1), (9), added subsecs. (g) and (h) and struck out former subsecs. (g) and (h) which related to the matching requirement for mitigation assistance and oversight of recipients of mitigation assistance, respectively.

Subsecs. (i), (j). Pub. L. 112–141, §100225(a)(2), redesignated subsecs. (i) and (j) as (e) and (f), respectively.

Subsecs. (k), (m). Pub. L. 112–141, §100225(a)(1), struck out subsecs. (k) and (m) which defined "community" for purposes of this section and which related to encouraging and improving participation in the national flood insurance program, respectively.

2004—Subsec. (b)(2). Pub. L. 108–264, §103(f), substituted "7.5 percent of the available funds under this section" for "$1,500,000".

Subsec. (e)(3). Pub. L. 108–264, §103(a), inserted at end "The Director may approve only mitigation plans that give priority for funding to such properties, or to such subsets of properties, as are in the best interest of the National Flood Insurance Fund."

Subsec. (e)(4). Pub. L. 108–264, §103(b), added par. (4) and struck out heading and text of former par. (4). Text read as follows: "The Director shall make every effort to provide mitigation assistance under this section for mitigation plans proposing activities for repetitive loss structures and structures that have incurred substantial damage."

Subsec. (g)(2), (3). Pub. L. 108–264, §103(e), added par. (2) and redesignated former par. (2) as (3).

Subsec. (m). Pub. L. 108–264, §103(c), added subsec. (m).

STATUTORY NOTES AND RELATED SUBSIDIARIES

REGULATIONS

Pub. L. 103–325, title V, §553(b), Sept. 23, 1994, 108 Stat. 2273, required the Director of the Federal Emergency Management Agency to issue regulations no later than 6 months after Sept. 23, 1994, to carry out this section.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4104d. National Flood Mitigation Fund

(a) Establishment and availability

The Administrator shall establish in the Treasury of the United States a fund to be known as the National Flood Mitigation Fund, which shall be credited with amounts described in subsection (b) and shall be available, to the extent provided in appropriation Acts, for providing assistance under section 4104c of this title.

(b) Credits

The National Flood Mitigation Fund shall be credited with—

(1) in each fiscal year, amounts from the National Flood Insurance Fund not to exceed $90,000,000 and to remain available until expended, of which—

(A) not more than $40,000,000 shall be available pursuant to subsection (a) of this section for

assistance described in section 4104c(a)(1) of this title;

(B) not more than $40,000,000 shall be available pursuant to subsection (a) of this section for assistance described in section 4104c(a)(2) of this title; and

(C) not more than $10,000,000 shall be available pursuant to subsection (a) of this section for assistance described in section 4104c(a)(3) of this title;

(2) any penalties collected under section 4012a(f) of this title; and

(3) any amounts recaptured under section 4104c(e) of this title.

(c) Administrative expenses

The Administrator may use not more than 5 percent of amounts made available under subsection (b) to cover salaries, expenses, and other administrative costs incurred by the Administrator to make grants and provide assistance under section 4104c of this title.

(d) Prohibition on offsetting collections

Notwithstanding any other provision of this chapter, amounts made available pursuant to this section shall not be subject to offsetting collections through premium rates for flood insurance coverage under this chapter.

(e) Continued availability and reallocation

Any amounts made available pursuant to subparagraph (A), (B), or (C) of subsection (b)(1) that are not used in any fiscal year shall continue to be available for the purposes specified in the subparagraph of subsection (b)(1) pursuant to which such amounts were made available, unless the Administrator determines that reallocation of such unused amounts to meet demonstrated need for other mitigation activities under section 4104c of this title is in the best interest of the National Flood Insurance Fund.

(f) Investment

If the Administrator determines that the amounts in the National Flood Mitigation Fund are in excess of amounts needed under subsection (a), the Administrator may invest any excess amounts the Administrator determines advisable in interest-bearing obligations issued or guaranteed by the United States.

(g) Report

The Administrator shall submit a report to the Congress not later than the expiration of the 1-year period beginning on September 23, 1994, and not less than once during each successive 2-year period thereafter. The report shall describe the status of the Fund and any activities carried out with amounts from the Fund.

(Pub. L. 90–448, title XIII, §1367, as added Pub. L. 103–325, title V, §554(a), Sept. 23, 1994, 108 Stat. 2273; amended Pub. L. 108–264, title I, §103(d), June 30, 2004, 118 Stat. 721; Pub. L. 112–141, div. F, title II, §§100225(e), 100238(b)(1), July 6, 2012, 126 Stat. 941, 958.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (d), was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

CODIFICATION

September 23, 1994, referred to in subsec. (g), was in the original "the date of enactment of this Act", which was translated as meaning the date of enactment of Pub. L. 103–325, which enacted this section, to reflect the probable intent of Congress.

AMENDMENTS

2012—Subsec. (a). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director".

Subsec. (b)(1). Pub. L. 112–141, §100225(e)(1)(A), added par. (1) and struck out former par. (1) which read as follows: "in each fiscal year, amounts from the National Flood Insurance Fund not exceeding $40,000,000, to remain available until expended;".

Subsec. (b)(3). Pub. L. 112–141, §100225(e)(1)(B), substituted "section 4104c(e)" for "section 4104c(i)".

Subsec. (c). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director" in two places.

Pub. L. 112–141, §100225(e)(2), substituted "section 4104c" for "sections 4104c and 4030".

Subsecs. (d), (e). Pub. L. 112–141, §100225(e)(4), added subsecs. (d) and (e). Former subsecs. (d) and (e) redesignated (f) and (g), respectively.

Subsecs. (f), (g). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director" wherever appearing.

Pub. L. 112–141, §100225(e)(3), redesignated subsecs. (d) and (e) as (f) and (g), respectively.

2004—Subsec. (b)(1). Pub. L 108–264, §103(d)(1), added par. (1) and struck out former par. (1) which read as follows: "amounts from the National Flood Insurance Fund, in amounts not exceeding—

"(A) $10,000,000 in the fiscal year ending September 30, 1994;

"(B) $15,000,000 in the fiscal year ending September 30, 1995;

"(C) $20,000,000 in the fiscal year ending September 30, 1996; and

"(D) $20,000,000 in each fiscal year thereafter;".

Subsecs. (c) to (e). Pub. L. 108–264, §103(d)(2), (3), added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4105. Disaster mitigation requirements; notification to flood-prone areas

(a) Initial notification

Not later than six months following December 31, 1973, the Administrator shall publish information in accordance with section 4101(1) of this title, and shall notify the chief executive officer of each known flood-prone community not already participating in the national flood insurance program of its tentative identification as a community containing one or more areas having special flood hazards.

(b) Alternative actions of tentatively identified communities; public hearing; opportunity for submission of evidence; finality of administrative determination of existence or extent of flood hazard area

After such notification, each tentatively identified community shall either (1) promptly make proper application to participate in the national flood insurance program or (2) within six months submit technical data sufficient to establish to the satisfaction of the Administrator that the community either is not seriously flood prone or that such flood hazards as may have existed have been corrected by flood-works or other flood control methods. The Administrator may, in his discretion, grant a public hearing to any community with respect to which conflicting data exist as to the nature and extent of a flood hazard. If the Administrator decides not to hold a hearing, the community shall be given an opportunity to submit written and documentary evidence. Whether or not such hearing is granted, the Administrator's final determination as to the existence or extent of a

flood hazard area in a particular community shall be deemed conclusive for the purposes of this Act if supported by substantial evidence in the record considered as a whole.

(c) Subsequent notification to additional communities known to be flood prone areas

As information becomes available to the Administrator concerning the existence of flood hazards in communities not known to be flood prone at the time of the initial notification provided for by subsection (a) of this section he shall provide similar notifications to the chief executive officers of such additional communities, which shall then be subject to the requirements of subsection (b) of this section.

(d) Provisions of section 4106 applicable to flood-prone communities disqualified for flood insurance program

Formally identified flood-prone communities that do not qualify for the national flood insurance program within one year after such notification or by the date specified in section 4106 of this title, whichever is later, shall thereafter be subject to the provisions of that section relating to flood-prone communities which are not participating in the program.

(e) Administrative procedures; establishment; reimbursement of certain expenses; appropriation authorization

The Administrator is authorized to establish administrative procedures whereby the identification under this section of one or more areas in the community as having special flood hazards may be appealed to the Administrator by the community or any owner or lessee of real property within the community who believes his property has been inadvertently included in a special flood hazard area by the identification. When, incident to any appeal under this subsection, the owner or lessee of real property or the community, as the case may be, incurs expense in connection with the services of surveyors, engineers, or similar services, but not including legal services, in the effecting of an appeal which is successful in whole or part, the Administrator shall reimburse such individual or community to an extent measured by the ratio of the successful portion of the appeal as compared to the entire appeal and applying such ratio to the reasonable value of all such services, but no reimbursement shall be made by the Administrator in respect to any fee or expense payment, the payment of which was agreed to be contingent upon the result of the appeal. There is authorized to be appropriated for purposes of implementing this subsection not to exceed $250,000.

(Pub. L. 93–234, title II, §201, Dec. 31, 1973, 87 Stat. 982; Pub. L. 95–128, title VII, §704(d), Oct. 12, 1977, 91 Stat. 1146; Pub. L. 98–181, title I [title IV, §451(e)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 98–479, title II, §204(j), Oct. 17, 1984, 98 Stat. 2233; Pub. L. 112–141, div. F, title II, §100238(a), July 6, 2012, 126 Stat. 958.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (b), means Pub. L. 93–234, Dec. 31, 1973, 87 Stat. 975, known as the Flood Disaster Protection Act of 1973. For complete classification of this Act to the Code, see Short Title of 1973 Amendment note set out under section 4001 of this title and Tables.

CODIFICATION

Section was enacted as part of the Flood Disaster Protection Act of 1973, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

AMENDMENTS

2012—Subsecs. (a) to (c), (e). Pub. L. 112–141 substituted "Administrator" for "Director" and "Administrator's" for "Director's" wherever appearing.

1984—Subsec. (e). Pub. L. 98–479 struck out quotation marks before "$250,000".

1983—Subsecs. (a) to (c), (e). Pub. L. 98–181 substituted "Director" for "Secretary" and "Director's" for "Secretary's" wherever appearing.

1977—Subsec. (e). Pub. L. 95–128 added subsec. (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4106. Nonparticipation in flood insurance program

(a) Prohibition against Federal approval of financial assistance

No Federal officer or agency shall approve any financial assistance for acquisition or construction purposes on and after July 1, 1975, for use in any area that has been identified by the Administrator as an area having special flood hazards unless the community in which such area is situated is then participating in the national flood insurance program.

(b) Notification of purchaser or lessee of property in flood hazard area of availability of Federal disaster relief assistance in event of a flood disaster

In addition to the requirements of section 4104a of this title, each Federal entity for lending regulation shall by regulation require the regulated lending institutions described in such section, and each Federal agency lender shall issue regulations requiring the Federal agency lender, described in such section to notify (as a condition of making, increasing, extending, or renewing any loan secured by property described in such section) the purchaser or lessee of such property of whether, in the event of a disaster caused by flood to such property, Federal disaster relief assistance will be available to such property.

(Pub. L. 93–234, title II, §202, Dec. 31, 1973, 87 Stat. 982; Pub. L. 94–50, title III, §303, July 2, 1975, 89 Stat. 256; Pub. L. 94–198, Dec. 31, 1975, 89 Stat. 1116; Pub. L. 94–375, §14(a), Aug. 3, 1976, 90 Stat. 1075; Pub. L. 95–128, title VII, §703(a), Oct. 12, 1977, 91 Stat. 1144; Pub. L. 98–181, title I [title IV, §451(e)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 103–325, title V, §511(b), Sept. 23, 1994, 108 Stat. 2256; Pub. L. 112–141, div. F, title II, §100238(a)(1), July 6, 2012, 126 Stat. 958.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Flood Disaster Protection Act of 1973, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

AMENDMENTS

2012—Subsec. (a). Pub. L. 112–141 substituted "Administrator" for "Director".

1994—Subsec. (b). Pub. L. 103–325 substituted "Federal entity for lending regulation shall by regulation require the regulated lending institutions described in such section, and each Federal agency lender shall issue regulations requiring the Federal agency lender," for "Federal instrumentality described in such section shall by regulation require the institutions".

1983—Subsec. (a). Pub. L. 98–181 substituted "Director" for "Secretary".

1977—Subsec. (b). Pub. L. 95–128 substituted provisions respecting notification of purchaser or lessee of property in flood hazards area of availability of Federal disaster relief assistance in the event of a flood disaster for prior provisions relating to: Federal regulations against loans by financial institutions, unaffected

pre-March 1, 1976, residences, small business concerns, improvements under $5,000 and nonresidential farm improvement.

1976—Subsec. (b). Pub. L. 94–375 incorporated provision regarding any loan made prior to March 1, 1976, to finance the acquisition of a previously occupied residential dwelling into cl. (1) as so designated, added remainder of cl. (1), and cls. (2) to (4).

1975—Subsec. (b). Pub. L. 94–198 substituted "March 1, 1976" for "January 1, 1976".

Pub. L. 94–50 inserted provision excepting from the prohibition of this section any loan made prior to January 1, 1976, to finance the acquisition of a previously occupied residential dwelling.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

EXECUTIVE DOCUMENTS

FLOODPLAIN MANAGEMENT

For provisions relating to the reduction of the risk of flood loss, the minimization of the impact of floods on human safety, health and welfare, and the management of floodplains, see Ex. Ord. No. 11988, May 24, 1977, 42 F.R. 26951 set out as a note under section 4321 of this title.

§4107. Consultation with local officials; scope

In carrying out his responsibilities under the provisions of this title [1] and the National Flood Insurance Act of 1968 [42 U.S.C. 4001 et seq.] which relate to notification to and identification of flood-prone areas and the application of criteria for land management and use, including criteria derived from data reflecting new developments that may indicate the desirability of modifying elevations based on previous flood studies, the Administrator shall establish procedures assuring adequate consultation with the appropriate elected officials of general purpose local governments, including but not limited to those local governments whose prior eligibility under the program has been suspended. Such consultation shall include, but not be limited to, fully informing local officials at the commencement of any flood elevation study or investigation undertaken by any agency on behalf of the Administrator concerning the nature and purpose of the study, the areas involved, the manner in which the study is to be undertaken, the general principles to be applied, and the use to be made of the data obtained. The Administrator shall encourage local officials to disseminate information concerning such study widely within the community, so that interested persons will have an opportunity to bring all relevant facts and technical data concerning the local flood hazard to the attention of the agency during the course of the study.

(Pub. L. 93–234, title II, §206, Dec. 31, 1973, 87 Stat. 983; Pub. L. 98–181, title I [title IV, §451(e)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §100238(a)(1), July 6, 2012, 126 Stat. 958.)

EDITORIAL NOTES

REFERENCES IN TEXT

This title, referred to in text, means title II of Pub. L. 93–234, Dec. 31, 1973, 87 Stat. 975, which enacted sections 4105 to 4107 and 4128 of this title and amended section 4101 of this title and sections 24 and 1709–1 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title of 1973 Amendment note set out under section 4001 of this title and Tables.

The National Flood Insurance Act of 1968, referred to in text, is title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, which is classified principally to this chapter (§4001 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

CODIFICATION

Section was enacted as part of the Flood Disaster Protection Act of 1973, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

AMENDMENTS

2012—Pub. L. 112–141 substituted "Administrator" for "Director" wherever appearing.

1983—Pub. L. 98–181 substituted "Director" for "Secretary" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

[1] *See References in Text note below.*

SUBCHAPTER IV—GENERAL PROVISIONS

§4121. Definitions

(a) As used in this chapter—

(1) the term "flood" shall have such meaning as may be prescribed in regulations of the Administrator, and may include inundation from rising waters or from the overflow of streams, rivers, or other bodies of water, or from tidal surges, abnormally high tidal water, tidal waves, tsunamis, hurricanes, or other severe storms or deluge;

(2) the terms "United States" (when used in a geographic sense) and "State" includes the several States, the District of Columbia, the territories and possessions, the Commonwealth of Puerto Rico, and the Trust Territory of the Pacific Islands;

(3) the terms "insurance company", "other insurer" and "insurance agent or broker" include any organization or person that is authorized to engage in the business of insurance under the laws of any State, subject to the reporting requirements of the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.] pursuant to section 13(a) or 15(d) of such Act (15 U.S.C. 78m(a) and 78o(d)), or authorized by the Administrator to assume reinsurance on risks insured by the flood insurance program;

(4) the term "insurance adjustment organization" includes any organizations and persons engaged in the business of adjusting loss claims arising under insurance policies issued by any insurance company or other insurer;

(5) the term "person" includes any individual or group of individuals, corporation, partnership,

association, or any other organized group of persons, including State and local governments and agencies thereof;

(6) the term "Administrator" means the Administrator of the Federal Emergency Management Agency;

(7) the term "repetitive loss structure" means a structure covered by a contract for flood insurance that—

(A) has incurred flood-related damage on 2 occasions, in which the cost of repair, on the average, equaled or exceeded 25 percent of the value of the structure at the time of each such flood event; and

(B) at the time of the second incidence of flood-related damage, the contract for flood insurance contains increased cost of compliance coverage.[1]

(8) the term "Federal agency lender" means a Federal agency that makes direct loans secured by improved real estate or a mobile home, to the extent such agency acts in such capacity;

(9) the term "Federal entity for lending regulation" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the National Credit Union Administration, and the Farm Credit Administration, and with respect to a particular regulated lending institution means the entity primarily responsible for the supervision of the institution;

(10) the term "improved real estate" means real estate upon which a building is located;

(11) the term "lender" means a regulated lending institution or Federal agency lender;

(12) the term "natural and beneficial floodplain functions" means—

(A) the functions associated with the natural or relatively undisturbed floodplain that (i) moderate flooding, retain flood waters, reduce erosion and sedimentation, and mitigate the effect of waves and storm surge from storms, and (ii) reduce flood related damage; and

(B) ancillary beneficial functions, including maintenance of water quality and recharge of ground water, that reduce flood related damage;

(13) the term "regulated lending institution" means any bank, savings and loan association, credit union, farm credit bank, Federal land bank association, production credit association, or similar institution subject to the supervision of a Federal entity for lending regulation;

(14) the term "servicer" means the person responsible for receiving any scheduled periodic payments from a borrower pursuant to the terms of a loan, including amounts for taxes, insurance premiums, and other charges with respect to the property securing the loan, and making the payments of principal and interest and such other payments with respect to the amounts received from the borrower as may be required pursuant to the terms of the loan; and

(15) the term "substantially damaged structure" means a structure covered by a contract for flood insurance that has incurred damage for which the cost of repair exceeds an amount specified in any regulation promulgated by the Administrator, or by a community ordinance, whichever is lower.

(b) The term "flood" shall also include inundation from mudslides which are proximately caused by accumulations of water on or under the ground; and all of the provisions of this chapter shall apply with respect to such mud-slides in the same manner and to the same extent as with respect to floods described in subsection (a)(1), subject to and in accordance with such regulations, modifying the provisions of this chapter (including the provisions relating to land management and use) to the extent necessary to insure that they can be effectively so applied, as the Administrator may prescribe to achieve (with respect to such mudslides) the purposes of this chapter and the objectives of the program.

(c) The term "flood" shall also include the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels, and all of the provisions of this chapter shall apply with respect to such collapse or subsidence in the same manner and to the same extent as with respect to floods

described in subsection (a)(1), subject to and in accordance with such regulations, modifying the provisions of this chapter (including the provisions relating to land management and use) to the extent necessary to insure that they can be effectively so applied, as the Administrator may prescribe to achieve (with respect to such collapse or subsidence) the purposes of this chapter and the objectives of the program.

(Pub. L. 90–448, title XIII, §1370, Aug. 1, 1968, 82 Stat. 588; Pub. L. 91–152, title IV, §409(b), Dec. 24, 1969, 83 Stat. 397; Pub. L. 93–234, title I, §§107, 108(b), Dec. 31, 1973, 87 Stat. 979, 980; Pub. L. 98–181, title I [title IV, §451(d)(1), (8)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 100–628, title X, §1086(b), Nov. 7, 1988, 102 Stat. 3278; Pub. L. 103–325, title V, §512(a), Sept. 23, 1994, 108 Stat. 2256; Pub. L. 108–264, title I, §105(b), June 30, 2004, 118 Stat. 723; Pub. L. 112–141, div. F, title II, §§100232(d)(5), 100238(b)(1), (3), July 6, 2012, 126 Stat. 954, 958.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

The Securities Exchange Act of 1934, referred to in subsec. (a)(3), is act June 6, 1934, ch. 404, 48 Stat. 881, which is classified principally to chapter 2B (§78a et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

AMENDMENTS

2012—Subsec. (a)(1). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director".

Subsec. (a)(3). Pub. L. 112–141, §100232(d)(5), substituted "include any organization or person that is authorized to engage in the business of insurance under the laws of any State, subject to the reporting requirements of the Securities Exchange Act of 1934 pursuant to section 13(a) or 15(d) of such Act (15 U.S.C. 78m(a) and 78o(d)), or authorized by the Administrator to assume reinsurance on risks insured by the flood insurance program;" for "include any organizations and persons authorized to engage in the insurance business under the laws of any State;".

Subsec. (a)(6). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director" in two places.

Subsec. (a)(9). Pub. L. 112–141, §100238(b)(3), struck out "the Office of Thrift Supervision," after "the Comptroller of the Currency,".

Subsecs. (a)(15), (b), (c). Pub. L. 112–141, §100238(b)(1), substituted "Administrator" for "Director".

2004—Subsec. (a)(7). Pub. L. 108–264, §105(b)(1), added par. (7) and struck out former par. (7) which read as follows: "the term 'repetitive loss structure' means a structure covered by a contract for flood insurance under this chapter that has incurred flood-related damage on 2 occasions during a 10-year period ending on the date of the event for which a second claim is made, in which the cost of repair, on the average, equaled or exceeded 25 percent of the value of the structure at the time of each such flood event;".

Subsec. (a)(15). Pub. L. 108–264, §105(b)(2)–(4), added par. (15).

1994—Subsec. (a)(7) to (14). Pub. L. 103–325 added pars. (7) to (14).

1988—Subsecs. (b), (c). Pub. L. 100–628 substituted "subsection (a)(1)" for "paragraph (1)".

1983—Subsec. (a)(1). Pub. L. 98–181, §451(d)(1), substituted "Director" for "Secretary".

Subsec. (a)(6). Pub. L. 98–181, §451(d)(8), substituted definition of "Director" as the Director of the Federal Emergency Management Agency for definition of "Secretary" as the Secretary of Housing and Urban Development.

Subsecs. (b), (c). Pub. L. 98–181, §451(d)(1), substituted "Director" for "Secretary".

1973—Subsec. (b). Pub. L. 93–234, §107, inserted "proximately" before "caused".

Subsec. (c). Pub. L. 93–234, §108(b), added subsec. (c).

1969—Pub. L. 91–152 designated existing provisions as subsec. (a) and added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no

event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

EXECUTIVE DOCUMENTS

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

[1] *So in original. The period probably should be a semicolon.*

§4122. Studies of other natural disasters; cooperation and consultation with other departments and agencies

(a) The Administrator is authorized to undertake such studies as may be necessary for the purpose of determining the extent to which insurance protection against earthquakes or any other natural disaster perils, other than flood, is not available from public or private sources, and the feasibility of such insurance protection being made available.

(b) Studies under this section shall be carried out, to the maximum extent practicable, with the cooperation of other Federal departments and agencies and State and local agencies, and the Administrator is authorized to consult with, receive information from, and enter into any necessary agreements or other arrangements with such other Federal departments and agencies (on a reimbursement basis) and such State and local agencies.

(Pub. L. 90–448, title XIII, §1371, Aug. 1, 1968, 82 Stat. 588; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958.)

EDITORIAL NOTES

AMENDMENTS

2012—Pub. L. 112–141 substituted "Administrator" for "Director" in subsecs. (a) and (b).
1983—Pub. L. 98–181 substituted "Director" for "Secretary" in subsecs. (a) and (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal

Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

STUDY OF SINKHOLE INSURANCE

Pub. L. 98–181, title I [title IV, §453], Nov. 30, 1983, 97 Stat. 1230, permitted the Director of the Federal Emergency Management Agency to make a grant to a nonprofit organization, educational institution, or State or local agency to study the feasibility of expanding the national flood insurance program to cover damage or loss arising from sinkholes and authorized appropriations.

§4123. Advance payments

Any payments under this chapter may be made (after necessary adjustment on account of previously made underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Administrator may determine.

(Pub. L. 90–448, title XIII, §1372, Aug. 1, 1968, 82 Stat. 589; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2012—Pub. L. 112–141 substituted "Administrator" for "Director".

1983—Pub. L. 98–181 substituted "Director" for "Secretary".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4124. Applicability of fiscal controls

The provisions of chapter 91 of title 31 shall apply to the program authorized under this chapter to the same extent as they apply to wholly owned Government corporations.

(Pub. L. 90–448, title XIII, §1373, Aug. 1, 1968, 82 Stat. 589; Pub. L. 98–479, title II, §203(j)(3), Oct. 17, 1984, 98 Stat. 2231.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

1984—Pub. L. 98–479 substituted "chapter 91 of title 31" for "the Government Corporation Control Act".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

§4125. Finality of certain financial transactions

Notwithstanding the provisions of any other law—

(1) any financial transaction authorized to be carried out under this chapter, and

(2) any payment authorized to be made or to be received in connection with any such financial transaction,

shall be final and conclusive upon all officers of the Government.

(Pub. L. 90–448, title XIII, §1374, Aug. 1, 1968, 82 Stat. 589.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in par. (1), was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

§4126. Administrative expenses

Any administrative expenses which may be sustained by the Federal Government in carrying out the flood insurance and floodplain management programs authorized under this chapter may be paid with amounts from the National Flood Insurance Fund (as provided under section 4017(a)(4) of this

title), subject to approval in appropriations Acts.

(Pub. L. 90–448, title XIII, §1375, Aug. 1, 1968, 82 Stat. 589; Pub. L. 101–508, title II, §2302(e)(4), Nov. 5, 1990, 104 Stat. 1388–25.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

1990—Pub. L. 101–508 substituted "and floodplain management programs authorized under this chapter may be paid with amounts from the National Flood Insurance Fund (as provided under section 4017(a)(4) of this title), subject to approval in appropriations Acts" for "program authorized under this chapter may be paid out of appropriated funds".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

§4127. Authorization of appropriations; availability

(a) There are hereby authorized to be appropriated such sums as may from time to time be necessary to carry out this chapter, including sums—

(1) to cover administrative expenses authorized under section 4126 of this title;

(2) to reimburse the National Flood Insurance Fund established under section 4017 of this title for—

(A) premium equalization payments under section 4054 of this title which have been made from such fund; and

(B) reinsurance claims paid under the excess loss reinsurance coverage provided under section 4055 of this title; and

(3) to make such other payments as may be necessary to carry out the purposes of this chapter.

(b) All such funds shall be available without fiscal year limitation.

(c) There are authorized to be appropriated such sums as may be necessary through the date specified in section 4026 of this title, for studies under this chapter.

(Pub. L. 90–448, title XIII, §1376, Aug. 1, 1968, 82 Stat. 589; Pub. L. 94–375, §14(c), Aug. 3, 1976, 90 Stat. 1075; Pub. L. 95–128, title VII, §702, Oct. 12, 1977, 91 Stat. 1144; Pub. L. 95–557, title III, §309, Oct. 31, 1978, 92 Stat. 2098; Pub. L. 96–153, title VI, §602(c), Dec. 21, 1979, 93 Stat. 1137; Pub. L. 96–399, title III, §304, Oct. 8, 1980, 94 Stat. 1639; Pub. L. 97–35, title III, §341(a), Aug. 13, 1981, 95 Stat. 418; Pub. L. 98–181, title I [title IV, §451(c)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 100–242, title V, §543, Feb. 5, 1988, 101 Stat. 1940; Pub. L. 101–137, §4, Nov. 3, 1989, 103 Stat. 825; Pub. L. 104–204, title III, Sept. 26, 1996, 110 Stat. 2915; Pub. L. 105–65, title III, Oct. 27, 1997, 111 Stat. 1377; Pub. L. 105–276, title III, Oct. 21, 1998, 112 Stat. 2503; Pub. L. 106–74, title III, Oct. 20, 1999, 113 Stat. 1088; Pub. L. 106–377, §1(a)(1) [title III], Oct. 27, 2000, 114 Stat. 1441, 1441A–47; Pub. L. 107–73, title III, Nov. 26, 2001, 115 Stat. 689; Pub. L. 108–3, §2(a)(4), Jan. 13, 2003, 117 Stat. 7; Pub. L. 108–171, §2(a)(4), Dec. 6, 2003, 117 Stat. 2064; Pub. L. 108–199, div. H,

§136(a)(4), Jan. 23, 2004, 118 Stat. 442; Pub. L. 108–264, title I, §101(d), June 30, 2004, 118 Stat. 714.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (c), was in the original a reference to "this title" meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2004—Subsec. (c). Pub. L. 108–264 substituted "through the date specified in section 4026 of this title, for studies under this chapter." for "through the date specified in section 4026 of this title, for studies under this chapter. Any amount appropriated under this subsection shall remain available until expended."

Pub. L. 108–199 made amendment identical to that made by Pub. L. 108–171. See 2003 Amendment note below.

2003—Subsec. (c). Pub. L. 108–171 substituted "the date specified in section 4026 of this title" for "December 31, 2003".

Pub. L. 108–3 substituted "December 31, 2003" for "December 31, 2002".

2001—Subsec. (c). Pub. L. 107–73 substituted "2002" for "2001".

2000—Subsec. (c). Pub. L. 106–377 substituted "December 31, 2001" for "September 30, 2000".

1999—Subsec. (c). Pub. L. 106–74 substituted "2000" for "1999".

1998—Subsec. (c). Pub. L. 105–276 substituted "1999" for "1998".

1997—Subsec. (c). Pub. L. 105–65 substituted "such sums as may be necessary through September 30, 1998, for studies under this chapter" for "for studies under this chapter not to exceed $36,283,000 for fiscal year 1990, and such sums as may be necessary for fiscal year 1991".

1996—Subsec. (c). Pub. L. 104–204, which directed amendment of first sentence by substituting "such sums as may be necessary through September 30, 1997 for studies under this chapter." for "this subsection" and all that follows, could not be executed because phrase "this subsection" does not appear in first sentence.

1989—Subsec. (c). Pub. L. 101–137 substituted provisions authorizing appropriations of not to exceed $36,283,000 for fiscal year 1990 and such sums as may be necessary for fiscal year 1991 for provisions authorizing appropriations of $37,000,000 for fiscal year 1988, and $37,000,000 for fiscal year 1989.

1988—Subsec. (c). Pub. L. 100–242 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "There are authorized to be appropriated for studies under this chapter not to exceed $100,000,000 for the fiscal year 1977, not to exceed $108,000,000 for the fiscal year 1978, not to exceed $114,000,000 for the fiscal year 1979, not to exceed $74,000,000 for the fiscal year 1980, not to exceed $61,600,000 for the fiscal year 1981, not to exceed $42,600,000 for the fiscal year 1982, not to exceed $49,752,000 for the fiscal year 1984, and such sums as may be necessary for fiscal year 1985."

1983—Subsec. (c). Pub. L. 98–181 inserted "not to exceed $49,752,000 for the fiscal year 1984, and such sums as may be necessary for fiscal year 1985".

1981—Subsec. (c). Pub. L. 97–35 authorized appropriation of not to exceed $42,600,000 for fiscal year 1982.

1980—Subsec. (c). Pub. L. 96–399 authorized appropriation of not to exceed $61,600,000 for fiscal year 1981.

1979—Subsec. (c). Pub. L. 96–153 authorized appropriation of $74,000,000 for fiscal year 1980.

1978—Subsec. (c). Pub. L. 95–557 substituted "not to exceed $108,000,000 for the fiscal year 1978, and not to exceed $114,000,000 for the fiscal year 1979" for "and not to exceed $108,000,000 for the fiscal year 1978".

1977—Subsec. (c). Pub. L. 95–128 authorized appropriation of $108,000,000 for fiscal year 1978.

1976—Subsec. (c). Pub. L. 94–375 added subsec. (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–199 considered to have taken effect on Dec. 31, 2003, see section 136(b) of

div. H of Pub. L. 108–199, set out as a note under section 4016 of this title.

EFFECTIVE DATE OF 2003 AMENDMENTS

Amendment by Pub. L. 108–171 effective Dec. 31, 2003, see section 2(b) of Pub. L. 108–171, set out as a note under section 4016 of this title.

Amendment by Pub. L. 108–3 effective Dec. 31, 2002, see section 2(b) of Pub. L. 108–3, set out as a note under section 4016 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

§4128. Rules and regulations

(a) The Administrator is authorized to issue such regulations as may be necessary to carry out the purpose of this Act.

(b) The head of each Federal agency that administers a program of financial assistance relating to the acquisition, construction, reconstruction, repair, or improvement of publicly or privately owned land or facilities, and each Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions, shall, in cooperation with the Administrator, issue appropriate rules and regulations to govern the carrying out of the agency's responsibilities under this Act.

(Pub. L. 93–234, title II, §205, Dec. 31, 1973, 87 Stat. 983; Pub. L. 98–181, title I [title IV, §451(e)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §100238(a)(1), July 6, 2012, 126 Stat. 958.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 93–234, Dec. 31, 1973, 87 Stat. 975, known as the Flood Disaster Protection Act of 1973. For complete classification of this Act to the Code, see Short Title of 1973 Amendment note set out under section 4001 of this title and Tables.

CODIFICATION

Section was enacted as part of the Flood Disaster Protection Act of 1973, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

AMENDMENTS

2012—Pub. L. 112–141 substituted "Administrator" for "Director" in subsecs (a) and (b).

1983—Pub. L. 98–181 substituted "Director" for "Secretary" in subsecs. (a) and (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and

sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

EXECUTIVE DOCUMENTS

FLOODPLAIN MANAGEMENT

For provisions relating to the reduction of the risk of flood loss, the minimization of the impact of floods on human safety, health and welfare, and the management of floodplains, see Ex. Ord. No. 11988, May 24, 1977, 42 F.R. 26951, set out as a note under section 4321 of this title.

§4129. Federal Insurance Administrator; establishment of position

There is hereby established in the Federal Emergency Management Agency the position of Federal Insurance Administrator.

(Pub. L. 90–448, title XI, §1105(a), Aug. 1, 1968, 82 Stat. 567; Pub. L. 96–153, title VI, §603(a), Dec. 21, 1979, 93 Stat. 1138.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 3533a of this title.

Section was enacted as part of the Urban Property Protection and Reinsurance Act of 1968 and also as part of the Housing and Urban Development Act of 1968, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

AMENDMENTS

1979—Pub. L. 96–153 substituted "Federal Emergency Management Agency" for "Department of Housing and Urban Development".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4130. No cause of action

No cause of action shall exist and no claim may be brought against the United States for violation of any notification requirement imposed upon the United States by this subtitle or any amendment made by this subtitle.

(Pub. L. 112–141, div. F, title II, §100249, July 6, 2012, 126 Stat. 969.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subtitle, referred to in text, is subtitle A (§§100201–100249) of title II of div. F of Pub. L. 112–141,

known as the Biggert-Waters Flood Insurance Reform Act of 2012. For complete classification of this subtitle to the Code, see Short Title of 2012 Amendment note set out under section 4001 of this title and Tables.

CODIFICATION

Section was enacted as part of the Biggert-Waters Flood Insurance Reform Act of 2012, and also as part of the Moving Ahead for Progress in the 21st Century Act, also known as the MAP–21, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

§4131. Levee certifications

(a) Implementation of Flood Protection Structure Accreditation Task Force

In carrying out section 100226 of Public Law 112–141 (42 U.S.C. 4101 note; 126 Stat. 942), the Secretary shall—

(1) ensure that at least 1 program activity carried out for levee systems under the levee safety and dam safety programs of the Corps of Engineers provides adequate information to the Secretary to reach a levee accreditation decision under section 65.10 of title 44, Code of Federal Regulations (or successor regulation);

(2) to the maximum extent practicable, carry out the activities referred to in paragraph (1) in alignment with the schedule established for the national flood insurance program established under chapter I of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.); and

(3) in the case of a levee system that is operated and maintained by the Corps of Engineers, to the maximum extent practicable, cooperate with local governments seeking a levee accreditation decision for the levee to provide information necessary to support the accreditation decision in a timely manner.

(b) Accelerated levee system evaluations

(1) In general

On receipt of a request from a non-Federal interest, the Secretary may carry out a levee system evaluation of a federally authorized levee for purposes of the national flood insurance program established under chapter 1 [1] of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.) if the evaluation will be carried out earlier than such an evaluation would be carried out under subsection (a).

(2) Requirements

A levee system evaluation under paragraph (1) shall—

(A) at a minimum, comply with section 65.10 of title 44, Code of Federal Regulations (as in effect on June 10, 2014); and

(B) be carried out in accordance with such procedures as the Secretary, in consultation with the Administrator of the Federal Emergency Management Agency, may establish.

(3) Funding

(A) In general

The Secretary may use amounts made available under section 1962d–16 of this title to carry out this subsection.

(B) Cost share

The Secretary shall apply the cost share under section 1962d–16(b) of this title to any activities carried out under this subsection.

(C) Contributed funds

Notwithstanding subparagraph (B), a non-Federal interest may fund up to 100 percent of the cost of any activity carried out under this subsection.

(Pub. L. 113–121, title III, §3014, June 10, 2014, 128 Stat. 1287; Pub. L. 116–260, div. AA, title I, §142(b), Dec. 27, 2020, 134 Stat. 2653.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Flood Insurance Act of 1968, referred to in subsecs. (a)(2) and (b)(1), is title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, which is classified principally to this chapter. Chapter I of the Act is classified principally to subchapter I (§4011 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

CODIFICATION

Section was enacted as part of the Water Resources Reform and Development Act of 2014, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

AMENDMENTS

2020—Subsec. (a)(1). Pub. L. 116–260, §142(b)(1)(A), substituted "for levee systems under the levee safety and dam safety programs" for "under the inspection of completed works program" and struck out "and" at end.

Subsec. (a)(2). Pub. L. 116–260, §142(b)(1)(B), substituted "the activities referred to in paragraph (1)" for "activities under the inspection of completed works program of the Corps of Engineers", "chapter I" for "chapter 1", and "; and" for period at end.

Subsec. (a)(3). Pub. L. 116–260, §142(b)(1)(C), added par. (3).

Subsec. (b)(3)(C). Pub. L. 116–260, §142(b)(2), added subpar. (C).

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITION OF "SECRETARY"

Secretary means the Secretary of the Army, see section 2 of Pub. L. 113–121, set out as a note under section 2201 of Title 33, Navigation and Navigable Waters.

[1] *So in original. Probably should be "chapter I".*

CHAPTER 51—DESIGN AND CONSTRUCTION OF PUBLIC BUILDINGS TO ACCOMMODATE PHYSICALLY HANDICAPPED

Sec.
4151. "Building" defined.
4152. Standards for design, construction, and alteration of buildings; Administrator of General Services.
4153. Standards for design, construction, and alteration of buildings; Secretary of Housing and Urban Development.
4154. Standards for design, construction, and alteration of buildings; Secretary of Defense.
4154a. Standards for design, construction, and alteration of buildings; United States Postal Service.
4155. Effective date of standards.
4156. Waiver and modification of standards.
4157. Omitted.

§4151. "Building" defined

As used in this chapter, the term "building" means any building or facility (other than (A) a privately owned residential structure not leased by the Government for subsidized housing programs and (B) any building or facility on a military installation designed and constructed primarily for use

by able bodied military personnel) the intended use for which either will require that such building or facility be accessible to the public, or may result in the employment or residence therein of physically handicapped persons, which building or facility is—

(1) to be constructed or altered by or on behalf of the United States;

(2) to be leased in whole or in part by the United States after August 12, 1968;

(3) to be financed in whole or in part by a grant or a loan made by the United States after August 12, 1968, if such building or facility is subject to standards for design, construction, or alteration issued under authority of the law authorizing such grant or loan; or

(4) to be constructed under authority of the National Capital Transportation Act of 1960, the National Capital Transportation Act of 1965, or title III of the Washington Metropolitan Area Transit Regulation Compact.

(Pub. L. 90–480, §1, Aug. 12, 1968, 82 Stat. 718; Pub. L. 91–205, Mar. 5, 1970, 84 Stat. 49; Pub. L. 94–541, title II, §201(1), Oct. 18, 1976, 90 Stat. 2507.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Capital Transportation Act of 1960, referred to in par. (4), is Pub. L. 86–669, July 14, 1960, 74 Stat. 537, which enacted sections 651, 652, 661 to 665, and 671 of former Title 40, Public Buildings, Property, and Works, and enacted provisions set out as notes under section 651 of former Title 40 and which was repealed by Pub. L. 91–143, §8(a)(1), Dec. 9, 1969, 83 Stat. 322.

The National Capital Transportation Act of 1965, referred to in par. (4), is Pub. L. 89–173, Sept. 8, 1965, 79 Stat. 663. Section 1 of the Act, which was classified to a note under section 681 of former Title 40, Public Buildings, Property, and Works, was repealed by Pub. L. 107–217, §6(b), Aug. 21, 2002, 116 Stat. 1304. Section 2 of the Act, which was classified to section 681 of former Title 40, has been omitted from the Code. Sections 3 and 4 of the Act, which were classified to sections 682 and 683, respectively, of former Title 40, were repealed by Pub. L. 91–143, §8(a)(2), Dec. 9, 1969, 83 Stat. 323. Sections 5(a) (no subsec. (b) was enacted) and 6 of the Act, which were classified to sections 684 and 685, respectively, of former Title 40, were repealed by Pub. L. 107–217, §6(b), Aug. 21, 2002, 116 Stat. 1304. Section 7 of the Act amended provisions classified to section 662 of former Title 40, which was repealed by Pub. L. 89–774, §5(b), Nov. 6, 1966, 80 Stat. 1353. Section 8 of the Act, which was classified to a note under section 681 of former Title 40, has been omitted from the Code.

AMENDMENTS

1976—Pub. L. 94–541 inserted in parenthetical text "not leased by the Government for subsidized housing programs" after "structure" and struck out from par. (2) ", after construction or alteration in accordance with plans and specifications of the United States" after "August 12, 1968".

1970—Par. (4). Pub. L. 91–205 added par. (4).

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 90–480, Aug. 12, 1968, 82 Stat. 718, which enacted this chapter, is popularly known as the "Architectural Barriers Act of 1968".

APPLICABILITY OF 1976 AMENDMENT TO LEASES ENTERED INTO BEFORE, ON, OR AFTER JANUARY 1, 1977

Pub. L. 94–541, title II, §202, Oct. 18, 1976, 90 Stat. 2508, provided that: "The amendment made by paragraph (1) of section 201 of this Act [amending this section] shall not apply to any lease entered into before January 1, 1977. It shall apply to every lease entered into on or after January 1, 1977, including any renewal of a lease entered into before such date which renewal is on or after such date."

§4152. Standards for design, construction, and alteration of buildings; Administrator of General Services

The Administrator of General Services, in consultation with the Secretary of Health and Human Services, shall prescribe standards for the design, construction, and alteration of buildings (other than residential structures subject to this chapter and buildings, structures, and facilities of the Department of Defense and of the United States Postal Service subject to this chapter) to insure whenever possible that physically handicapped persons will have ready access to, and use of, such buildings.

(Pub. L. 90–480, §2, Aug. 12, 1968, 82 Stat. 719; Pub. L. 94–541, title II, §201(2), Oct. 18, 1976, 90 Stat. 2507; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

EDITORIAL NOTES

AMENDMENTS

1976—Pub. L. 94–541 substituted "shall prescribe" and "to insure whenever possible" for "is authorized to prescribe such" and "as may be necessary to insure", respectively, and inserted in parenthetical text "and of the United States Postal Service" after "Department of Defense".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Secretary of Health and Human Services" substituted in text for "Secretary of Health, Education, and Welfare" pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

§4153. Standards for design, construction, and alteration of buildings; Secretary of Housing and Urban Development

The Secretary of Housing and Urban Development, in consultation with the Secretary of Health and Human Services, shall prescribe standards for the design, construction, and alteration of buildings which are residential structures subject to this chapter to insure whenever possible that physically handicapped persons will have ready access to, and use of, such buildings.

(Pub. L. 90–480, §3, Aug. 12, 1968, 82 Stat. 719; Pub. L. 94–541, title II, §201(3), Oct. 18, 1976, 90 Stat. 2507; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

EDITORIAL NOTES

AMENDMENTS

1976—Pub. L. 94–541 substituted "shall prescribe" and "to insure whenever possible" for "is authorized to prescribe such" and "as may be necessary to insure", respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Secretary of Health and Human Services" substituted in text for "Secretary of Health, Education, and Welfare" pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

§4154. Standards for design, construction, and alteration of buildings; Secretary of Defense

The Secretary of Defense, in consultation with the Secretary of Health and Human Services, shall prescribe standards for the design, construction, and alteration of buildings, structures, and facilities of the Department of Defense subject to this chapter to insure whenever possible that physically

handicapped persons will have ready access to, and use of, such buildings.

(Pub. L. 90–480, §4, Aug. 12, 1968, 82 Stat. 719; Pub. L. 94–541, title II, §201(4), Oct. 18, 1976, 90 Stat. 2507; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

EDITORIAL NOTES

AMENDMENTS

1976—Pub. L. 94–541 substituted "shall prescribe" and "to insure whenever possible" for "is authorized to prescribe such" and "as may be necessary to insure", respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Secretary of Health and Human Services" substituted in text for "Secretary of Health, Education, and Welfare" pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

§4154a. Standards for design, construction, and alteration of buildings; United States Postal Service

The United States Postal Service, in consultation with the Secretary of Health and Human Services, shall prescribe such standards for the design, construction, and alteration of its buildings to insure whenever possible that physically handicapped persons will have ready access to, and use of, such buildings.

(Pub. L. 90–480, §4a, as added Pub. L. 94–541, title II, §201(5), Oct. 18, 1976, 90 Stat. 2508; amended Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Secretary of Health and Human Services" substituted in text for "Secretary of Health, Education, and Welfare" pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

§4155. Effective date of standards

Every building designed, constructed, or altered after the effective date of a standard issued under this chapter which is applicable to such building, shall be designed, constructed, or altered in accordance with such standard.

(Pub. L. 90–480, §5, Aug. 12, 1968, 82 Stat. 719.)

§4156. Waiver and modification of standards

The Administrator of General Services, with respect to standards issued under section 4152 of this title, and the Secretary of Housing and Urban Development, with respect to standards issued under section 4153 of this title, and the Secretary of Defense with respect to standards issued under section 4154 of this title, and the United States Postal Service with respect to standards issued under section 4154a of this title—

(1) is authorized to modify or waive any such standard, on a case-by-case basis, upon application made by the head of the department, agency, or instrumentality of the United States concerned, and upon a determination by the Administrator or Secretary, as the case may be, that

such modification or waiver is clearly necessary, and

(2) shall establish a system of continuing surveys and investigations to insure compliance with such standards.

(Pub. L. 90–480, §6, Aug. 12, 1968, 82 Stat. 719; Pub. L. 94–541, title II, §201(6), Oct. 18, 1976, 90 Stat. 2508.)

EDITORIAL NOTES

AMENDMENTS

1976—Pub. L. 94–541, in introductory text, inserted reference to the United States Postal Service with respect to standards issued under section 4154a of this title and struck out "is authorized" at end; in par. (1), inserted introductory words "is authorized"; and in par. (2), substituted "shall establish a system of continuing surveys and investigations" for "to conduct such surveys and investigations as he deems necessary".

§4157. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 90–480, §7, as added Pub. L. 94–541, title II, §201(7), Oct. 18, 1976, 90 Stat. 2508; amended Pub. L. 103–437, §15(n), Nov. 2, 1994, 108 Stat. 4593, which required the Administrator of General Services to report to Congress during the first week of January of each year on his activities and those of other departments, agencies, and instrumentalities of the Federal Government under this chapter during the preceding fiscal year and required the Architectural and Transportation Barriers Compliance Board established by section 792 of title 29 to report to the Public Works and Transportation Committee of the House of Representatives and the Environment and Public Works Committee of the Senate during the first week of January of each year on its activities and actions to insure compliance with the standards prescribed under this chapter, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, item 6 on page 155 and item 10 on page 173 of House Document No. 103–7.

CHAPTER 52—INTERGOVERNMENTAL COOPERATION

SUBCHAPTER I—GENERAL PROVISIONS

§4201. Repealed. Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068

Section, Pub. L. 90–577, title I, §§101–110, Oct. 16, 1968, 82 Stat. 1098–1101, defined terms used in this chapter. See sections 6501 and 6505(a) of Title 31, Money and Finance.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 90–577, §1, Oct. 16, 1968, 82 Stat. 1098, which provided that Pub. L. 90–577 could be cited as the "Intergovernmental Cooperation Act of 1968", was repealed by Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068, 1080.

SUBCHAPTER II—GRANTS-IN-AID TO THE STATES; IMPROVED ADMINISTRATION

§§4211 to 4214. Repealed. Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068

Section 4211, Pub. L. 90–577, title II, §201, Oct. 16, 1968, 82 Stat. 1101, required the Federal Government to provide to States full information on grant-in-aid funds. See section 6502 of Title 31, Money and Finance.

Section 4212, Pub. L. 90–577, title II, §202, Oct. 16, 1968, 82 Stat. 1101, related to deposit of grants-in-aid. See section 6503(b) of Title 31.

Section 4213, Pub. L. 90–577, title II, §203, Oct. 16, 1968, 82 Stat. 1101, related to scheduling of Federal grant-in-aid transfers to States. See section 6503(a) of Title 31.

Section 4214, Pub. L. 90–577, title II, §204, Oct. 16, 1968, 82 Stat. 1101, related to eligibility of State agencies to administer a grant-in-aid program. See section 6504 of Title 31.

SUBCHAPTER III—SPECIAL OR TECHNICAL SERVICES PROVIDED FOR STATE AND LOCAL UNITS OF GOVERNMENT BY FEDERAL DEPARTMENTS AND AGENCIES

§§4221 to 4223. Repealed. Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068

Section 4221, Pub. L. 90–577, title III, §301, Oct. 16, 1968, 82 Stat. 1102, set out the statement of purpose for the provision of special or technical services to State and local units of government by Federal departments and agencies.

Section 4222, Pub. L. 90–577, title III, §302, Oct. 16, 1968, 82 Stat. 1102; 1970 Reorg. Plan No. 2, §102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, authorized Federal departments and agencies to provide specialized or technical services to States or their political subdivisions. See section 6505(a), (b) of Title 31, Money and Finance.

Section 4223, Pub. L. 90–577, title III, §303, Oct. 16, 1968, 82 Stat. 1102, related to reimbursement of appropriations to Federal departments and agencies. See section 6505(c) of Title 31.

§4224. Repealed. Pub. L. 96–470, title I, §101(b), Oct. 19, 1980, 94 Stat. 2237

Section, Pub. L. 90–577, title III, §304, Oct. 16, 1968, 82 Stat. 1102, provided that the Secretary of any department or the administrative head of any agency of the executive branch of the Federal Government furnish annually to the respective Committees on Government Operations of the Senate and House of Representatives a summary report on the scope of the services provided under the administration of this subchapter.

§4225. Repealed. Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068

Section, Pub. L. 90–577, title III, §305, Oct. 16, 1968, 82 Stat. 1103, provided for the reservation of existing authority of Federal departments and agencies with respect to furnishing services to State and local units of government. See section 6505(d) of Title 31, Money and Finance.

SUBCHAPTER IV—DEVELOPMENT ASSISTANCE PROGRAMS; COORDINATED INTERGOVERNMENTAL POLICY AND ADMINISTRATION

§§4231 to 4233. Repealed. Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068

Section 4231, Pub. L. 90–577, title IV, §401, Oct. 16, 1968, 82 Stat. 1103, set out the declaration of a development assistance policy. See section 6506(a)–(e) of Title 31, Money and Finance.

Section 4232, Pub. L. 90–577, title IV, §402, Oct. 16, 1968, 82 Stat. 1104, related to the favoring of units of general local government in the provision of loans or grants-in-aid. See section 6506(f) of Title 31.

Section 4233, Pub. L. 90–577, title IV, §403, Oct. 16, 1968, 82 Stat. 1104; 1970 Reorg. Plan No. 2, §102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, related to rules and regulations for the effective administration of this subchapter. See section 6506(g) of Title 31.

SUBCHAPTER V—REVIEW OF FEDERAL GRANT-IN-AID PROGRAMS

§§4241 to 4244. Repealed. Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068

Section 4241, Pub. L. 90–577, title VI, §601, Oct. 16, 1968, 82 Stat. 1106, related to Congressional review of grant-in-aid programs. See section 6507 of Title 31, Money and Finance.

Section 4242, Pub. L. 90–577, title VI, §602, Oct. 16, 1968, 82 Stat. 1107, related to studies by the Comptroller General of Federal grant-in-aid programs and reports to Congress. See section 6508(a) of Title 31.

Section 4243, Pub. L. 90–577, title VI, §603, Oct. 16, 1968, 82 Stat. 1107, related to studies by the Advisory Commission on Intergovernmental Relations and a report of its findings to Congress. See section 6508(b) of Title 31.

Section 4244, Pub. L. 90–577, title VI, §604, Oct. 16, 1968, 82 Stat. 1107, provided for preservation of House and Senate committee jurisdiction.

CHAPTER 52A—JOINT FUNDING SIMPLIFICATION

§§4251 to 4261. Repealed. Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068

Section 4251, Pub. L. 93–510, §2, Dec. 5, 1974, 88 Stat. 1604, set out Congressional statement of purpose. See section 7101 of Title 31, Money and Finance.

Section 4252, Pub. L. 93–510, §3, Dec. 5, 1974, 88 Stat. 1604, related to implementation of joint funding provisions by Federal officials. See section 7103 of Title 31.

Section 4253, Pub. L. 93–510, §4, Dec. 5, 1974, 88 Stat. 1605, related to activities by heads of Federal agencies relating to application processing or assistance requests under two or more Federal programs supporting any project. See section 7104 of Title 31.

Section 4254, Pub. L. 93–510, §5, Dec. 5, 1974, 88 Stat. 1605, related to special authorities of heads of Federal agencies with respect to projects assisted under more than one Federal assistance program and exercise of these authorities pursuant to regulations prescribed by President. See section 7108 of Title 31.

Section 4255, Pub. L. 93–510, §6, Dec. 5, 1974, 88 Stat. 1606, provided for establishment by heads of Federal agencies of uniform technical and administrative provisions. See section 7105 of Title 31.

Section 4256, Pub. L. 93–510, §7, Dec. 5, 1974, 88 Stat. 1606, related to delegation by Federal agency heads of powers and functions relating to supervision, etc., of Federal assistance with the approval of President. See section 7106 of Title 31.

Section 4257, Pub. L. 93–510, §8, Dec. 5, 1974, 88 Stat. 1606, provided for a joint management fund for financing of projects under this chapter. See section 7107 of Title 31.

Section 4258, Pub. L. 93–510, §9, Dec. 5, 1974, 88 Stat. 1607, related to availability of appropriations for joint funding of programs under this chapter. See section 7109 of Title 31.

Section 4259, Pub. L. 93–510, §10, Dec. 5, 1974, 88 Stat. 1607, provided for agreements between Federal agencies and States extending joint funding provisions to assisted projects subject to Presidential regulations. See section 7110 of Title 31.

Section 4260, Pub. L. 93–510, §11, Dec. 5, 1974, 88 Stat. 1608, provided for a report by the President to Congress concerning actions taken under this chapter and the contents of such report. See section 7111 of Title 31.

Section 4261, Pub. L. 93–510, §12, Dec. 5, 1974, 88 Stat. 1608, provided definitions for use in this chapter. See section 7102 of Title 31.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE AND EXPIRATION DATES

Pub. L. 93–510, §13, Dec. 5, 1974, 88 Stat. 1608, as amended by Pub. L. 96–534, Dec. 16, 1980, 94 Stat. 3164, which provided for the effective and expiration dates of that Act, was repealed by Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068. See section 7112 of Title 31, Money and Finance.

SHORT TITLE

Pub. L. 93–510, §1, Dec. 5, 1974, 88 Stat. 1604, which provided that Pub. L. 93–510 could be cited as the "Joint Funding Simplification Act of 1974", was repealed by Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068.

CHAPTER 53—ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Sec.

4271. Establishment.
4272. Declaration of purpose.
4273. Membership of Commission; appointment of members; term.
4274. Organization of Commission.
4275. Duties of Commission.
4276. Powers and administrative provisions.
4277. Compensation of members.
4278. Authorization of appropriations.
4279. Receipt of funds; consideration by Congress.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CONTINUATION AND TERMINATION OF COMMISSION TO PERFORM CONTRACTS FOR RESEARCH ON SOCIAL AND ECONOMIC IMPACTS OF GAMBLING

Pub. L. 104–328, §1, Oct. 19, 1996, 110 Stat. 4004, provided that the Advisory Commission on Intergovernmental Relations could continue in existence solely for the purpose of performing any contract entered into under section 7(a) of the National Gambling Impact Study Commission Act, Pub. L. 104–169, Aug. 3, 1996, 110 Stat. 1487, formerly set out in a note under section 1955 of Title 18, Crimes and Criminal Procedure, and would terminate on the date of the completion of such contract.

APPROPRIATIONS; UNFUNDED MANDATES; TERMINATION OF ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Pub. L. 104–52, title IV, Nov. 19, 1995, 109 Stat. 480, provided in part that: "For necessary expenses of the Advisory Commission on Intergovernmental Relations, $784,000, of which $334,000 is to carry out the provisions of Public Law 104–4 [see Short Title note set out under section 1501 of Title 2, The Congress], and of which $450,000 shall be available only for the purposes of the prompt and orderly termination of the Advisory Commission on Intergovernmental Relations."

§4271. Establishment

There is established a permanent bipartisan commission to be known as the Advisory Commission on Intergovernmental Relations, hereinafter referred to as the "Commission".

(Pub. L. 86–380, §1, Sept. 24, 1959, 73 Stat. 703.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 2371 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1. Sept. 6, 1966, 80 Stat. 378.

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 11455

Ex. Ord. No. 11455, eff. Feb. 14, 1969, 34 F.R. 2299, which established the Office of Intergovernmental Relations, was revoked by Ex. Ord. No. 11690, eff. Dec. 14, 1972, 37 F.R. 26815, set out as a note under section 301 of Title 3, The President.

OFFICE OF INTERGOVERNMENTAL RELATIONS; AUTHORIZATION OF APPROPRIATIONS; COMPENSATION OF DIRECTOR; APPOINTMENT OF PERSONNEL; EXPERTS AND CONSULTANTS

Pub. L. 91–186, Dec. 30, 1969, 83 Stat. 849, authorized the appropriation of such sums as may be necessary for the expenses of the Office of Intergovernmental Relations, established by Ex. Ord. No. 11455, formerly set out above, prescribed the compensation of the Director of the Office, and authorized the Director to appoint such personnel as he deems necessary and to obtain the services of experts and consultants.

EXECUTIVE ORDER NO. 12303

Ex. Ord. No. 12303, Apr. 8, 1981, 46 F.R. 21341, which established the Presidential Advisory Committee on Federalism and provided for its membership, functions, etc., was revoked by Ex. Ord. No. 12399, §4(e), Dec. 31, 1982, 48 F.R. 380, formerly set out as a note under section 1013 of Title 5, Government Organization and Employees.

§4272. Declaration of purpose

Because the complexity of modern life intensifies the need in a federal form of government for the fullest cooperation and coordination of activities between the levels of government, and because population growth and scientific developments portend an increasingly complex society in future years, it is essential that an appropriate agency be established to give continuing attention to intergovernmental problems.

It is intended that the Commission, in the performance of its duties, will—

(1) bring together representatives of the Federal, State, and local governments for the consideration of common problems;

(2) provide a forum for discussing the administration and coordination of Federal grant and other programs requiring intergovernmental cooperation;

(3) give critical attention to the conditions and controls involved in the administration of Federal grant programs;

(4) make available technical assistance to the executive and legislative branches of the Federal Government in the review of proposed legislation to determine its overall effect on the Federal system;

(5) encourage discussion and study at an early stage of emerging public problems that are likely to require intergovernmental cooperation;

(6) recommend, within the framework of the Constitution, the most desirable allocation of governmental functions, responsibilities, and revenues among the several levels of government; and

(7) recommend methods of coordinating and simplifying tax laws and administrative practices to achieve a more orderly and less competitive fiscal relationship between the levels of government and to reduce the burden of compliance for taxpayers.

(Pub. L. 86–380, §2, Sept. 24, 1959, 73 Stat. 703.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 2372 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

§4273. Membership of Commission; appointment of members; term

(a) Number of members; appointment; qualifications

The Commission shall be composed of twenty-six members, as follows:

(1) Six appointed by the President of the United States, three of whom shall be officers of the executive branch of the Government, and three private citizens, all of whom shall have had experience or familiarity with relations between the levels of government;

(2) Three appointed by the President of the Senate, who shall be Members of the Senate;

(3) Three appointed by the Speaker of the House of Representatives, who shall be Members of the House;

(4) Four appointed by the President from a panel of at least eight Governors submitted by the Governors' Conference;

(5) Three appointed by the President from a panel of at least six members of State legislative bodies submitted by the board of managers of the Council of State Governments;

(6) Four appointed by the President from a panel of at least eight mayors submitted jointly by the National League of Cities and the United States Conference of Mayors; and

(7) Three appointed by the President from a panel of at least six elected county officers submitted by the National Association of Counties.

(b) Political and geographical composition

The members appointed from private life under paragraph (1) of subsection (a) shall be appointed without regard to political affiliation; of each class of members enumerated in paragraphs (2) and (3) of subsection (a), two shall be from the majority party of the respective houses; of each class of members enumerated in paragraphs (4), (5), (6), and (7) of subsection (a), not more than two shall be from any one political party; of each class of members enumerated in paragraphs (5), (6) and (7) of subsection (a), not more than one shall be from any one State; at least two of the appointees under paragraph (6) of subsection (a) shall be from cities under five hundred thousand population.

(c) Term of office; reappointment; period of service

The term of office of each member of the Commission shall be two years; members shall be eligible for reappointment; and, except as provided in section 4274(d) of this title, members shall serve until their successors are appointed.

(Pub. L. 86–380, §3, Sept. 24, 1959, 73 Stat. 704; Pub. L. 89–733, §§1, 2, Nov. 2, 1966, 80 Stat. 1162.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 2373 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1966—Subsec. (a)(6). Pub. L. 89–733, §1, substituted "National League of Cities" for "American Municipal Association".

Subsec. (a)(7). Pub. L. 89–733, §1, substituted "National Association of Counties" for "National Association of County Officials".

Subsec. (c). Pub. L. 89–733, §2, inserted provision that members shall serve until their successors are

appointed, except as provided in section 4274(d) of this title.

§4274. Organization of Commission

(a) Initial meeting

The President shall convene the Commission within ninety days following September 24, 1959 at such time and place as he may designate for the Commission's initial meeting.

(b) Chairman and Vice Chairman

The President shall designate a Chairman and a Vice Chairman from among members of the Commission.

(c) Vacancies in membership

Any vacancy in the membership of the Commission shall be filed in the same manner in which the original appointment was made; except that where the number of vacancies is fewer than the number of members specified in paragraphs (4), (5), (6), and (7) of section 4273(a) of this title, each panel of names submitted in accordance with the aforementioned paragraphs shall contain at least two names for each vacancy.

(d) Termination of service in official position from which originally appointed

Where any member ceases to serve in the official position from which originally appointed under section 4273(a) of this title, his place on the Commission shall be deemed to be vacant.

(e) Quorum

Thirteen members of the Commission shall constitute a quorum, but two or more members shall constitute a quorum for the purpose of conducting hearings.

(Pub. L. 86–380, §4, Sept. 24, 1959, 73 Stat. 705.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 2374 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

§4275. Duties of Commission

It shall be the duty of the Commission—

(1) to engage in such activities and to make such studies and investigations as are necessary or desirable in the accomplishment of the purposes set forth in section 4272 of this title;

(2) to consider, on its own initiative, ways and means for fostering better relations between the levels of government;

(3) to submit an annual report to the President and the Congress on or before January 31 of each year. The Commission may also submit such additional reports to the President, to the Congress or any committee of the Congress, and to any unit of government or organization as the Commission may deem appropriate.

(Pub. L. 86–380, §5, Sept. 24, 1959, 73 Stat. 705.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 2375 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in cl. (3) of this section relating to submittal of an annual report 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 item 12 on page 153 of House Document No. 103–7.

STUDY AND REPORT TO CONGRESS OF EFFECT ON FUNDS AVAILABLE FOR HOUSING AND STATE AND LOCAL BOND MARKETS OF FULL DEPOSIT INSURANCE FOR PUBLIC FUNDS; SUBMISSION DATE; AUTHORIZATION OF APPROPRIATIONS

Pub. L. 93–495, title I, §101(f), Oct. 28, 1974, 88 Stat. 1502, required the Advisory Commission on Intergovernmental Relations to conduct a study of the impact of section 101 of Pub. L. 93–495 [amending sections 1464, 1724, 1728, 1757, 1787, 1813, 1817 and 1821 of Title 12, Banks and Banking, and enacting provision set out as a note under section 1813 of Title 12] on funds available for housing and on State and local bond markets, and to make a report to the Congress of the results of its study not later than two years after Oct. 28, 1974, and authorized the appropriation of such sums as may be necessary to carry out section 101(f) of Pub. L. 93–495.

§4276. Powers and administrative provisions

(a) Hearings; oaths and affirmations

The Commission or, on the authorization of the Commission, any subcommittee or members thereof, may, for the purpose of carrying out the provisions of this chapter, hold such hearings, take such testimony, and sit and act at such times and places as the Commission deems advisable. Any member authorized by the Commission may administer oaths or affirmations to witnesses appearing before the Commission or any subcommittee or members thereof.

(b) Cooperation by Federal agencies

Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman or Vice Chairman, such information as the Commission deems necessary to carry out its functions under this chapter.

(c) Executive director

The Commission shall have power to appoint, fix the compensation of, and remove an executive director without regard to the civil service laws and chapter 51 and subchapter III of chapter 53 of title 5. Such appointment shall be made solely on the basis of fitness to perform the duties of the position and without regard to political affiliation.

(d) Appointment and compensation of other personnel; temporary and intermittent services

Subject to such rules and regulations as may be adopted by the Commission, the Chairman, without regard to the civil service laws and chapter 51 and subchapter III of chapter 53 of title 5, and without reference to political affiliation, shall have the power—

(1) to appoint, fix the compensation of, and remove such other personnel as he deems necessary,

(2) to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5 but at rates not to exceed $50 a day for individuals.

(e) Applicability of other laws to employees

Except as otherwise provided in this chapter, persons in the employ of the Commission under subsections (c) and (d)(1) of this section shall be considered to be Federal employees for all purposes, including—

(1) subchapter III of chapter 83 of title 5,

(2) chapter 87 of title 5,

(3) annual and sick leave, and

(4) subchapter I of chapter 57 of this title 5.

(f) Maximum compensation of employees

No individual employed in the service of the Commission shall be paid compensation for such employment at a rate in excess of the highest rate provided for grade 18 under the General Schedule, except that the executive director of the Commission may be paid compensation at any rate not exceeding the rate prescribed for level V in the Executive Schedule of subchapter II of chapter 53 of title 5.

(Pub. L. 86–380, §6, Sept. 24, 1959, 73 Stat. 705; Pub. L. 88–426, title III, §306(e), Aug. 14, 1964, 78 Stat. 429; Pub. L. 89–733, §§3, 4, Nov. 2, 1966, 80 Stat. 1162.)

EDITORIAL NOTES

CODIFICATION

The following substitutions were made on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees:

In subsecs. (c) and (d), "chapter 51 and subchapter III of chapter 53 of title 5" substituted for "the Classification Act of 1949".

In subsec. (d)(2), "section 3109 of title 5" substituted for "section 15 of the Administrative Expenses Act of 1946 (5 U.S.C. 55a)".

In subsec. (e), "subchapter III of chapter 83 of title 5", "chapter 87 of title 5", and "subchapter I of chapter 57 of title 5" substituted for "the Civil Service Retirement Act, as amended", "the Federal Employees' Group Life Insurance Act of 1954, as amended", and "the Travel Expense Act of 1949, as amended", respectively.

In subsec. (f), "the Executive Schedule of subchapter II of chapter 53 of title 5" substituted for "the Federal Executive Salary Schedule of the Federal Executive Salary Act of 1964".

Section was formerly classified to section 2376 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1966—Subsec. (c). Pub. L. 89–733, §3, substituted "executive director" for "staff director".

Subsec. (f). Pub. L. 89–733, §4, authorized the executive director of the Commission to be paid compensation at any rate not exceeding the rate prescribed for level V in the Federal Executive Salary Schedule.

1964—Subsec. (f). Pub. L. 88–426 substituted "at a rate in excess of the highest rate of grade 18 of the General Schedule of the Classification Act of 1949, as amended" for "at a rate in excess of $20,000 per annum".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–426 effective on first day of first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88–426, see section 501 of Pub. L. 88–426, title V, Aug. 14, 1964, 78 Stat. 435.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§4277. Compensation of members

(a) Members of the Commission who are Members of Congress, officers of the executive branch of the Federal Government, Governors, or full-time salaries officers of city and county governments shall serve without compensation in addition to that received in their regular public employment, but shall be allowed necessary travel expenses (or, in the alternative, a per diem in lieu of subsistence

and mileage not to exceed the rates prescribed in subchapter I of chapter 57 of title 5), without regard to subchapter I of chapter 57 of title 5, the Standardized Government Travel Regulations, or section 5731(a) of title 5, and other necessary expenses incurred by them in the performance of duties vested in the Commission.

(b) Unless prohibited by State or local law, members of the Commission, other than those to whom subsection (a) is applicable, shall receive compensation at the rate of $50 per day for each day they are engaged in the performance of their duties as members of the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Commission, as provided for in subsection (a) of this section.

(Pub. L. 86–380, §7, Sept. 24, 1959, 73 Stat. 706; Pub. L. 89–733, §5, Nov. 2, 1966, 80 Stat. 1162.)

EDITORIAL NOTES

CODIFICATION

In subsec. (a), "subchapter I of chapter 57 of title 5" substituted for "the Travel Expense Act of 1949, as amended" and for "the Travel Expense Act of 1949, as amended (5 U.S.C. 835–842)", and "section 5731(a) of title 5" substituted for "section 10 of the Act of March 3, 1933, (5 U.S.C. 73(b)", on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Section was formerly classified to section 2377 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1966—Subsec. (b). Pub. L. 89–733 inserted "Unless prohibited by State or local law".

§4278. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this chapter.

(Pub. L. 86–380, §8, Sept. 24, 1959, 73 Stat. 706.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 2378 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

§4279. Receipt of funds; consideration by Congress

The Commission is authorized to receive funds through grants, contracts, and contributions from State and local governments and organizations thereof, and from nonprofit organizations. Such funds may be received and expended by the Commission only for purposes of this chapter. In making appropriations to the Commission the Congress shall consider the amount of any funds received by the Commission in addition to those funds appropriated to it by the Congress.

(Pub. L. 86–380, §9, as added Pub. L. 89–733, §6, Nov. 2, 1966, 80 Stat. 1162.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 2379 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

CHAPTER 54—CABINET COMMITTEE ON OPPORTUNITIES FOR SPANISH-SPEAKING PEOPLE

§§4301 to 4312. Omitted

EDITORIAL NOTES

CODIFICATION

Sections 4301 to 4312 of this title, Pub. L. 91–181, §§1–12, Dec. 30, 1969, 83 Stat. 838, were omitted pursuant to section 4312 of this title which provided that Pub. L. 91–181 shall expire five years after Dec. 30, 1969.

Section 4301, Pub. L. 91–181, §1, Dec. 30, 1969, 83 Stat. 838, related to Congressional declaration of purpose.

Section 4302, Pub. L. 91–181, §2, Dec. 30, 1969, 83 Stat. 838, related to establishment of Cabinet Committee on Opportunities for Spanish-Speaking People, its composition, appointment of Chairman.

Section 4303, Pub. L. 91–181, §3, Dec. 30, 1969, 83 Stat. 838, related to functions of Committee.

Section 4304, Pub. L. 91–181, §4, Dec. 30, 1969, 83 Stat. 839, related to administrative powers of the Committee.

Section 4305, Pub. L. 91–181, §5, Dec. 30, 1969, 83 Stat. 839, related to utilization of services and facilities of governmental agencies.

Section 4306, Pub. L. 91–181, §6, Dec. 30, 1969, 83 Stat. 839, related to compensation of personnel and transfer of personnel from other Federal departments and agencies.

Section 4307, Pub. L. 91–181, §7, Dec. 30, 1969, 83 Stat. 839, related to establishment of an Advisory Council on Spanish-Speaking Americans.

Section 4308, Pub. L. 91–181, §8, Dec. 30, 1969, 83 Stat. 840, related to nonimpairment of existing powers of other Federal departments and agencies.

Section 4309, Pub. L. 91–181, §9, Dec. 30, 1969, 93 Stat. 840, related to restrictions on political activities of Committee and Advisory Council.

Section 4310, Pub. L. 91–181, §10, Dec. 30, 1969, 83 Stat. 840; Pub. L. 92–122, Aug. 16, 1971, 85 Stat. 342, related to authorization of appropriations.

Section 4311, Pub. L. 91–181, §11, Dec. 30, 1969, 83 Stat. 840, related to submission of reports to the President and Congress.

Section 4312, Pub. L. 91–181, §12, Dec. 30, 1969, 83 Stat. 840, provided that this chapter shall expire five years after Dec. 30, 1969.

CHAPTER 55—NATIONAL ENVIRONMENTAL POLICY

Sec.

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§4321. Congressional declaration of purpose

The purposes of this chapter are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.

(Pub. L. 91–190, §2, Jan. 1, 1970, 83 Stat. 852.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 2020 AMENDMENT

Pub. L. 116–260, div. S, §102(a), Dec. 27, 2020, 134 Stat. 2243, provided that: "This section [enacting section 16298 of this title, amending sections 4370m and 7403 of this title, and enacting provisions set out as a note under section 4370m of this title] may be cited as the 'Utilizing Significant Emissions with Innovative Technologies Act' or the 'USE IT Act'."

SHORT TITLE

Pub. L. 91–190, §1, Jan. 1, 1970, 83 Stat. 852, provided: "That this Act [enacting this chapter] may be cited as the 'National Environmental Policy Act of 1969'."

EMPLOYMENT AT THE ENVIRONMENTAL PROTECTION AGENCY

Pub. L. 119–74, div. C, title II, Jan. 23, 2026, 140 Stat. 137, provided that: "In this fiscal year and each fiscal year through 2031, the Administrator [of the Environmental Protection Agency] may, after consultation with the Office of Personnel Management, employ up to 100 persons at any one time at the Environmental Protection Agency pursuant to the authority provided in 42 U.S.C. 209."

ENVIRONMENTAL PRODUCT DECLARATION ASSISTANCE

Pub. L. 117–169, title VI, §60112, Aug. 16, 2022, 136 Stat. 2072, provided that:

"(a) IN GENERAL.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $250,000,000, to remain available until September 30, 2031, to develop and carry out a program to support the development, enhanced standardization and transparency, and reporting criteria for environmental product declarations that include measurements of the embodied greenhouse gas emissions of the material or product associated with all relevant stages of production, use, and disposal, and conform with international standards, for construction materials and products by—

"(1) providing grants to businesses that manufacture construction materials and products for developing and verifying environmental product declarations, and to States, Indian Tribes, and nonprofit organizations that will support such businesses;

"(2) providing technical assistance to businesses that manufacture construction materials and products

in developing and verifying environmental product declarations, and to States, Indian Tribes, and nonprofit organizations that will support such businesses; and

"(3) carrying out other activities that assist in measuring, reporting, and steadily reducing the quantity of embodied carbon of construction materials and products.

"(b) ADMINISTRATIVE COSTS.—Of the amounts made available under this section, the Administrator of the Environmental Protection Agency shall reserve 5 percent for administrative costs necessary to carry out this section.

"(c) DEFINITIONS.—In this section:

"(1) GREENHOUSE GAS.—The term 'greenhouse gas' means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.

"(2) STATE.—The term 'State' has the meaning given to that term in section 302(d) of the Clean Air Act (42 U.S.C. 7602(d))."

LOW-EMBODIED CARBON LABELING FOR CONSTRUCTION MATERIALS

Pub. L. 117–169, title VI, §60116, Aug. 16, 2022, 136 Stat. 2077, provided that:

"(a) IN GENERAL.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $100,000,000, to remain available until September 30, 2026, for necessary administrative costs of the Administrator of the Environmental Protection Agency to carry out this section and to develop and carry out a program, in consultation with the Administrator of the Federal Highway Administration for construction materials used in transportation projects and the Administrator of General Services for construction materials used for Federal buildings, to identify and label construction materials and products that have substantially lower levels of embodied greenhouse gas emissions associated with all relevant stages of production, use, and disposal, as compared to estimated industry averages of similar materials or products, as determined by the Administrator of the Environmental Protection Agency, based on—

"(1) environmental product declarations; or

"(2) determinations by State agencies, as verified by the Administrator of the Environmental Protection Agency.

"(b) DEFINITION OF GREENHOUSE GAS.—In this section, the term 'greenhouse gas' means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride."

ENVIRONMENTAL PROTECTION AGENCY HEADQUARTERS

Pub. L. 112–237, §2, Dec. 28, 2012, 126 Stat. 1628, provided that:

"(a) *Redesignation*.—The Environmental Protection Agency Headquarters located at 1200 Pennsylvania Avenue N.W. in Washington, D.C., known as the Ariel Rios Building, shall be known and redesignated as the 'William Jefferson Clinton Federal Building'.

"(b) *References*.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Environmental Protection Agency Headquarters referred to in subsection (a) shall be deemed to be a reference to the 'William Jefferson Clinton Federal Building'."

MODIFICATION OR REPLACEMENT OF EXECUTIVE ORDER NO. 13423

Pub. L. 111–117, div. C, title VII, §742(b), Dec. 16, 2009, 123 Stat. 3216, provided that: "Hereafter, the President may modify or replace Executive Order No. 13423 [formerly set out below] if the President determines that a revised or new executive order will achieve equal or better environmental or energy efficiency results."

[Pursuant to section 742(b) of Pub. L. 111–117, set out above, Ex. Ord. No. 13423 was replaced by Ex. Ord. No. 13693, Mar. 19, 2015, 80 F.R. 15871, formerly set out below.]

Pub. L. 111–8, div. D, title VII, §748, Mar. 11, 2009, 123 Stat. 693, which provided that Ex. Ord. No. 13423 (formerly set out below) would remain in effect on and after Mar. 11, 2009, except as otherwise provided by law after Mar. 11, 2009, was repealed by Pub. L. 111–117, div. C, title VII, §742(a), Dec. 16, 2009, 123 Stat. 3216.

NECESSITY OF MILITARY LOW-LEVEL FLIGHT TRAINING TO PROTECT NATIONAL SECURITY AND ENHANCE MILITARY READINESS

Pub. L. 106–398, §1 [[div. A], title III, §317], Oct. 30, 2000, 114 Stat. 1654, 1654A–57, provided that: "Nothing in the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or the regulations

implementing such law shall require the Secretary of Defense or the Secretary of a military department to prepare a programmatic, nation-wide environmental impact statement for low-level flight training as a precondition to the use by the Armed Forces of an airspace for the performance of low-level training flights."

POLLUTION PROSECUTION

Pub. L. 101–593, title II, Nov. 16, 1990, 104 Stat. 2962, provided that:

"SEC. 201. SHORT TITLE.

"This title may be cited as the 'Pollution Prosecution Act of 1990'.

"SEC. 202. EPA OFFICE OF CRIMINAL INVESTIGATION.

"(a) The Administrator of the Environmental Protection Agency (hereinafter referred to as the 'Administrator') shall increase the number of criminal investigators assigned to the Office of Criminal Investigations by such numbers as may be necessary to assure that the number of criminal investigators assigned to the office—

"(1) for the period October 1, 1991, through September 30, 1992, is not less than 72;

"(2) for the period October 1, 1992, through September 30, 1993, is not less than 110;

"(3) for the period October 1, 1993, through September 30, 1994, is not less than 123;

"(4) for the period October 1, 1994, through September 30, 1995, is not less than 160;

"(5) beginning October 1, 1995, is not less than 200.

"(b) For fiscal year 1991 and in each of the following 4 fiscal years, the Administrator shall, during each such fiscal year, provide increasing numbers of additional support staff to the Office of Criminal Investigations.

"(c) The head of the Office of Criminal Investigations shall be a position in the competitive service as defined in 2102 of title 5 U.S.C. or a career reserve [reserved] position as defined in 3132(A) [3132(a)] of title 5 U.S.C. and the head of such office shall report directly, without intervening review or approval, to the Assistant Administrator for Enforcement.

"SEC. 203. CIVIL INVESTIGATORS.

"The Administrator, as soon as practicable following the date of the enactment of this Act [Nov. 16, 1990], but no later than September 30, 1991, shall increase by fifty the number of civil investigators assigned to assist the Office of Enforcement in developing and prosecuting civil and administrative actions and carrying out its other functions.

"SEC. 204. NATIONAL TRAINING INSTITUTE.

"The Administrator shall, as soon as practicable but no later than September 30, 1991 establish within the Office of Enforcement the National Enforcement Training Institute. It shall be the function of the Institute, among others, to train Federal, State, and local lawyers, inspectors, civil and criminal investigators, and technical experts in the enforcement of the Nation's environmental laws.

"SEC. 205. AUTHORIZATION.

"For the purposes of carrying out the provisions of this Act [probably should be "this title"], there is authorized to be appropriated to the Environmental Protection Agency $13,000,000 for fiscal year 1991, $18,000,000 for fiscal year 1992, $20,000,000 for fiscal year 1993, $26,000,000 for fiscal year 1994, and $33,000,000 for fiscal year 1995."

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior related to compliance with system activities requiring coordination and approval under this chapter, and enforcement functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with this chapter with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§102(e), (f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal

Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to Administrator of Environmental Protection Agency, see Parts 1, 2, and 16 of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out as a note under section 5195 of this title.

REORGANIZATION PLAN NO. 3 OF 1970

EFF. DEC. 2, 1970, 35 F.R. 15623, 84 STAT. 2086, AS AMENDED PUB. L. 98–80, §2(A)(2), (B)(2), (C)(2)(C), AUG. 23, 1983, 97 STAT. 485, 486

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, July 9, 1970, pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.

ENVIRONMENTAL PROTECTION AGENCY

SECTION 1. ESTABLISHMENT OF AGENCY

(a) There is hereby established the Environmental Protection Agency, hereinafter referred to as the "Agency."

(b) There shall be at the head of the Agency the Administrator of the Environmental Protection Agency, hereinafter referred to as the "Administrator." The Administrator shall be appointed by the President, by and with the advice and consent of the Senate.

(c) There shall be in the Agency a Deputy Administrator of the Environmental Protection Agency who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Administrator shall perform such functions as the Administrator shall from time to time assign or delegate, and shall act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

(d) There shall be in the Agency not to exceed five Assistant Administrators of the Environmental Protection Agency who shall be appointed by the President, by and with the advice and consent of the Senate. Each Assistant Administrator shall perform such functions as the Administrator shall from time to time assign or delegate. [As amended Pub. L. 98–80, §2(a)(2), (b)(2), (c)(2)(C), Aug. 23, 1983, 97 Stat. 485, 486.]

SEC. 2. TRANSFERS TO ENVIRONMENTAL PROTECTION AGENCY

(a) There are hereby transferred to the Administrator:

(1) All functions vested by law in the Secretary of the Interior and the Department of the Interior which are administered through the Federal Water Quality Administration, all functions which were transferred to the Secretary of the Interior by Reorganization Plan No. 2 of 1966 (80 Stat. 1608), and all functions vested in the Secretary of the Interior or the Department of the Interior by the Federal Water Pollution Control Act or by provisions of law amendatory or supplementary thereof [see 33 U.S.C. 1251 et seq.].

(2)(i) The functions vested in the Secretary of the Interior by the Act of August 1, 1958, 72 Stat. 479, 16 U.S.C. 742d–1 (being an Act relating to studies on the effects of insecticides, herbicides, fungicides, and pesticides upon the fish and wildlife resources of the United States), and (ii) the functions vested by law in the Secretary of the Interior and the Department of the Interior which are administered by the Gulf Breeze Biological Laboratory of the Bureau of Commercial Fisheries at Gulf Breeze, Florida.

(3) The functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the following components thereof:

(i) The National Air Pollution Control Administration,

(ii) The Environmental Control Administration:

(A) Bureau of Solid Waste Management,

(B) Bureau of Water Hygiene,

(C) Bureau of Radiological Health,

except that functions carried out by the following components of the Environmental Control Administration of the Environmental Health Service are not transferred: (i) Bureau of Community Environmental Management, (ii) Bureau of Occupational Safety and Health, and (iii) Bureau of Radiological Health, insofar as the functions carried out by the latter Bureau pertain to (A) regulation of radiation from consumer products,

including electronic product radiation, (B) radiation as used in the healing arts, (C) occupational exposures to radiation, and (D) research, technical assistance, and training related to clauses (A), (B), and (C).

(4) The functions vested in the Secretary of Health, Education, and Welfare of establishing tolerances for pesticide chemicals under the Federal Food, Drug, and Cosmetic Act, as amended, 21 U.S.C. 346, 346a, and 348, together with authority, in connection with the functions transferred, (i) to monitor compliance with the tolerances and the effectiveness of surveillance and enforcement, and (ii) to provide technical assistance to the States and conduct research under the Federal Food, Drug, and Cosmetic Act, as amended [21 U.S.C. 301 et seq.], and the Public Health Service Act, as amended [42 U.S.C. 201 et seq.].

(5) So much of the functions of the Council on Environmental Quality under section 204(5) of the National Environmental Policy Act of 1969 (Public Law 91–190, approved January 1, 1970, 83 Stat. 855) [42 U.S.C. 4344(5)], as pertains to ecological systems.

(6) The functions of the Atomic Energy Commission under the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.], administered through its Division of Radiation Protection Standards, to the extent that such functions of the Commission consist of establishing generally applicable environmental standards for the protection of the general environment from radioactive material. As used herein, standards mean limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radio-active material.

(7) All functions of the Federal Radiation Council (42 U.S.C. 2021(h)).

(8)(i) The functions of the Secretary of Agriculture and the Department of Agriculture under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 135–135k) [7 U.S.C. 136 et seq.], (ii) the functions of the Secretary of Agriculture and the Department of Agriculture under section 408(l) of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 346a(l)), and (iii) the functions vested by law in the Secretary of Agriculture and the Department of Agriculture which are administered through the Environmental Quality Branch of the Plant Protection Division of the Agricultural Research Service.

(9) So much of the functions of the transferor officers and agencies referred to in or affected by the foregoing provisions of this section as is incidental to or necessary for the performance by or under the Administrator of the functions transferred by those provisions or relates primarily to those functions. The transfers to the Administrator made by this section shall be deemed to include the transfer of (1) authority, provided by law, to prescribe regulations relating primarily to the transferred functions, and (2) the functions vested in the Secretary of the Interior and the Secretary of Health, Education, and Welfare by section 169(d)(1)(B) and (3) of the Internal Revenue Code of 1954 (as enacted by section 704 of the Tax Reform Act of 1969, 83 Stat. 668); but shall be deemed to exclude the transfer of the functions of the Bureau of Reclamation under section 3(b)(1) of the Water Pollution Control Act (33 U.S.C. [former] 466a(b)(1)).

(b) There are hereby transferred to the Agency:

(1) From the Department of the Interior, (i) the Water Pollution Control Advisory Board (33 U.S.C. [former] 466f) [see 33 U.S.C. 1363], together with its functions, and (ii) the hearing boards provided for in sections 10(c)(4) and 10(f) of the Federal Water Pollution Control Act, as amended (33 U.S.C. [former] 466g(c)(4); 466g(f)). The functions of the Secretary of the Interior with respect to being or designating the Chairman of the Water Pollution Control Advisory Board are hereby transferred to the Administrator.

(2) From the Department of Health, Education, and Welfare, the Air Quality Advisory Board (42 U.S.C. 1857e) [42 U.S.C. 7417], together with its functions. The functions of the Secretary of Health, Education, and Welfare with respect to being a member and the Chairman of that Board are hereby transferred to the Administrator.

SEC. 3. PERFORMANCE OF TRANSFERRED FUNCTIONS

The Administrator may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions transferred to him by the provisions of this reorganization plan by any other officer, or by any organizational entity or employee, of the Agency.

SEC. 4. INCIDENTAL TRANSFERS

(a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available or to be made available in connection with the functions transferred to the Administrator or the Agency by this reorganization plan as the Director of the Office of Management and Budget shall determine shall be transferred to the Agency at such time or times as the Director shall direct.

(b) Such further measures and dispositions as the Director of Office of Management and Budget shall deem to be necessary in order to effectuate the transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 5. INTERIM OFFICERS

(a) The President may authorize any person who immediately prior to the effective date of this reorganization plan held a position in the executive branch of the Government to act as Administrator until the office of Administrator is for the first time filled pursuant to the provisions of this reorganization plan or by recess appointment, as the case may be.

(b) The President may similarly authorize any such person to act as Deputy Administrator, authorize any such person to act as Assistant Administrator, and authorize any such person to act as the head of any principal constituent organizational entity of the Administration.

(c) The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office in respect of which he so serves. Such compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entitled.

SEC. 6. ABOLITIONS

(a) Subject to the provisions of this reorganization plan, the following, exclusive of any functions, are hereby abolished:

(1) The Federal Water Quality Administration in the Department of the Interior (33 U.S.C. [former] 466–1).

(2) The Federal Radiation Council (73 Stat. 690; 42 U.S.C. 2021(h)).

(b) Such provisions as may be necessary with respect to terminating any outstanding affairs shall be made by the Secretary of the Interior in the case of the Federal Water Quality Administration and by the Administrator of General Services in the case of the Federal Radiation Council.

SEC. 7. EFFECTIVE DATE

The provisions of this reorganization plan shall take effect sixty days after the date they would take effect under 5 U.S.C. 906(a) in the absence of this section.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 3 of 1970, prepared in accordance with chapter 9 of title 5 of the United States Code and providing for an Environmental Protection Agency. My reasons for transmitting this plan are stated in a more extended accompanying message.

After investigation, I have found and hereby declare that each reorganization included in Reorganization Plan No. 3 of 1970 is necessary to accomplish one or more of the purposes set forth in section 901(a) of title 5 of the United States Code. In particular, the plan is responsive to section 901(a)(1), "to promote the better execution of the laws, the more effective management of the executive branch and of its agencies and functions, and the expeditious administration of the public business;" and section 901(a)(3), "to increase the efficiency of the operations of the Government to the fullest extent practicable."

The reorganizations provided for in the plan make necessary the appointment and compensation of new officers as specified in section 1 of the plan. The rates of compensation fixed for these officers are comparable to those fixed for other officers in the executive branch who have similar responsibilities.

Section 907 of title 5 of the United States Code will operate to preserve administrative proceedings, including any public hearing proceedings, related to the transferred functions, which are pending immediately prior to the taking effect of the reorganization plan.

The reorganization plan should result in more efficient operation of the Government. It is not practical, however, to itemize or aggregate the exact expenditure reductions which will result from this action.

RICHARD NIXON.

THE WHITE HOUSE, July 9, 1970.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

As concern with the condition of our physical environment has intensified, it has become increasingly clear that we need to know more about the total environment—land, water and air. It also has become increasingly clear that only by reorganizing our Federal efforts can we develop that knowledge, and effectively ensure the protection, development and enhancement of the total environment itself.

The Government's environmentally-related activities have grown up piecemeal over the years. The time has come to organize them rationally and systematically. As a major step in this direction, I am transmitting today two reorganization plans: one to establish an Environmental Protection Agency, and one to establish, within

the Department of Commerce, a National Oceanic and Atmospheric Administration.

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Our national government today is not structured to make a coordinated attack on the pollutants which debase the air we breathe, the water we drink, and the land that grows our food. Indeed, the present governmental structure for dealing with environmental pollution often defies effective and concerted action.

Despite its complexity, for pollution control purposes the environment must be perceived as a single, interrelated system. Present assignments of departmental responsibilities do not reflect this interrelatedness.

Many agency missions, for example, are designed primarily along media lines—air, water, and land. Yet the sources of air, water, and land pollution are interrelated and often interchangeable. A single source may pollute the air with smoke and chemicals, the land with solid wastes, and a river or lake with chemical and other wastes. Control of the air pollution may produce more solid wastes, which then pollute the land or water. Control of the water-polluting effluent may convert it into solid wastes, which must be disposed of on land.

Similarly, some pollutants—chemicals, radiation, pesticides—appear in all media. Successful control of them at present requires the coordinated efforts of a variety of separate agencies and departments. The results are not always successful.

A far more effective approach to pollution control would:

—identify pollutants.

—trace them through the entire ecological chain, observing and recording changes in form as they occur.

—Determine the total exposure of man his environment.

—Examine interactions among forms of pollution.

—Identify where in the ecological chain interdiction would be most appropriate.

In organizational terms, this requires pulling together into one agency a variety of research, monitoring, standard-setting and enforcement activities now scattered through several departments and agencies. It also requires that the new agency include sufficient support elements—in research and in aids to State and local anti-pollution programs, for example—to give it the needed strength and potential for carrying out its mission. The new agency would also, of course, draw upon the results of research conducted by other agencies.

COMPONENTS OF THE EPA

Under the terms of Reorganization Plan No. 3, the following would be moved to the new Environmental Protection Agency:

—The functions carried out by the Federal Water Quality Administration (from the Department of the Interior).

—Functions with respect to pesticides studies now vested in the Department of the Interior.

—The functions carried out by the National Air Pollution Control Administration (from the Department of Health, Education, and Welfare).

—The functions carried out by the Bureau of Solid Waste Management and the Bureau of Water Hygiene, and portions of the functions carried out by the Bureau of Radiological Health of the Environmental Control Administration (from the Department of Health, Education, and Welfare).

—Certain functions with respect to pesticides carried out by the Food and Drug Administration (from the Department of Health, Education, and Welfare).

—Authority to perform studies relating to ecological systems now vested in the Council on Environmental Quality.

—Certain functions respecting radiation criteria and standards now vested in the Atomic Energy Commission and the Federal Radiation Council.

—Functions respecting pesticides registration and related activities now carried out by the Agricultural Research Service (from the Department of Agriculture).

With its broad mandate, EPA would also develop competence in areas of environmental protection that have not previously been given enough attention, such, for example, as the problem of noise, and it would provide an organization to which new programs in these areas could be added.

In brief, these are the principal functions to be transferred:

Federal Water Quality Administration.—Charged with the control of pollutants which impair water quality, it is broadly concerned with the impact of degraded water quality. It performs a wide variety of functions, including research, standard-setting and enforcement, and provides construction grants and technical assistance.

Certain pesticides research authority from the Department of the Interior.—Authority for research on the

effects of pesticides on fish and wildlife would be provided to the EPA through transfer of the specialized research authority of the pesticides act enacted in 1958. Interior would retain its responsibility to do research on all factors affecting fish and wildlife. Under this provision, only one laboratory would be transferred to the EPA—the Gulf Breeze Biological Laboratory of the Bureau of Commercial Fisheries. The EPA would work closely with the fish and wildlife laboratories remaining with the Bureau of Sport Fisheries and Wildlife.

National Air Pollution Control Administration.—As the principal Federal agency concerned with air pollution, it conducts research on the effects of air pollution, operates a monitoring network, and promulgates criteria which serve as the basis for setting air quality standards. Its regulatory functions are similar to those of the Federal Water Quality Administration. NAPCA is responsible for administering the Clean Air Act, which involves designating air quality regions, approving State standards and providing financial and technical assistance to State Control agencies to enable them to comply with the Act's provisions. It also sets and enforces Federal automotive emission standards.

Elements of the Environmental Control Administration.—ECA is the focal point within HEW for evaluation and control of a broad range of environmental health problems, including water quality, solid wastes, and radiation. Programs in the ECA involve research, development of criteria and standards, and the administration of planning and demonstration grants. From the ECA, the activities of the Bureaus of Water Hygiene and Solid Waste Management and portions of the activities of the Bureau of Radiological Health would be transferred. Other functions of the ECA including those related to the regulation of radiation from consumer products and occupational safety and health would remain in HEW.

Pesticides research and standard-setting programs of the Food and Drug Administration.—FDA's pesticides program consists of setting and enforcing standards which limit pesticide residues in food. EPA would have the authority to set pesticide standards and to monitor compliance with them, as well as to conduct related research. However, as an integral part of its food protection activities, FDA would retain its authority to remove from the market food with excess pesticide residues.

General ecological research from the Council on Environmental Quality.—This authority to perform studies and research relating to ecological systems would be in addition to EPA's other specific research authorities, and it would help EPA to measure the impact of pollutants. The Council on Environmental Quality would retain its authority to conduct studies and research relating to environmental quality.

Environmental radiation standards programs.—The Atomic Energy Commission is now responsible for establishing environmental radiation standards and emission limits for radioactivity. Those standards have been based largely on broad guidelines recommended by the Federal Radiation Council. The Atomic Energy Commission's authority to set standards for the protection of the general environment from radioactive material would be transferred to the Environmental Protection Agency. The functions of the Federal Radiation Council would also be transferred. AEC would retain responsibility for the implementation and enforcement of radiation standards through its licensing authority.

Pesticides registration program of the Agricultural Research Service.—The Department of Agriculture is currently responsible for several distinct functions related to pesticides use. It conducts research on the efficacy of various pesticides as related to other pest control methods and on the effects of pesticides on non-target plants, livestock, and poultry. It registers pesticides, monitors their persistence and carries out an educational program on pesticide use through the extension service. It conducts extensive pest control programs which utilize pesticides.

By transferring the Department of Agriculture's pesticides registration and monitoring function to the EPA and merging it with the pesticides programs being transferred from HEW and Interior, the new agency would be given a broad capability for control over the introduction of pesticides into the environment.

The Department of Agriculture would continue to conduct research on the effectiveness of pesticides. The Department would furnish this information to the EPA, which would have the responsibility for actually licensing pesticides for use after considering environmental and health effects. Thus the new agency would be able to make use of the expertise of the Department.

ADVANTAGES OF REORGANIZATION

This reorganization would permit response to environmental problems in a manner beyond the previous capability of our pollution control programs. The EPA would have the capacity to do research on important pollutants irrespective of the media in which they appear, and on the impact of these pollutants on the total environment. Both by itself and together with other agencies, the EPA would monitor the condition of the environment—biological as well as physical. With these data, the EPA would be able to establish quantitative "environmental baselines"—critical if we are to measure adequately the success or failure of our pollution abatement efforts.

As no disjointed array of separate programs can, the EPA would be able—in concert with the States—to set

and enforce standards for air and water quality and for individual pollutants. This consolidation of pollution control authorities would help assure that we do not create new environmental problems in the process of controlling existing ones. Industries seeking to minimize the adverse impact of their activities on the environment would be assured of consistent standards covering the full range of their waste disposal problems. As the States develop and expand their own pollution control programs, they would be able to look to one agency to support their efforts with financial and technical assistance and training.

In proposing that the Environmental Protection Agency be set up as a separate new agency, I am making an exception to one of my own principles: that, as a matter of effective and orderly administration, additional new independent agencies normally should not be created. In this case, however, the arguments against placing environmental protection activities under the jurisdiction of one or another of the existing departments and agencies are compelling.

In the first place, almost every part of government is concerned with the environment in some way, and affects it in some way. Yet each department also has its own primary mission—such as resource development, transportation, health, defense, urban growth or agriculture—which necessarily affects its own view of environmental questions.

In the second place, if the critical standard-setting functions were centralized within any one existing department, it would require that department constantly to make decisions affecting other departments—in which, whether fairly or unfairly, its own objectivity as an impartial arbiter could be called into question.

Because environmental protection cuts across so many jurisdictions, and because arresting environmental deterioration is of great importance to the quality of life in our country and the world, I believe that in this case a strong, independent agency is needed. That agency would, of course, work closely with and draw upon the expertise and assistance of other agencies having experience in the environmental area.

ROLES AND FUNCTIONS OF EPA

The principal roles and functions of the EPA would include:

—The establishment and enforcement of environmental protection standards consistent with national environmental goals.

—The conduct of research on the adverse effects of pollution and on methods and equipment for controlling it, the gathering of information on pollution, and the use of this information in strengthening environmental protection programs and recommending policy changes.

—Assisting others, through grants, technical assistance and other means in arresting pollution of the environment.

—Assisting the Council on Environmental Quality in developing and recommending to the President new policies for the protection of the environment.

One natural question concerns the relationship between the EPA and the Council on Environmental Quality, recently established by Act of Congress.

It is my intention and expectation that the two will work in close harmony, reinforcing each other's mission. Essentially, the Council is a top-level advisory group (which might be compared with the Council of Economic Advisers), while the EPA would be an operating, "line" organization. The Council will continue to be a part of the Executive Office of the President and will perform its overall coordinating and advisory roles with respect to all Federal programs related to environmental quality.

The Council, then, is concerned with all aspects of environmental quality—wildlife preservation, parklands, land use, and population growth, as well as pollution. The EPA would be charged with protecting the environment by abating pollution. In short, the Council focuses on what our broad policies in the environment field should be; the EPA would focus on setting and enforcing pollution control standards. The two are not competing, but complementary—and taken together, they should give us, for the first time, the means to mount an effectively coordinated campaign against environmental degradation in all of its many forms.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

The oceans and the atmosphere are interacting parts of the total environmental system upon which we depend not only for the quality of our lives, but for life itself.

We face immediate and compelling needs for better protection of life and property from natural hazards, and for a better understanding of the total environment—and understanding which will enable us more effectively to monitor and predict its actions, and ultimately, perhaps to exercise some degree of control over them.

We also face a compelling need for exploration and development leading to the intelligent use of our marine resources. The global oceans, which constitute nearly three-fourths of the surface of our planet, are today the least-understood, the least-developed, and the least-protected part of our earth. Food from the oceans

will increasingly be a key element in the world's fight against hunger. The mineral resources of the ocean beds and of the oceans themselves, are being increasingly tapped to meet the growing world demand. We must understand the nature of these resources, and assure their development without either contaminating the marine environment or upsetting its balance.

Establishment of the National Oceanic and Atmospheric Administration—NOAA—within the Department of Commerce would enable us to approach these tasks in a coordinated way. By employing a unified approach to the problems of the oceans and atmosphere, we can increase our knowledge and expand our opportunities not only in those areas, but in the third major component of our environment, the solid earth, as well.

Scattered through various Federal departments and agencies, we already have the scientific, technological, and administrative resources to make an effective, unified approach possible. What we need is to bring them together. Establishment of NOAA would do so.

By far the largest of the components being merged would be the Commerce Department's Environmental Science Services Administration (ESSA), with some 10,000 employees (70 percent of NOAA's total personnel strength) and estimated Fiscal 1970 expenditures of almost $200 million. Placing NOAA within the Department of Commerce therefore entails the least dislocation, while also placing it within a Department which has traditionally been a center for service activities in the scientific and technological area.

COMPONENTS OF NOAA

Under terms of Reorganization Plan No. 4, the programs of the following organizations would be moved into NOAA:

—The Environmental Science Services Administration (from within the Department of Commerce).

—Elements of the Bureau of Commercial Fisheries (from the Department of the Interior).

—The marine sport fish program of the Bureau of Sport Fisheries and Wildlife (from the Department of the Interior).

—The Marine Minerals Technology Center of the Bureau of Mines (from the Department of the Interior).

—The Office of Sea Grant Programs (from the National Science Foundation).

—Elements of the United States Lake Survey (from the Department of the Army).

In addition, by executive action, the programs of the following organizations would be transferred to NOAA:

—The National Oceanographic Data Center (from the Department of the Navy).

—The National Oceanographic Instrumentation Center (from the Department of the Navy).

—The National Data Buoy Project (from the Department of Transportation).

In brief, these are the principal functions of the programs and agencies to be combined:

THE ENVIRONMENTAL SCIENCE SERVICES ADMINISTRATION

(ESSA) comprises the following components:

—The Weather Bureau (weather, marine, river and flood forecasting and warning).

—The Coast and Geodetic Survey (earth and marine description, mapping and charting).

—The Environmental Data Service (storage and retrieval of environmental data).

—The National Environmental Satellite Center (observation of the global environment from earth-orbiting satellites).

—The ESSA Research Laboratories (research on physical environmental problems).

ESSA's activities include observing and predicting the state of the oceans, the state of the lower and upper atmosphere, and the size and shape of the earth. It maintains the nation's warning systems for such natural hazards as hurricanes, tornadoes, floods, earthquakes and seismic sea waves. It provides information for national defense, agriculture, transportation and industry.

ESSA monitors atmospheric, oceanic and geophysical phenomena on a global basis, through an unparalleled complex of air, ocean, earth and space facilities. It also prepares aeronautical and marine maps and charts.

Bureau of Commercial Fisheries and marine sport fish activities.—Those fishery activities of the Department of the Interior's U.S. Fish and Wildlife Service which are ocean related and those which are directed toward commercial fishing would be transferred. The Fish and Wildlife Service's Bureau of Commercial Fisheries has the dual function of strengthening the fishing industry and promoting conservation of fishery stocks. It conducts research on important marine species and on fundamental oceanography, and operates a fleet of oceanographic vessels and a number of laboratories. Most of its activities would be

transferred. From the Fish and Wildlife Service's Bureau of Sport Fisheries and Wildlife, the marine sport fishing program would be transferred. This involves five supporting laboratories and three ships engaged in activities to enhance marine sport fishing opportunities.

The Marine Minerals Technology Center is concerned with the development of marine mining technology.

Office of Sea Grant Programs.—The Sea Grant Program was authorized in 1966 to permit the Federal Government to assist the academic and industrial communities in developing marine resources and technology. It aims at strengthening education and training of marine specialists, supporting applied research in the recovery and use of marine resources, and developing extension and advisory services. The Office carries out these objectives by making grants to selected academic institutions.

The U.S. Lake Survey has two primary missions. It prepares and publishes navigation charts of the Great Lakes and tributary waters and conducts research on a variety of hydraulic and hydrologic phenomena of the Great Lakes' waters. Its activities are very similar to those conducted along the Atlantic and Pacific coasts by ESSA's Coast and Geodetic Survey.

The National Oceanographic Data Center is responsible for the collection and dissemination of oceanographic data accumulated by all Federal agencies.

The National Oceanographic Instrumentation Center provides a central Federal service for the calibration and testing of oceanographic instruments.

The National Data Buoy Development Project was established to determine the feasibility of deploying a system of automatic ocean buoys to obtain oceanic and atmospheric data.

ROLE OF NOAA

Drawing these activities together into a single agency would make possible a balanced Federal program to improve our understanding of the resources of the sea, and permit their development and use while guarding against the sort of thoughtless exploitation that in the past laid waste to so many of our precious natural assets. It would make possible a consolidated program for achieving a more comprehensive understanding of oceanic and atmospheric phenomena, which so greatly affect our lives and activities. It would facilitate the cooperation between public and private interests that can best serve the interests of all.

I expect that NOAA would exercise leadership in developing a national oceanic and atmospheric program of research and development. It would coordinate its own scientific and technical resources with the technical and operational capabilities of other government agencies and private institutions. As important, NOAA would continue to provide those services to other agencies of government, industry and private individuals which have become essential to the efficient operation of our transportation systems, our agriculture and our national security. I expect it to maintain continuing and close liaison with the new Environmental Protection Agency and the Council on Environmental Quality as part of an effort to ensure that environmental questions are dealt with in their totality and they benefit from the full range of the government's technical and human resources.

Authorities who have studied this matter, including the Commission on Marine Science, Engineering and Resources, strongly recommended the creation of a National Advisory Committee for the Oceans. I agree. Consequently, I will request, upon approval of the plan, that the Secretary of Commerce establish a National Advisory Committee for the Oceans and the Atmosphere to advise him on the progress of governmental and private programs in achieving the nation's oceanic and atmospheric objectives.

AN ON-GOING PROCESS

The reorganizations which I am here proposing afford both the Congress and the Executive Branch an opportunity to re-evaluate the adequacy of existing program authorities involved in these consolidations. As these two new organizations come into being, we may well find that supplementary legislation to perfect their authorities will be necessary. I look forward to working with the Congress in this task.

In formulating these reorganization plans, I have been greatly aided by the work of the President's Advisory Council on Executive Organization (the Ash Council), the Commission on Marine Science, Engineering and Resources (the Stratton Commission, appointed by President Johnson), my special task force on oceanography headed by Dr. James Wakelin, and by the information developed during both House and Senate hearings on proposed NOAA legislation.

Many of those who have advised me have proposed additional reorganizations, and it may well be that in the future I shall recommend further changes. For the present, however, I think the two reorganizations transmitted today represent a sound and significant beginning. I also think that in practical terms, in this sensitive and rapidly developing area, it is better to proceed a step at a time—and thus to be sure that we are not caught up in a form of organizational indigestion from trying to rearrange too much at once. As we see how these changes work out, we will gain a better understanding of what further changes—in addition to these—might be desirable.

Ultimately, our objective should be to insure that the nation's environmental and resource protection activities are so organized as to maximize both the effective coordination of all and the effective functioning of each.

The Congress, the Administration and the public all share a profound commitment to the rescue of our natural environment, and the preservation of the Earth as a place both habitable by and hospitable to man. With its acceptance of these reorganization plans, the Congress will help us fulfill that commitment.

RICHARD NIXON.

THE WHITE HOUSE, July 9, 1970.

EX. ORD. NO. 11472. CABINET COMMITTEE ON THE ENVIRONMENT AND CITIZENS' ADVISORY COMMITTEE ON ENVIRONMENTAL QUALITY

Ex. Ord. No. 11472, May 29, 1969, 34 F.R. 8693, as amended by Ex. Ord. No. 11514, Mar. 5, 1970, 35 F.R. 4247; Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839, provided:

By virtue of the authority vested in me as President of the United States, it is ordered as follows:

PART I—CABINET COMMITTEE ON THE ENVIRONMENT

SECTION 101. *Establishment of the Cabinet Committee*. (a) There is hereby established the Cabinet Committee on the Environment (hereinafter referred to as "the Cabinet Committee").

(b) The President of the United States shall preside over meetings of the Cabinet Committee. The Vice President shall preside in the absence of the President.

(c) The Cabinet Committee shall be composed of the following members:

The Vice President of the United States
Secretary of Agriculture
Secretary of Commerce
Secretary of Health, Education, and Welfare
Secretary of Housing and Urban Development
Secretary of the Interior
Secretary of Transportation

and such other heads of departments and agencies and others as the President may from time to time direct.

(d) Each member of the Cabinet Committee may designate an alternate, who shall serve as a member of the Cabinet Committee whenever the regular member is unable to attend any meeting of the Cabinet Committee.

(e) When matters which affect the interest of Federal agencies the heads of which are not members of the Cabinet Committee are to be considered by the Cabinet Committee, the President or his representative may invite such agency heads or their alternates to participate in the deliberations of the Cabinet Committee.

(f) The Director of the Bureau of the Budget [now the Director of the Office of Management and Budget], the Director of the Office of Science and Technology, the Chairman of the Council of Economic Advisers, and the Executive Secretary of the Council for Urban Affairs or their representatives may participate in the deliberations of the Cabinet Committee on the Environment as observers.

(g) The Chairman of the Council on Environmental Quality (established by Public Law 91–190) [this chapter] shall assist the President in directing the affairs of the Cabinet Committee.

SEC. 102. *Functions of the Cabinet Committee*. (a) The Cabinet Committee shall advise and assist the President with respect to environmental quality matters and shall perform such other related duties as the President may from time to time prescribe. In addition thereto, the Cabinet Committee is directed to:

(1) Recommend measures to ensure that Federal policies and programs, including those for development and conservation of natural resources, take adequate account of environmental effects.

(2) Review the adequacy of existing systems for monitoring and predicting environmental changes so as to achieve effective coverage and efficient use of facilities and other resources.

(3) Foster cooperation between the Federal Government, State and local governments, and private organizations in environmental programs.

(4) Seek advancement of scientific knowledge of changes in the environment and encourage the development of technology to prevent or minimize adverse effects that endanger man's health and well-being.

(5) Stimulate public and private participation in programs and activities to protect against pollution of the Nation's air, water, and land and its living resources.

(6) Encourage timely public disclosure by all levels of government and by private parties of plans that would affect the quality of environment.

(7) Assure assessment of new and changing technologies for their potential effects on the environment.

(8) Facilitate coordination among departments and agencies of the Federal Government in protecting and

improving the environment.

(b) The Cabinet Committee shall review plans and actions of Federal agencies affecting outdoor recreation and natural beauty. The Cabinet Committee may conduct studies and make recommendations to the President on matters of policy in the fields of outdoor recreation and natural beauty. In carrying out the foregoing provisions of this subsection, the Cabinet Committee shall, as far as may be practical, advise Federal agencies with respect to the effect of their respective plans and programs on recreation and natural beauty, and may suggest to such agencies ways to accomplish the purposes of this order. For the purposes of this order, plans and programs may include, but are not limited to, those for or affecting: (1) Development, restoration, and preservation of the beauty of the countryside, urban and suburban areas, water resources, wild rivers, scenic roads, parkways and highways, (2) the protection and appropriate management of scenic or primitive areas, natural wonders, historic sites, and recreation areas, (3) the management of Federal land and water resources, including fish and wildlife, to enhance natural beauty and recreational opportunities consistent with other essential uses, (4) cooperation with the States and their local subdivisions and private organizations and individuals in areas of mutual interest, (5) interstate arrangements, including Federal participation where authorized and necessary, and (6) leadership in a nationwide recreation and beautification effort.

SEC. 103. *Coordination*. The Secretary of the Interior may make available to the Cabinet Committee for coordination of outdoor recreation the authorities and resources available to him under the Act of May 28, 1963, 77 Stat. 49 [see 54 U.S.C. 200101], to the extent permitted by law, he may make such authorities and resources available to the Cabinet Committee also for promoting such coordination of other matters assigned to the Cabinet Committee by this order.

SEC. 104. *Assistance for the Cabinet Committee*. In compliance with provisions of applicable law, and as necessary to serve the purposes of this order, (1) the Council on Environmental Quality (established by Public Law 91–190) [this chapter] shall provide or arrange for necessary administrative and staff services, support, and facilities for the Cabinet Committee, and (2) each department and agency which has membership on the Cabinet Committee under Section 101(c) hereof shall furnish the Cabinet Committee such information and other assistance as may be available.

PART II—CITIZENS' ADVISORY COMMITTEE ON ENVIRONMENTAL QUALITY

[Revoked. Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839.]

PART III—GENERAL PROVISIONS

SEC. 301. *Construction*. Nothing in this order shall be construed as subjecting any department, establishment, or other instrumentality of the executive branch of the Federal Government or the head thereof, or any function vested by law in or assigned pursuant to law to any such agency or head, to the authority of any other such agency or head or as abrogating, modifying, or restricting any such function in any manner.

SEC. 302. *Prior bodies and orders*. The President's Council on Recreation and Natural Beauty and the Citizens' Advisory Committee on Recreation and Natural Beauty are hereby terminated and the following are revoked:

(1) Executive Order No. 11278 of May 4, 1966.

(2) Executive Order No. 11359A of June 29, 1967.

(3) Executive Order No. 11402 of March 29, 1968.

TERMINATION OF CABINET COMMITTEE ON THE ENVIRONMENT

The Cabinet Committee on the Environment was terminated and its functions transferred to the Domestic Council, see section 2(b) of Ex. Ord. No. 11541, eff. July 1, 1970, 35 F.R. 10737, set out as a note under section 501 of Title 31, Money and Finance.

The Domestic Council was abolished by Reorg. Plan No. 1 of 1977, §3, 42 F.R. 56101, 91 Stat. 1633, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before Apr. 1, 1978, at such time as specified by the President. Section 5D of Reorg. Plan No. 1 of 1977 transferred all functions vested in the Domestic Council to the President with power to delegate the performance of such transferred functions within the Executive Office of the President.

TERMINATION OF CITIZENS' ADVISORY COMMITTEE ON ENVIRONMENTAL QUALITY

For provisions relating to termination of Citizens' Advisory Committee on Environmental Quality see Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839, formerly set out as a note under section 1013 of Title 5, Government Organization and Employees.

EX. ORD. NO. 11514. PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY

Ex. Ord. No. 11514, Mar. 5, 1970, 35 F.R. 4247, as amended by Ex. Ord. No. 11991, May 24, 1977, 42

F.R. 26967, provided:

By virtue of the authority vested in me as President of the United States and in furtherance of the purpose and policy of the National Environmental Policy Act of 1969 (Public Law No. 91–190, approved January 1, 1970) [this chapter], it is ordered as follows:

SECTION 1. *Policy*. The Federal Government shall provide leadership in protecting and enhancing the quality of the Nation's environment to sustain and enrich human life. Federal agencies shall initiate measures needed to direct their policies, plans and programs so as to meet national environmental goals. The Council on Environmental Quality, through the Chairman, shall advise and assist the President in leading this national effort.

SEC. 2. *Responsibilities of Federal agencies*. Consonant with Title I of the National Environmental Policy Act of 1969 [42 U.S.C. 4331 et seq.], hereafter referred to as the "Act", the heads of Federal agencies shall:

(a) Monitor, evaluate, and control on a continuing basis their agencies' activities so as to protect and enhance the quality of the environment. Such activities shall include those directed to controlling pollution and enhancing the environment and those designed to accomplish other program objectives which may affect the quality of the environment. Agencies shall develop programs and measures to protect and enhance environmental quality and shall assess progress in meeting the specific objectives of such activities. Heads of agencies shall consult with appropriate Federal, State and local agencies in carrying out their activities as they affect the quality of the environment.

(b) Develop procedures to ensure the fullest practicable provision of timely public information and understanding of Federal plans and programs with environmental impact in order to obtain the views of interested parties. These procedures shall include, whenever appropriate, provision for public hearings, and shall provide the public with relevant information, including information on alternative courses of action. Federal agencies shall also encourage State and local agencies to adopt similar procedures for informing the public concerning their activities affecting the quality of the environment.

(c) Insure that information regarding existing or potential environmental problems and control methods developed as part of research, development, demonstration, test, or evaluation activities is made available to Federal agencies, States, counties, municipalities, institutions, and other entities, as appropriate.

(d) Review their agencies' statutory authority, administrative regulations, policies, and procedures, including those relating to loans, grants, contracts, leases, licenses, or permits, in order to identify any deficiencies or inconsistencies therein which prohibit or limit full compliance with the purposes and provisions of the Act. A report on this review and the corrective actions taken or planned, including such measures to be proposed to the President as may be necessary to bring their authority and policies into conformance with the intent, purposes, and procedures of the Act, shall be provided to the Council on Environmental Quality not later than September 1, 1970.

(e) Engage in exchange of data and research results, and cooperate with agencies of other governments to foster the purposes of the Act.

(f) Proceed, in coordination with other agencies, with actions required by section 102 of the Act [42 U.S.C. 4332].

(g) In carrying out their responsibilities under the Act and this Order, comply with the regulations issued by the Council except where such compliance would be inconsistent with statutory requirements.

SEC. 3. *Responsibilities of Council on Environmental Quality*. The Council on Environmental Quality shall:

(a) Evaluate existing and proposed policies and activities of the Federal Government directed to the control of pollution and the enhancement of the environment and to the accomplishment of other objectives which affect the quality of the environment. This shall include continuing review of procedures employed in the development and enforcement of Federal standards affecting environmental quality. Based upon such evaluations the Council shall, where appropriate, recommend to the President policies and programs to achieve more effective protection and enhancement of environmental quality and shall, where appropriate, seek resolution of significant environmental issues.

(b) Recommend to the President and to the agencies priorities among programs designed for the control of pollution and for enhancement of the environment.

(c) Determine the need for new policies and programs for dealing with environmental problems not being adequately addressed.

(d) Conduct, as it determines to be appropriate, public hearings or conferences on issues of environmental significance.

(e) Promote the development and use of indices and monitoring systems (1) to assess environmental conditions and trends, (2) to predict the environmental impact of proposed public and private actions, and (3) to determine the effectiveness of programs for protecting and enhancing environmental quality.

(f) Coordinate Federal programs related to environmental quality.

(g) Advise and assist the President and the agencies in achieving international cooperation for dealing with environmental problems, under the foreign policy guidance of the Secretary of State.

(h) Issue regulations to Federal agencies for the implementation of the procedural provisions of the Act (42 U.S.C. 4332(2)). Such regulations shall be developed after consultation with affected agencies and after such public hearings as may be appropriate. They will be designed to make the environmental impact statement process more useful to decisionmakers and the public; and to reduce paperwork and the accumulation of extraneous background data, in order to emphasize the need to focus on real environmental issues and alternatives. They will require impact statements to be concise, clear, and to the point, and supported by evidence that agencies have made the necessary environmental analyses. The Council shall include in its regulations procedures (1) for the early preparation of environmental impact statements, and (2) for the referral to the Council of conflicts between agencies concerning the implementation of the National Environmental Policy Act of 1969, as amended [this chapter], and Section 309 of the Clean Air Act, as amended [42 U.S.C. 7609], for the Council's recommendation as to their prompt resolution.

(i) Issue such other instructions to agencies, and request such reports and other information from them, as may be required to carry out the Council's responsibilities under the Act.

(j) Assist the President in preparing the annual Environmental Quality Report provided for in section 201 of the Act [42 U.S.C. 4341].

(k) Foster investigations, studies, surveys, research, and analyses relating to (i) ecological systems and environmental quality, (ii) the impact of new and changing technologies thereon, and (iii) means of preventing or reducing adverse effects from such technologies.

SEC. 4. *Amendments of E.O. 11472*. Executive Order No. 11472 of May 29, 1969, including the heading thereof, is hereby amended:

(1) By substituting for the term "the Environmental Quality Council", wherever it occurs, the following: "the Cabinet Committee on the Environment".

(2) By substituting for the term "the Council", wherever it occurs, the following: "the Cabinet Committee".

(3) By inserting in subsection (f) of section 101, after "Budget,", the following: "the Director of the Office of Science and Technology,".

(4) By substituting for subsection (g) of section 101 the following:

"(g) The Chairman of the Council on Environmental Quality (established by Public Law 91–190) [this chapter] shall assist the President in directing the affairs of the Cabinet Committee."

(5) By deleting subsection (c) of section 102.

(6) By substituting for "the Office of Science and Technology", in section 104, the following: "the Council on Environmental Quality (established by Public Law 91–190) [this chapter]".

(7) By substituting for "(hereinafter referred to as the 'Committee')", in section 201, the following: "(hereinafter referred to as the 'Citizens' Committee')".

(8) By substituting for the term "the Committee", wherever it occurs, the following: "the Citizens' Committee".

EX. ORD. NO. 11523. NATIONAL INDUSTRIAL POLLUTION CONTROL COUNCIL

Ex. Ord. No. 11523, eff. Apr. 9, 1970, 35 F.R. 5993, provided:

By virtue of the authority vested in me as President of the United States, and in furtherance of the purpose and policy of the National Environmental Policy Act of 1969 (Public Law 91–190, approved January 1, 1970) [this chapter], it is ordered as follows:

SECTION 1. *Establishment of the Council*. (a) There is hereby established the National Industrial Pollution Control Council (hereinafter referred to as "the Industrial Council") which shall be composed of a Chairman, a Vice-chairman, and other representatives of business and industry appointed by the Secretary of Commerce (hereinafter referred to as "the Secretary").

(b) The Secretary, with the concurrence of the Chairman, shall appoint an Executive Director of the Industrial Council.

SEC. 2. *Functions of the Industrial Council*. The Industrial Council shall advise the President and the Chairman of the Council on Environmental Quality, through the Secretary, on programs of industry relating to the quality of the environment. In particular, the Industrial Council may—

(1) Survey and evaluate the plans and actions of industry in the field of environmental quality.

(2) Identify and examine problems of the effects on the environment of industrial practices and the needs of industry for improvements in the quality of the environment, and recommend solutions to those problems.

(3) Provide liaison among members of the business and industrial community on environmental quality matters.

(4) Encourage the business and industrial community to improve the quality of the environment.

(5) Advise on plans and actions of Federal, State, and local agencies involving environmental quality policies affecting industry which are referred to it by the Secretary, or by the Chairman of the Council on Environmental Quality through the Secretary.

SEC. 3. *Subordinate Committees*. The Industrial Council may establish, with the concurrence of the Secretary, such subordinate committees as it may deem appropriate to assist in the performance of its functions. Each subordinate committee shall be headed by a chairman appointed by the Chairman of the Industrial Council with the concurrence of the Secretary.

SEC. 4. *Assistance for the Industrial Council*. In compliance with applicable law, and as necessary to serve the purposes of this order, the Secretary shall provide or arrange for administrative and staff services, support, and facilities for the Industrial Council and any of its subordinate committees.

SEC. 5. *Expenses*. Members of the Industrial Council or any of its subordinate committees shall receive no compensation from the United States by reason of their services hereunder, but may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

SEC. 6. *Regulations*. The provisions of Executive Order No. 11007 of February 26, 1962 (3 CFR 573) [see 5 U.S.C. 901 note] prescribing regulations for the formation and use of advisory committees, are hereby made applicable to the Industrial Council and each of its subordinate committees. The Secretary may exercise the discretionary powers set forth in that order.

SEC. 7. *Construction*. Nothing in this order shall be construed as subjecting any Federal agency, or any function vested by law in, or assigned pursuant to law to, any Federal agency to the authority of any other Federal agency or of the Industrial Council or of any of its subordinate committees, or as abrogating or restricting any such function in any manner.

RICHARD NIXON.

EXECUTIVE ORDER NO. 11643

Ex. Ord. No. 11643, eff. Feb. 8, 1972, 37 F.R. 2875, as amended by Ex. Ord. No. 11870, eff. July 18, 1975, 40 F.R. 30611; Ex. Ord. No. 11917, eff. May 28, 1976, 41 F.R. 22239, which related to environmental safeguards on activities for animal damage control on Federal lands, was revoked by Ex. Ord. No. 12342, Jan. 27, 1982, 47 F.R. 4223.

EX. ORD. NO. 11644. USE OF OFF-ROAD VEHICLES ON PUBLIC LANDS

Ex. Ord. No. 11644, Feb. 8, 1972, 37 F.R. 2877, as amended by Ex. Ord. No. 11989, May 24, 1977, 42 F.R. 26959; Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

An estimated 5 million off-road recreational vehicles—motorcycles, minibikes, trail bikes, snowmobiles, dunebuggies, all-terrain vehicles, and others—are in use in the United States today, and their popularity continues to increase rapidly. The widespread use of such vehicles on the public lands—often for legitimate purposes but also in frequent conflict with wise land and resource management practices, environmental values, and other types of recreational activity—has demonstrated the need for a unified Federal policy toward the use of such vehicles on the public lands.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States by the Constitution of the United States and in furtherance of the purpose and policy of the National Environmental Policy Act of 1969 (42 U.S.C. 4321), it is hereby ordered as follows:

SECTION 1. *Purpose*. It is the purpose of this order to establish policies and provide for procedures that will ensure that the use of off-road vehicles on public lands will be controlled and directed so as to protect the resources of those lands, to promote the safety of all users of those lands, and to minimize conflicts among the various uses of those lands.

SEC. 2. *Definitions*. As used in this order, the term:

(1) "public lands" means (A) all lands under the custody and control of the Secretary of the Interior and the Secretary of Agriculture, except Indian lands, (B) lands under the custody and control of the Tennessee Valley Authority that are situated in western Kentucky and Tennessee and are designated as "Land Between the Lakes," and (C) lands under the custody and control of the Secretary of Defense;

(2) "respective agency head" means the Secretary of the Interior, the Secretary of Defense, the Secretary of Agriculture, and the Board of Directors of the Tennessee Valley Authority, with respect to public lands under the custody and control of each;

(3) "off-road vehicle" means any motorized vehicle designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain; except that such term excludes (A) any registered motorboat, (B) any fire, military, emergency or law enforcement vehicle

when used for emergency purposes, and any combat or combat support vehicle when used for national defense purposes, and (C) any vehicle whose use is expressly authorized by the respective agency head under a permit, lease, license, or contract; and

(4) "official use" means use by an employee, agent, or designated representative of the Federal Government or one of its contractors in the course of his employment, agency, or representation.

SEC. 3. *Zones of Use*. (a) Each respective agency head shall develop and issue regulations and administrative instructions, within six months of the date of this order, to provide for administrative designation of the specific areas and trails on public lands on which the use of off-road vehicles may be permitted, and areas in which the use of off-road vehicles may not be permitted, and set a date by which such designation of all public lands shall be completed. Those regulations shall direct that the designation of such areas and trails will be based upon the protection of the resources of the public lands, promotion of the safety of all users of those lands, and minimization of conflicts among the various uses of those lands. The regulations shall further require that the designation of such areas and trails shall be in accordance with the following—

(1) Areas and trails shall be located to minimize damage to soil, watershed, vegetation, or other resources of the public lands.

(2) Areas and trails shall be located to minimize harassment of wildlife or significant disruption of wildlife habitats.

(3) Areas and trails shall be located to minimize conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands, and to ensure the compatibility of such uses with existing conditions in populated areas, taking into account noise and other factors.

(4) Areas and trails shall not be located in officially designated Wilderness Areas or Primitive Areas. Areas and trails shall be located in areas of the National Park system, Natural Areas, or National Wildlife Refuges and Game Ranges only if the respective agency head determines that off-road vehicle use in such locations will not adversely affect their natural, aesthetic, or scenic values.

(b) The respective agency head shall ensure adequate opportunity for public participation in the promulgation of such regulations and in the designation of areas and trails under this section.

(c) The limitations on off-road vehicle use imposed under this section shall not apply to official use.

SEC. 4. *Operating Conditions*. Each respective agency head shall develop and publish, within one year of the date of this order, regulations prescribing operating conditions for off-road vehicles on the public lands. These regulations shall be directed at protecting resource values, preserving public health, safety, and welfare, and minimizing use conflicts.

SEC. 5. *Public Information*. The respective agency head shall ensure that areas and trails where off-road vehicle use is permitted are well marked and shall provide for the publication and distribution of information, including maps, describing such areas and trails and explaining the conditions on vehicle use. He shall seek cooperation of relevant State agencies in the dissemination of this information.

SEC. 6. *Enforcement*. The respective agency head shall, where authorized by law, prescribe appropriate penalties for violation of regulations adopted pursuant to this order, and shall establish procedures for the enforcement of those regulations. To the extent permitted by law, he may enter into agreements with State or local governmental agencies for cooperative enforcement of laws and regulations relating to off-road vehicle use.

SEC. 7. *Consultation*. Before issuing the regulations or administrative instructions required by this order or designating areas or trails are required by this order and those regulations and administrative instructions, the Secretary of the Interior shall, as appropriate, consult with the Secretary of Energy and the Nuclear Regulatory Commission.

SEC. 8. *Monitoring of Effects and Review*. (a) The respective agency head shall monitor the effects of the use of off-road vehicles on lands under their jurisdictions. On the basis of the information gathered, they shall from time to time amend or rescind designation of areas or other actions taken pursuant to this order as necessary to further the policy of this order.

(b) The Council on Environmental Quality shall maintain a continuing review of the implementation of this order.

SEC. 9. *Special Protection of the Public Lands*. (a) Notwithstanding the provisions of Section 3 of this Order, the respective agency head shall, whenever he determines that the use of off-road vehicles will cause or is causing considerable adverse effects on the soil, vegetation, wildlife, wildlife habitat or cultural or historic resources of particular areas or trails of the public lands, immediately close such areas or trails to the type of off-road vehicle causing such effects, until such time as he determines that such adverse effects have been eliminated and that measures have been implemented to prevent future recurrence.

(b) Each respective agency head is authorized to adopt the policy that portions of the public lands within his

jurisdiction shall be closed to use by off-road vehicles except those areas or trails which are suitable and specifically designated as open to such use pursuant to Section 3 of this Order.

EXECUTIVE ORDER NO. 11987

Ex. Ord. No. 11987, May 24, 1977, 42 F.R. 26949, which directed executive agencies, and encouraged States, local governments, and private citizens, to restrict the introduction of exotic species into the natural ecosystems on lands and waters under their control, and which directed executive agencies to restrict the exportation of native species for introduction of such species into ecosystems outside the United States where they do not naturally occur, unless such introduction or exportation was found not to have an adverse effect on natural ecosystems, was revoked by Ex. Ord. No. 13112, §6(b), Feb. 3, 1999, 64 F.R. 6186, set out below.

EX. ORD. NO. 11988. FLOODPLAIN MANAGEMENT

Ex. Ord. No. 11988, May 24, 1977, 42 F.R. 26951, as amended by Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239; Ex. Ord. No. 13690, §2, Jan. 30, 2015, 80 F.R. 6425, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in furtherance of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4001 et seq.), and the Flood Disaster Protection Act of 1973 (Public Law 93–234, 87 Stat. 975) [see Short Title of 1973 Amendment note set out under 42 U.S.C. 4001], in order to avoid to the extent possible the long and short term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative, it is hereby ordered as follows:

SECTION 1. Each agency shall provide leadership and shall take action to reduce the risk of flood loss, to minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains in carrying out its responsibilities for (1) acquiring, managing, and disposing of Federal lands and facilities; (2) providing Federally undertaken, financed, or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities.

SEC. 2. In carrying out the activities described in Section 1 of this Order, each agency has a responsibility to evaluate the potential effects of any actions it may take in a floodplain; to ensure that its planning programs and budget requests reflect consideration of flood hazards and floodplain management; and to prescribe procedures to implement the policies and requirements of this Order, as follows, to the extent permitted by law:

(a)(1) Before taking an action, each agency shall determine whether the proposed action will occur in a floodplain—for major Federal actions significantly affecting the quality of the human environment, the evaluation required below will be included in any statement prepared under Section 102(2)(C) of the National Environmental Policy Act [42 U.S.C. 4332(2)(C)]. To determine whether the action is located in a floodplain, the agency shall use one of the approaches in Section 6(c) of this Order based on the best-available information and the Federal Emergency Management Agency's effective Flood Insurance Rate Map.

(2) If an agency has determined to, or proposes to, conduct, support, or allow an action to be located in a floodplain, the agency shall consider alternatives to avoid adverse effects and incompatible development in the floodplains. Where possible, an agency shall use natural systems, ecosystem processes, and nature-based approaches when developing alternatives for consideration. If the head of the agency finds that the only practicable alternative consistent with the law and with the policy set forth in this Order requires siting in a floodplain, the agency shall, prior to taking action, (i) design or modify its action in order to minimize potential harm to or within the floodplain, consistent with regulations issued in accord with Section 2(d) of this Order, and (ii) prepare and circulate a notice containing an explanation of why the action is proposed to be located in the floodplain.

(3) For programs subject to the Office of Management and Budget Circular A–95, the agency shall send the notice, not to exceed three pages in length including a location map, to the state and areawide A–95 clearinghouses for the geographic areas affected. The notice shall include: (i) the reasons why the action is proposed to be located in a floodplain; (ii) a statement indicating whether the action conforms to applicable state or local floodplain protection standards and (iii) a list of the alternatives considered. Agencies shall endeavor to allow a brief comment period prior to taking any action.

(4) Each agency shall also provide opportunity for early public review of any plans or proposals for actions in floodplains, in accordance with Section 2(b) of Executive Order No. 11514, as amended [set out above], including the development of procedures to accomplish this objective for Federal actions whose impact is not significant enough to require the preparation of an environmental impact statement under Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended [42 U.S.C. 4332(2)(C)].

(b) Any requests for new authorizations or appropriations transmitted to the Office of Management and Budget shall indicate, if an action to be proposed will be located in a floodplain, whether the proposed action is in accord with this Order.

(c) Each agency shall take floodplain management into account when formulating or evaluating any water and land use plans and shall require land and water resources use appropriate to the degree of hazard involved. Agencies shall include adequate provision for the evaluation and consideration of flood hazards in the regulations and operating procedures for the licenses, permits, loan or grants-in-aid programs that they administer. Agencies shall also encourage and provide appropriate guidance to applicants to evaluate the effects of their proposals in floodplains prior to submitting applications for Federal licenses, permits, loans or grants.

(d) As allowed by law, each agency shall issue or amend existing regulations and procedures within one year to comply with this Order. These procedures shall incorporate the Unified National Program for Floodplain Management of the Water Resources Council, and shall explain the means that the agency will employ to pursue the nonhazardous use of riverine, coastal and other floodplains in connection with the activities under its authority. To the extent possible, existing processes, such as those of the Council on Environmental Quality and the Water Resources Council, shall be utilized to fulfill the requirements of this Order. Agencies shall prepare their procedures in consultation with the Water Resources Council, the Administrator of the Federal Emergency Management Agency, and the Council on Environmental Quality, and shall update such procedures as necessary.

SEC. 3. In addition to the requirements of Section 2, agencies with responsibilities for Federal real property and facilities shall take the following measures:

(a) The regulations and procedures established under Section 2(d) of this Order shall, at a minimum, require the construction of Federal structures and facilities to be in accordance with the standards and criteria and to be consistent with the intent of those promulgated under the National Flood Insurance Program. The regulations and procedures must also be consistent with the Federal Flood Risk Management Standard (FFRMS). They shall deviate only to the extent that the standards of the Flood Insurance Program and FFRMS are demonstrably inappropriate for a given type of structure or facility.

(b) If, after compliance with the requirements of this Order, new construction of structures or facilities are to be located in a floodplain, accepted floodproofing and other flood protection measures shall be applied to new construction or rehabilitation. To achieve flood protection, agencies shall, wherever practicable, elevate structures above the elevation of the floodplain as defined in Section 6(c) of this Order rather than filling in land.

(c) If property used by the general public has suffered flood damage or is located in an identified flood hazard area, the responsible agency shall provide on structures, and other places where appropriate, conspicuous delineation of past and probable flood height in order to enhance public awareness of and knowledge about flood hazards.

(d) When property in floodplains is proposed for lease, easement, right-of-way, or disposal to non-Federal public or private parties, the Federal agency shall (1) reference in the conveyance those uses that are restricted under identified Federal, State or local floodplain regulations; and (2) attach other appropriate restrictions to the uses of properties by the grantee or purchaser and any successors, except where prohibited by law; or (3) withhold such properties from conveyance.

SEC. 4. In addition to any responsibilities under this Order and Sections 102, 202, and 205 of the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4012a, 4106, and 4128), agencies which guarantee, approve, regulate, or insure any financial transaction which is related to an area located in an area subject to the base flood shall, prior to completing action on such transaction, inform any private parties participating in the transaction of the hazards of locating structures in the area subject to the base flood.

SEC. 5. The head of each agency shall submit a report to the Council on Environmental Quality and to the Water Resources Council on June 30, 1978, regarding the status of their procedures and the impact of this Order on the agency's operations. Thereafter, the Water Resources Council shall periodically evaluate agency procedures and their effectiveness.

SEC. 6. As used in this Order:

(a) The term "agency" shall have the same meaning as the term "Executive agency" in Section 105 of Title 5 of the United States Code and shall include the military departments; the directives contained in this Order, however, are meant to apply only to those agencies which perform the activities described in Section 1 which are located in or affecting floodplains.

(b) The term "base flood" shall mean that flood which has a one percent or greater chance of occurrence in any given year.

(c) The term "floodplain" shall mean the lowland and relatively flat areas adjoining inland and coastal

waters including floodprone areas of offshore islands. The floodplain shall be established using one of the following approaches:

(1) Unless an exception is made under paragraph (2), the floodplain shall be:

(i) the elevation and flood hazard area that result from using a climate-informed science approach that uses the best-available, actionable hydrologic and hydraulic data and methods that integrate current and future changes in flooding based on climate science. This approach will also include an emphasis on whether the action is a critical action as one of the factors to be considered when conducting the analysis;

(ii) the elevation and flood hazard area that result from using the freeboard value, reached by adding an additional 2 feet to the base flood elevation for non-critical actions and by adding an additional 3 feet to the base flood elevation for critical actions;

(iii) the area subject to flooding by the 0.2 percent annual chance flood; or

(iv) the elevation and flood hazard area that result from using any other method identified in an update to the FFRMS.

(2) The head of an agency may except an agency action from paragraph (1) where it is in the interest of national security, where the agency action is an emergency action, where application to a Federal facility or structure is demonstrably inappropriate, or where the agency action is a mission-critical requirement related to a national security interest or an emergency action. When an agency action is excepted from paragraph (1) because it is in the interest of national security, it is an emergency action, or it is a mission-critical requirement related to a national security interest or an emergency action, the agency head shall rely on the area of land subject to the base flood.

(d) The term "critical action" shall mean any activity for which even a slight chance of flooding would be too great.

SEC. 7. Executive Order No. 11296 of August 10, 1966, is hereby revoked. All actions, procedures, and issuances taken under that Order and still in effect shall remain in effect until modified by appropriate authority under the terms of this Order.

SEC. 8. Nothing in this Order shall apply to assistance provided for emergency work essential to save lives and protect property and public health and safety, performed pursuant to Sections 403 and 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 (42 U.S.C. 5170b and 5192).

SEC. 9. To the extent the provisions of Section 2(a) of this Order are applicable to projects covered by Section 104(h) of the Housing and Community Development Act of 1974, as amended (88 Stat. 640, 42 U.S.C. 5304(h)), the responsibilities under those provisions may be assumed by the appropriate applicant, if the applicant has also assumed, with respect to such projects, all of the responsibilities for environmental review, decisionmaking, and action pursuant to the National Environmental Policy Act of 1969, as amended [42 U.S.C. 4321].

EX. ORD. NO. 11990. PROTECTION OF WETLANDS

Ex. Ord. No. 11990, May 24, 1977, 42 F.R. 26961, as amended by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in furtherance of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq*.), in order to avoid to the extent possible the long and short term adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative, it is hereby ordered as follows:

SECTION 1. (a) Each agency shall provide leadership and shall take action to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands in carrying out the agency's responsibilities for (1) acquiring, managing, and disposing of Federal lands and facilities; and (2) providing Federally undertaken, financed, or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities.

(b) This Order does not apply to the issuance by Federal agencies of permits, licenses, or allocations to private parties for activities involving wetlands on non-Federal property.

SEC. 2. (a) In furtherance of Section 101(b)(3) of the National Environmental Policy Act of 1969 (42 U.S.C. 4331(b)(3)) to improve and coordinate Federal plans, functions, programs and resources to the end that the Nation may attain the widest range of beneficial uses of the environment without degradation and risk to health or safety, each agency, to the extent permitted by law, shall avoid undertaking or providing assistance for new construction located in wetlands unless the head of the agency finds (1) that there is no practicable alternative to such construction, and (2) that the proposed action includes all practicable measures to minimize

harm to wetlands which may result from such use. In making this finding the head of the agency may take into account economic, environmental and other pertinent factors.

(b) Each agency shall also provide opportunity for early public review of any plans or proposals for new construction in wetlands, in accordance with Section 2(b) of Executive Order No. 11514, as amended [set out above], including the development of procedures to accomplish this objective for Federal actions whose impact is not significant enough to require the preparation of an environmental impact statement under Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended [42 U.S.C. 4332(2)(C)].

SEC. 3. Any requests for new authorizations or appropriations transmitted to the Office of Management and Budget shall indicate, if an action to be proposed will be located in wetlands, whether the proposed action is in accord with this Order.

SEC. 4. When Federally-owned wetlands or portions of wetlands are proposed for lease, easement, right-of-way or disposal to non-Federal public or private parties, the Federal agency shall (a) reference in the conveyance those uses that are restricted under identified Federal, State or local wetlands regulations; and (b) attach other appropriate restrictions to the uses of properties by the grantee or purchaser and any successor, except where prohibited by law; or (c) withhold such properties from disposal.

SEC. 5. In carrying out the activities described in Section 1 of this Order, each agency shall consider factors relevant to a proposal's effect on the survival and quality of the wetlands. Among these factors are:

(a) public health, safety, and welfare, including water supply, quality, recharge and discharge; pollution; flood and storm hazards; and sediment and erosion;

(b) maintenance of natural systems, including conservation and long term productivity of existing flora and fauna, species and habitat diversity and stability, hydrologic utility, fish, wildlife, timber, and food and fiber resources; and

(c) other uses of wetlands in the public interest, including recreational, scientific, and cultural uses.

SEC. 6. As allowed by law, agencies shall issue or amend their existing procedures in order to comply with this Order. To the extent possible, existing processes, such as those of the Council on Environmental Quality, shall be utilized to fulfill the requirements of this Order.

SEC. 7. As used in this Order:

(a) The term "agency" shall have the same meaning as the term "Executive agency" in Section 105 of Title 5 of the United States Code and shall include the military departments; the directives contained in this Order, however, are meant to apply only to those agencies which perform the activities described in Section 1 which are located in or affecting wetlands.

(b) The term "new construction" shall include draining, dredging, channelizing, filling, diking, impounding, and related activities and any structures or facilities begun or authorized after the effective date of this Order.

(c) The term "wetlands" means those areas that are inundated by surface or ground water with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds.

SEC. 8. This Order does not apply to projects presently under construction, or to projects for which all of the funds have been appropriated through Fiscal Year 1977, or to projects and programs for which a draft or final environmental impact statement will be filed prior to October 1, 1977. The provisions of Section 2 of this Order shall be implemented by each agency not later than October 1, 1977.

SEC. 9. Nothing in this Order shall apply to assistance provided for emergency work, essential to save lives and protect property and public health and safety, performed pursuant to Sections 305 and 306 of the Disaster Relief Act of 1974 (88 Stat. 148, 42 U.S.C. 5145 and 5146).

SEC. 10. To the extent the provisions of Sections 2 and 5 of this Order are applicable to projects covered by Section 104(h) of the Housing and Community Development Act of 1974, as amended (88 Stat. 640, 42 U.S.C. 5304(h)), the responsibilities under those provisions may be assumed by the appropriate applicant, if the applicant has also assumed, with respect to such projects, all of the responsibilities for environmental review, decisionmaking, and action pursuant to the National Environmental Policy Act of 1969, as amended [42 U.S.C. 4321 et seq.].

EX. ORD. NO. 12088. FEDERAL COMPLIANCE WITH POLLUTION CONTROL STANDARDS

Ex. Ord. No. 12088, Oct. 13, 1978, 43 F.R. 47707, as amended by Ex. Ord. No. 12580, Jan. 23, 1987, 52 F.R. 2928; Ex. Ord. No. 13148, §901, Apr. 21, 2000, 65 F.R. 24604, provided:

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 22 of the Toxic Substances Control Act (15 U.S.C. 2621), Section 313 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1323), Section 1447 of the Public Health Service Act, as

amended by the Safe Drinking Water Act [now Safe Drinking Water Act of 1974] (42 U.S.C. 300j–6), Section 118 of the Clean Air Act, as amended (42 U.S.C. 7418(b)), Section 4 of the Noise Control Act of 1972 (42 U.S.C. 4903), Section 6001 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6961), and Section 301 of Title 3 of the United States Code, and to ensure Federal compliance with applicable pollution control standards, it is hereby ordered as follows:

1–1. APPLICABILITY OF POLLUTION CONTROL STANDARDS

1–101. The head of each Executive agency is responsible for ensuring that all necessary actions are taken for the prevention, control, and abatement of environmental pollution with respect to Federal facilities and activities under the control of the agency.

1–102. The head of each Executive agency is responsible for compliance with applicable pollution control standards, including those established pursuant to, but not limited to, the following:

(a) Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

(b) Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.).

(c) Public Health Service Act, as amended by the Safe Drinking Water Act [now Safe Drinking Water Act of 1974] (42 U.S.C. 300f et seq.).

(d) Clean Air Act, as amended (42 U.S.C. 7401 et seq.).

(e) Noise Control Act of 1972 (42 U.S.C. 4901 et seq.).

(f) Solid Waste Disposal Act, as amended (42 U.S.C. 6901 et seq.).

(g) Radiation guidance pursuant to Section 274(h) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021(h); see also, the Radiation Protection Guidance to Federal Agencies for Diagnostic X Rays approved by the President on January 26, 1978 and published at page 4377 of the Federal Register on February 1, 1978).

(h) Marine Protection, Research, and Sanctuaries Act of 1972, as amended (33 U.S.C. 1401, 1402, 1411–1421, 1441–1444 and 16 U.S.C. 1431–1434) [16 U.S.C. 1431 et seq., 1447 et seq.; 33 U.S.C. 1401 et seq., 2801 et seq.].

(i) Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136 et seq.).

1–103. "Applicable pollution control standards" means the same substantive, procedural, and other requirements that would apply to a private person.

1–2. AGENCY COORDINATION

1–201. Each Executive agency shall cooperate with the Administrator of the Environmental Protection Agency, hereinafter referred to as the Administrator, and State, interstate, and local agencies in the prevention, control, and abatement of environmental pollution.

1–202. Each Executive agency shall consult with the Administrator and with State, interstate, and local agencies concerning the best techniques and methods available for the prevention, control, and abatement of environmental pollution.

1–3. TECHNICAL ADVICE AND OVERSIGHT

1–301. The Administrator shall provide technical advice and assistance to Executive agencies in order to ensure their cost effective and timely compliance with applicable pollution control standards.

1–302. The administrator shall conduct such reviews and inspections as may be necessary to monitor compliance with applicable pollution control standards by Federal facilities and activities.

1–4. POLLUTION CONTROL PLAN

[Revoked by Ex. Ord. No. 13148, §901, Apr. 21, 2000, 65 F.R. 24604.]

1–5. FUNDING

1–501. The head of each Executive agency shall ensure that sufficient funds for compliance with applicable pollution control standards are requested in the agency budget.

1–502. The head of each Executive agency shall ensure that funds appropriated and apportioned for the prevention, control and abatement of environmental pollution are not used for any other purpose unless permitted by law and specifically approved by the Office of Management and Budget.

1–6. COMPLIANCE WITH POLLUTION CONTROLS

1–601. Whenever the Administrator or the appropriate State, interstate, or local agency notifies an Executive agency that it is in violation of an applicable pollution control standard (see Section 1–102 of this

Order), the Executive agency shall promptly consult with the notifying agency and provide for its approval a plan to achieve and maintain compliance with the applicable pollution control standard. This plan shall include an implementation schedule for coming into compliance as soon as practicable.

1–602. The Administrator shall make every effort to resolve conflicts regarding such violation between Executive agencies and, on request of any party, such conflicts between an Executive agency and a State, interstate, or a local agency. If the Administrator cannot resolve a conflict, the Administrator shall request the Director of the Office of Management and Budget to resolve the conflict.

1–603. The Director of the Office of Management and Budget shall consider unresolved conflicts at the request of the Administrator. The Director shall seek the Administrator's technological judgment and determination with regard to the applicability of statues and regulations.

1–604. These conflict resolution procedures are in addition to, not in lieu of, other procedures, including sanctions, for the enforcement of applicable pollution control standards.

1–605. Except as expressly provided by a Presidential exemption under this Order, nothing in this Order, nor any action or inaction under this Order, shall be construed to revise or modify any applicable pollution control standard.

1–7. LIMITATION ON EXEMPTIONS

1–701. Exemptions from applicable pollution control standards may only be granted under statues cited in Section 1–102(a) through 1–102(f) if the President makes the required appropriate statutory determination: that such exemption is necessary (a) in the interest of national security, or (b) in the paramount interest of the United States.

1–702. The head of an Executive agency may, from time to time, recommend to the President through the Director of the Office of Management and Budget, that an activity or facility, or uses thereof, be exempt from an applicable pollution control standard.

1–703. The Administrator shall advise the President, through the Director of the Office of Management and Budget, whether he agrees or disagrees with a recommendation for exemption and his reasons therefor.

1–704. The Director of the Office of Management and Budget must advise the President within sixty days of receipt of the Administrator's views.

1–8. GENERAL PROVISIONS

1–801. The head of each Executive agency that is responsible for the construction or operation of Federal facilities outside the United States shall ensure that such construction or operation complies with the environmental pollution control standards of general applicability in the host country or jurisdiction.

1–802. Nothing in this Order shall create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

1–803. Executive Order No. 11752 of December 17, 1973, is revoked.

EX. ORD. NO. 12114. ENVIRONMENTAL EFFECTS ABROAD OF MAJOR FEDERAL ACTIONS

Ex. Ord. No. 12114, Jan. 4, 1979, 44 F.R. 1957, provided:

By virtue of the authority vested in me by the Constitution and the laws of the United States, and as President of the United States, in order to further environmental objectives consistent with the foreign policy and national security policy of the United States, it is ordered as follows:

SECTION 1

1–1. *Purpose and Scope*. The purpose of this Executive Order is to enable responsible officials of Federal agencies having ultimate responsibility for authorizing and approving actions encompassed by this Order to be informed of pertinent environmental considerations and to take such considerations into account, with other pertinent considerations of national policy, in making decisions regarding such actions. While based on independent authority, this Order furthers the purpose of the National Environmental Policy Act [42 U.S.C. 4321 et seq.] and the Marine Protection Research and Sanctuaries Act [16 U.S.C. 1431 et seq. and 33 U.S.C. 1401 et seq.] and the Deepwater Port Act [33 U.S.C. 1501 et seq.] consistent with the foreign policy and national security policy of the United States, and represents the United States government's exclusive and complete determination of the procedural and other actions to be taken by Federal agencies to further the purpose of the National Environmental Policy Act, with respect to the environment outside the United States, its territories and possessions.

SECTION 2

2–1. *Agency Procedures*. Every Federal agency taking major Federal actions encompassed hereby and not exempted herefrom having significant effects on the environment outside the geographical borders of the

United States and its territories and possessions shall within eight months after the effective date of this Order have in effect procedures to implement this Order. Agencies shall consult with the Department of State and the Council on Environmental Quality concerning such procedures prior to placing them in effect.

2–2. *Information Exchange*. To assist in effectuating the foregoing purpose, the Department of State and the Council on Environmental Quality in collaboration with other interested Federal agencies and other nations shall conduct a program for exchange on a continuing basis of information concerning the environment. The objectives of this program shall be to provide information for use by decisionmakers, to heighten awareness of and interest in environmental concerns and, as appropriate, to facilitate environmental cooperation with foreign nations.

2–3. *Actions Included*. Agencies in their procedures under Section 2–1 shall establish procedures by which their officers having ultimate responsibility for authorizing and approving actions in one of the following categories encompassed by this Order, take into consideration in making decisions concerning such actions, a document described in Section 2–4(a):

(a) major Federal actions significantly affecting the environment of the global commons outside the jurisdiction of any nation (e.g., the oceans or Antarctica);

(b) major Federal actions significantly affecting the environment of a foreign nation not participating with the United States and not otherwise involved in the action;

(c) major Federal actions significantly affecting the environment of a foreign nation which provide to that nation:

(1) a product, or physical project producing a principal product or an emission or effluent, which is prohibited or strictly regulated by Federal law in the United States because its toxic effects on the environment create a serious public health risk; or

(2) a physical project which in the United States is prohibited or strictly regulated by Federal law to protect the environment against radioactive substances.

(d) major Federal actions outside the United States, its territories and possessions which significantly affect natural or ecological resources of global importance designated for protection under this subsection by the President, or, in the case of such a resource protected by international agreement binding on the United States, by the Secretary of State. Recommendations to the President under this subsection shall be accompanied by the views of the Council on Environmental Quality and the Secretary of State.

2–4. *Applicable Procedures*. (a) There are the following types of documents to be used in connection with actions described in Section 2–3:

(i) environmental impact statements (including generic, program and specific statements);

(ii) bilateral or multilateral environmental studies, relevant or related to the proposed action, by the United States and one [or more] more foreign nations, or by an international body or organization in which the United States is a member or participant; or

(iii) concise reviews of the environmental issues involved, including environmental assessments, summary environmental analyses or other appropriate documents.

(b) Agencies shall in their procedures provide for preparation of documents described in Section 2–4(a), with respect to actions described in Section 2–3, as follows:

(i) for effects described in Section 2–3(a), an environmental impact statement described in Section 2–4(a)(i);

(ii) for effects described in Section 2–3(b), a document described in Section 2–4(a)(ii) or (iii), as determined by the agency;

(iii) for effects described in Section 2–3(c), a document described in Section 2–4(a)(ii) or (iii), as determined by the agency;

(iv) for effects described in Section 2–3(d), a document described in Section 2–4(a)(i), (ii) or (iii), as determined by the agency.

Such procedures may provide that an agency need not prepare a new document when a document described in Section 2–4(a) already exists.

(c) Nothing in this Order shall serve to invalidate any existing regulations of any agency which have been adopted pursuant to court order or pursuant to judicial settlement of any case or to prevent any agency from providing in its procedures for measures in addition to those provided for herein to further the purpose of the National Environmental Policy Act [43 U.S.C. 4321 et seq.] and other environmental laws, including the Marine Protection Research and Sanctuaries Act [16 U.S.C. 1431 et seq. and 33 U.S.C. 1401 et seq.], and the Deepwater Port Act [33 U.S.C. 1501 et seq.], consistent with the foreign and national security policies of the United States.

(d) Except as provided in Section 2–5(b), agencies taking action encompassed by this Order shall, as soon as feasible, inform other Federal agencies with relevant expertise of the availability of environmental

documents prepared under this Order.

Agencies in their procedures under Section 2–1 shall make appropriate provision for determining when an affected nation shall be informed in accordance with Section 3–2 of this Order of the availability of environmental documents prepared pursuant to those procedures.

In order to avoid duplication of resources, agencies in their procedures shall provide for appropriate utilization of the resources of other Federal agencies with relevant environmental jurisdiction or expertise.

2–5. *Exemptions and Considerations*. (a) Notwithstanding Section 2–3, the following actions are exempt from this Order:

(i) actions not having a significant effect on the environment outside the United States as determined by the agency;

(ii) actions taken by the President;

(iii) actions taken by or pursuant to the direction of the President or Cabinet officer when the national security or interest is involved or when the action occurs in the course of an armed conflict;

(iv) intelligence activities and arms transfers;

(v) export licenses or permits or export approvals, and actions relating to nuclear activities except actions providing to a foreign nation a nuclear production or utilization facility as defined in the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.], as amended, or a nuclear waste management facility;

(vi) votes and other actions in international conferences and organizations;

(vii) disaster and emergency relief action.

(b) Agency procedures under Section 2–1 implementing Section 2–4 may provide for appropriate modifications in the contents, timing and availability of documents to other affected Federal agencies and affected nations, where necessary to:

(i) enable the agency to decide and act promptly as and when required;

(ii) avoid adverse impacts on foreign relations or infringement in fact or appearance of other nations' sovereign responsibilities, or

(iii) ensure appropriate reflection of:

(1) diplomatic factors;

(2) international commercial, competitive and export promotion factors;

(3) needs for governmental or commercial confidentiality;

(4) national security considerations;

(5) difficulties of obtaining information and agency ability to analyze meaningfully environmental effects of a proposed action; and

(6) the degree to which the agency is involved in or able to affect a decision to be made.

(c) Agency procedure under Section 2–1 may provide for categorical exclusions and for such exemptions in addition to those specified in subsection (a) of this Section as may be necessary to meet emergency circumstances, situations involving exceptional foreign policy and national security sensitivities and other such special circumstances. In utilizing such additional exemptions agencies shall, as soon as feasible, consult with the Department of State and the Council on Environmental Quality.

(d) The provisions of Section 2–5 do not apply to actions described in Section 2–3(a) unless permitted by law.

SECTION 3

3–1. *Rights of Action*. This Order is solely for the purpose of establishing internal procedures for Federal agencies to consider the significant effects of their actions on the environment outside the United States, its territories and possessions, and nothing in this Order shall be construed to create a cause of action.

3–2. *Foreign Relations*. The Department of State shall coordinate all communications by agencies with foreign governments concerning environmental agreements and other arrangements in implementation of this Order.

3–3. *Multi-Agency Actions*. Where more than one Federal agency is involved in an action or program, a lead agency, as determined by the agencies involved, shall have responsibility for implementation of this Order.

3–4. *Certain Terms*. For purposes of this Order, "environment" means the natural and physical environment and excludes social, economic and other environments; and an action significantly affects the environment if it does significant harm to the environment even though on balance the agency believes the action to be beneficial to the environment. The term "export approvals" in Section 2–5(a)(v) does not mean or include direct loans to finance exports.

3–5. *Multiple Impacts*. If a major Federal action having effects on the environment of the United States or the global commons requires preparation of an environmental impact statement, and if the action also has effects on the environment of a foreign nation, an environmental impact statement need not be prepared with

respect to the effects on the environment of the foreign nation.

JIMMY CARTER.

EXECUTIVE ORDER NO. 12194

Ex. Ord. No. 12194, Feb. 21, 1980, 45 F.R. 12209, which established the Radiation Policy Council and provided for its membership, functions, etc., was revoked by Ex. Ord. No. 12379, §23, Aug. 17, 1982, 47 F.R. 36100, formerly set out as a note under section 1013 of Title 5, Government Organization and Employees.

EXECUTIVE ORDER NO. 12737

Ex. Ord. No. 12737, Dec. 12, 1990, 55 F.R. 51681, which established President's Commission on Environmental Quality and provided for its functions and administration, was revoked by Ex. Ord. No. 12852, §4(c), June 29, 1993, 58 F.R. 35841, formerly set out below.

EX. ORD. NO. 12761. ESTABLISHMENT OF PRESIDENT'S ENVIRONMENT AND CONSERVATION CHALLENGE AWARDS

Ex. Ord. No. 12761, May 21, 1991, 56 F.R. 23645, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to establish, in accordance with the goals and purposes of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq*.), the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 *et seq*.), and the National Environmental Education Act, Public Law 101–619, 104 Stat. 3325 (1990) [20 U.S.C. 5501 et seq.], an awards program to raise environmental awareness and to recognize outstanding achievements in the United States and in its territories in the areas of conservation and environmental protection by both the public and private sectors, it is hereby ordered as follows:

SECTION 1. *Establishment.* The President's Environment and Conservation Challenge Awards program is established for the purposes of recognizing outstanding environmental achievements by U.S. citizens, enterprises, or programs; providing an incentive for environmental accomplishment; promoting cooperative partnerships between diverse groups working together to achieve common environmental goals; and identifying successful environmental programs that can be replicated.

SEC. 2. *Administration*. (a) The Council on Environmental Quality, with the assistance of the President's Commission on Environmental Quality, shall organize, manage, and administer the awards program, including the development of selection criteria, the nomination of eligible individuals to receive the award, and the selection of award recipients.

(b) Any expenses of the program shall be paid from funds available for the expenses of the Council on Environmental Quality.

SEC. 3. *Awards*. (a) Up to three awards in each of the following four categories shall be made annually to eligible individuals, organizations, groups, or entities:

(i) Quality Environmental Management Awards (incorporation of environmental concerns into management decisions and practices);

(ii) Partnership Awards (successful coalition building efforts);

(iii) Innovation Awards (innovative technology programs, products, or processes); and

(iv) Education and Communication Awards (education and information programs contributing to the development of an ethic fostering conservation and environmental protection).

(b) Presidential citations shall be given to eligible program finalists who demonstrate notable or unique achievements, but who are not selected to receive awards.

SEC. 4. *Eligibility*. Only residents of the United States and organizations, groups, or entities doing business in the United States are eligible to receive an award under this program. An award under this program shall be given only for achievements in the United States or its territories. Organizations, groups, or entities may be profit or nonprofit, public or private entities.

SEC. 5. *Information System*. The Council on Environmental Quality shall establish and maintain a data bank with information about award nominees to catalogue and publicize model conservation or environmental protection programs which could be replicated.

GEORGE BUSH.

EXECUTIVE ORDER NO. 12852

Ex. Ord. No. 12852, June 29, 1993, 58 F.R. 35841, as amended by Ex. Ord. No. 12855, July 19, 1993, 58 F.R. 39107; Ex. Ord. No. 12965, June 27, 1995, 60 F.R. 34087; Ex. Ord. No. 12980, Nov. 17, 1995, 60 F.R. 57819; Ex. Ord. No. 13053, June 30, 1997, 62 F.R. 39945 [35945]; Ex. Ord. No. 13114, Feb. 25, 1999, 64 F.R. 10099, which established the President's Council on Sustainable Development, was revoked by Ex. Ord.

No. 13138, §3(f), Sept. 30, 1999, 64 F.R. 53880, formerly set out as a note under section 1013 of Title 5, Government Organization and Employees.

EXECUTIVE ORDER NO. 12898

Ex. Ord. No. 12898, Feb. 11, 1994, 59 F.R. 7629, as amended by Ex. Ord. No. 12948, Jan. 30, 1995, 60 F.R. 6381; Ex. Ord. No. 14008, §220, Jan. 27, 2021, 86 F.R. 7629; Ex. Ord. No. 14082, §4(b), Sept. 12, 2022, 87 F.R. 56863; Ex. Ord. No. 14096, §7, Apr. 21, 2023, 88 F.R. 25258, which related to Federal actions to address environmental justice in minority populations and low-income populations, was revoked by Ex. Ord. No. 14173, §3(a)(i), Jan. 21, 2025, 90 F.R. 8634.

EX. ORD. NO. 13045. PROTECTION OF CHILDREN FROM ENVIRONMENTAL HEALTH RISKS AND SAFETY RISKS

Ex. Ord. No. 13045, Apr. 21, 1997, 62 F.R. 19885, as amended by Ex. Ord. No. 13229, Oct. 9, 2001, 66 F.R. 52013; Ex. Ord. No. 13296, Apr. 18, 2003, 68 F.R. 19931, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Policy.*

1–101. A growing body of scientific knowledge demonstrates that children may suffer disproportionately from environmental health risks and safety risks. These risks arise because: children's neurological, immunological, digestive, and other bodily systems are still developing; children eat more food, drink more fluids, and breathe more air in proportion to their body weight than adults; children's size and weight may diminish their protection from standard safety features; and children's behavior patterns may make them more susceptible to accidents because they are less able to protect themselves. Therefore, to the extent permitted by law and appropriate, and consistent with the agency's mission, each Federal agency:

(a) shall make it a high priority to identify and assess environmental health risks and safety risks that may disproportionately affect children; and

(b) shall ensure that its policies, programs, activities, and standards address disproportionate risks to children that result from environmental health risks or safety risks.

1–102. Each independent regulatory agency is encouraged to participate in the implementation of this order and comply with its provisions.

SEC. 2. *Definitions*. The following definitions shall apply to this order.

2–201. "Federal agency" means any authority of the United States that is an agency under 44 U.S.C. 3502(1) other than those considered to be independent regulatory agencies under 44 U.S.C. 3502(5). For purposes of this order, "military departments," as defined in 5 U.S.C. 102, are covered under the auspices of the Department of Defense.

2–202. "Covered regulatory action" means any substantive action in a rulemaking, initiated after the date of this order or for which a Notice of Proposed Rulemaking is published 1 year after the date of this order, that is likely to result in a rule that may:

(a) be "economically significant" under Executive Order 12866 [5 U.S.C. 601 note] (a rulemaking that has an annual effect on the economy of $100 million or more or would adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities); and

(b) concern an environmental health risk or safety risk that an agency has reason to believe may disproportionately affect children.

2–203. "Environmental health risks and safety risks" mean risks to health or to safety that are attributable to products or substances that the child is likely to come in contact with or ingest (such as the air we breath, the food we eat, the water we drink or use for recreation, the soil we live on, and the products we use or are exposed to).

SEC. 3. *Task Force on Environmental Health Risks and Safety Risks to Children.*

3–301. There is hereby established the Task Force on Environmental Health Risks and Safety Risks to Children ("Task Force").

3–302. The Task Force will report to the President in consultation with the Domestic Policy Council, the National Science and Technology Council, the Council on Environmental Quality, and the Office of Management and Budget (OMB).

3–303. *Membership*. The Task Force shall be composed of the:

(a) Secretary of Health and Human Services, who shall serve as a Co-Chair of the Council;

(b) Administrator of the Environmental Protection Agency, who shall serve as a Co-Chair of the Council;

(c) Secretary of Education;

(d) Secretary of Labor;

(e) Attorney General;
(f) Secretary of Energy;
(g) Secretary of Housing and Urban Development;
(h) Secretary of Agriculture;
(i) Secretary of Transportation;
(j) Director of the Office of Management and Budget;
(k) Chair of the Council on Environmental Quality;
(l) Chair of the Consumer Product Safety Commission;
(m) Assistant to the President for Economic Policy;
(n) Assistant to the President for Domestic Policy;
(o) Director of the Office of Science and Technology Policy;
(p) Chair of the Council of Economic Advisers; and
(q) Such other officials of executive departments and agencies as the President may, from time to time, designate.

Members of the Task Force may delegate their responsibilities under this order to subordinates.

3–304. *Functions.* The Task Force shall recommend to the President Federal strategies for children's environmental health and safety, within the limits of the Administration's budget, to include the following elements:

(a) statements of principles, general policy, and targeted annual priorities to guide the Federal approach to achieving the goals of this order;

(b) a coordinated research agenda for the Federal Government, including steps to implement the review of research databases described in section 4 of this order;

(c) recommendations for appropriate partnerships among Federal, State, local, and tribal governments and the private, academic, and nonprofit sectors;

(d) proposals to enhance public outreach and communication to assist families in evaluating risks to children and in making informed consumer choices;

(e) an identification of high-priority initiatives that the Federal Government has undertaken or will undertake in advancing protection of children's environmental health and safety; and

(f) a statement regarding the desirability of new legislation to fulfill or promote the purposes of this order.

3–305. The Task Force shall prepare a biennial report on research, data, or other information that would enhance our ability to understand, analyze, and respond to environmental health risks and safety risks to children. For purposes of this report, executive departments, the Environmental Protection Agency, and other agencies identified by the Task Force shall identify and specifically describe for the Task Force key data needs related to environmental health risks and safety risks to children that have arisen in the course of the agency's programs and activities. Each report shall also detail the accomplishments of the Task Force from the date of the preceding report. The Task Force shall incorporate agency submissions into its report and ensure that this report is publicly available and widely disseminated. The Office of Science and Technology Policy and the National Science and Technology Council shall ensure that this report is fully considered in establishing research priorities.

3–306. The Task Force shall exist for 8 years from the date of this order.

SEC. 4. *Research Coordination and Integration.*

4–401. Within 6 months of the date of this order, the Task Force shall develop or direct to be developed a review of existing and planned data resources and a proposed plan for ensuring that researchers and Federal research agencies have access to information on all research conducted or funded by the Federal Government that is related to adverse health risks in children resulting from exposure to environmental health risks or safety risks. The National Science and Technology Council shall review the plan.

4–402. The plan shall promote the sharing of information on academic and private research. It shall include recommendations to encourage that such data, to the extent permitted by law, is available to the public, the scientific and academic communities, and all Federal agencies.

SEC. 5. *Agency Environmental Health Risk or Safety Risk Regulations.*

5–501. For each covered regulatory action submitted to OMB's Office of Information and Regulatory Affairs (OIRA) for review pursuant to Executive Order 12866 [5 U.S.C. 601 note], the issuing agency shall provide to OIRA the following information developed as part of the agency's decisionmaking process, unless prohibited by law:

(a) an evaluation of the environmental health or safety effects of the planned regulation on children; and

(b) an explanation of why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the agency.

5–502. In emergency situations, or when an agency is obligated by law to act more quickly than normal

review procedures allow, the agency shall comply with the provisions of this section to the extent practicable. For those covered regulatory actions that are governed by a court-imposed or statutory deadline, the agency shall, to the extent practicable, schedule any rulemaking proceedings so as to permit sufficient time for completing the analysis required by this section.

5–503. The analysis required by this section may be included as part of any other required analysis, and shall be made part of the administrative record for the covered regulatory action or otherwise made available to the public, to the extent permitted by law.

SEC. 6. *Interagency Forum on Child and Family Statistics.*

6–601. The Director of the OMB ("Director") shall convene an Interagency Forum on Child and Family Statistics ("Forum"), which will include representatives from the appropriate Federal statistics and research agencies. The Forum shall produce a biennial compendium ("Report") of the most important indicators of the well-being of the Nation's children.

6–602. The Forum shall determine the indicators to be included in each Report and identify the sources of data to be used for each indicator. The Forum shall provide an ongoing review of Federal collection and dissemination of data on children and families, and shall make recommendations to improve the coverage and coordination of data collection and to reduce duplication and overlap.

6–603. The Report shall be published by the Forum in collaboration with the National Institute of Child Health and Human Development [now the Eunice Kennedy Shriver National Institute of Child Health and Human Development]. The Forum shall present the first annual Report to the President, through the Director, by July 31, 1997. The Report shall be published biennially thereafter, using the most recently available data.

SEC. 7. *General Provisions.*

7–701. This order is intended only for internal management of the executive branch. This order is not intended, and should not be construed to create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or its employees. This order shall not be construed to create any right to judicial review involving the compliance or noncompliance with this order by the United States, its agencies, its officers, or any other person.

7–702. Executive Order 12606 of September 2, 1987 is revoked.

7–703. Nothing in this order shall be construed to impair or otherwise affect the functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

EX. ORD. NO. 13061. FEDERAL SUPPORT OF COMMUNITY EFFORTS ALONG AMERICAN HERITAGE RIVERS

Ex. Ord. No. 13061, Sept. 11, 1997, 62 F.R. 48445, as amended by Ex. Ord. No. 13093, July 27, 1998, 63 F.R. 40357, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Environmental Policy Act of 1969 (Public Law 91–190) [42 U.S.C. 4321 et seq.], and in order to protect and restore rivers and their adjacent communities, it is hereby ordered as follows:

SECTION 1. *Policies.*

(a) The American Heritage Rivers initiative has three objectives: natural resource and environmental protection, economic revitalization, and historic and cultural preservation.

(b) Executive agencies ("agencies"), to the extent permitted by law and consistent with their missions and resources, shall coordinate Federal plans, functions, programs, and resources to preserve, protect, and restore rivers and their associated resources important to our history, culture, and natural heritage.

(c) Agencies shall develop plans to bring increased efficiencies to existing and authorized programs with goals that are supportive of protection and restoration of communities along rivers.

(d) In accordance with Executive Order 12630 [5 U.S.C. 601 note], agencies shall act with due regard for the protection of private property provided for by the Fifth Amendment to the United States Constitution. No new regulatory authority is created as a result of the American Heritage Rivers initiative. This initiative will not interfere with matters of State, local, and tribal government jurisdiction.

(e) In furtherance of these policies, the President will designate rivers that meet certain criteria as "American Heritage Rivers."

(f) It is the policy of the Federal Government that communities shall nominate rivers as American Heritage Rivers and the Federal role will be solely to support community-based efforts to preserve, protect, and restore these rivers and their communities.

(g) Agencies should, to the extent practicable, help identify resources in the private and nonprofit sectors to aid revitalization efforts.

(h) Agencies are encouraged, to the extent permitted by law, to develop partnerships with State, local, and tribal governments and community and nongovernmental organizations. Agencies will be responsive to the

diverse needs of different kinds of communities from the core of our cities to remote rural areas and shall seek to ensure that the role played by the Federal Government is complementary to the plans and work being carried out by State, local, and tribal governments. To the extent possible, Federal resources will be strategically directed to complement resources being spent by these governments.

(i) Agencies shall establish a method for field offices to assess the success of the American Heritage River initiative and provide a means to recommend changes that will improve the delivery and accessibility of Federal services and programs. Agencies are directed, where appropriate, to reduce and make more flexible procedural requirements and paperwork related to providing assistance to communities along designated rivers.

(j) Agencies shall commit to a policy under which they will seek to ensure that their actions have a positive effect on the natural, historic, economic, and cultural resources of American Heritage River communities. The policy will require agencies to consult with American Heritage River communities early in the planning stages of Federal actions, take into account the communities' goals and objectives and ensure that actions are compatible with the overall character of these communities. Agencies shall seek to ensure that their help for one community does not adversely affect neighboring communities. Additionally, agencies are encouraged to develop formal and informal partnerships to assist communities. Local Federal facilities, to the extent permitted by law and consistent with the agencies' missions and resources, should provide public access, physical space, technical assistance, and other support for American Heritage River communities.

(k) In addition to providing support to designated rivers, agencies will work together to provide information and services to all communities seeking support.

SEC. 2. *Process for Nominating an American Heritage River.*

(a) *Nomination*. Communities, in coordination with their State, local, or tribal governments, can nominate their river, river stretch, or river confluence for designation as an American Heritage River. When several communities are involved in the nomination of the same river, nominations will detail the coordination among the interested communities and the role each will play in the process. Individuals living outside the community may not nominate a river.

(b) *Selection Criteria*. Nominations will be judged based on the following:

(1) the characteristics of the natural, economic, agricultural, scenic, historic, cultural, or recreational resources of the river that render it distinctive or unique;

(2) the effectiveness with which the community has defined its plan of action and the extent to which the plan addresses, either through planned actions or past accomplishments, all three American Heritage Rivers objectives, which are set forth in section 1(a) of this order;

(3) the strength and diversity of community support for the nomination as evidenced by letters from elected officials; landowners; private citizens; businesses; and especially State, local, and tribal governments. Broad community support is essential to receiving the American Heritage River designation; and

(4) willingness and capability of the community to forge partnerships and agreements to implement their plan to meet their goals and objectives.

(c) *Recommendation Process.*

The Chair of the Council on Environmental Quality ("CEQ") shall develop a fair and objective procedure to obtain the views of a diverse group of experts for the purpose of making recommendations to the President as to which rivers shall be designated. These experts shall reflect a variety of viewpoints, such as those representing natural, cultural, and historic resources; scenic, environmental, and recreation interests; tourism, transportation, and economic development interests; and industries such as agriculture, hydropower, manufacturing, mining, and forest management. The Chair of the CEQ will ensure that the rivers recommended represent a variety of stream sizes, diverse geographical locations, and a wide range of settings from urban to rural and ensure that relatively pristine, successful revitalization efforts are considered as well as degraded rivers in need of restoration.

(d) *Designation.*

(1) The President will designate certain rivers as American Heritage Rivers. Based on the receipt of a sufficient number of qualified nominations, up to 20 rivers will be designated in the first phase of the initiative.

(2) The Interagency Committee provided for in section 3 of this order shall develop a process by which any community that nominates and has its river designated may have this designation terminated at its request.

(3) Upon a determination by the Chair of the CEQ that a community has failed to implement its plan, the Chair may recommend to the President that a designation be revoked. The Chair shall notify the community at least 30 days prior to making such a recommendation to the President. Based on that recommendation, the President may revoke the designation.

SEC. 3. *Establishment of an Interagency Committee*. There is hereby established the American Heritage

Rivers Interagency Committee ("Committee"). The Committee shall have two co-chairs. The Chair of the CEQ shall be a permanent co-chair. The other co-chair will rotate among the heads of the agencies listed below.

(a) The Committee shall be composed of the following members or their designees at the Assistant Secretary level or equivalent:

(1) The Secretary of Defense;
(2) The Attorney General;
(3) The Secretary of the Interior;
(4) The Secretary of Agriculture;
(5) The Secretary of Commerce;
(6) The Secretary of Housing and Urban Development;
(7) The Secretary of Transportation;
(8) The Secretary of Energy;
(9) The Administrator of the Environmental Protection Agency;
(10) The Chair of the Advisory Council on Historic Preservation;
(11) The Chairperson of the National Endowment for the Arts; and
(12) The Chairperson of the National Endowment for the Humanities.

The Chair of the CEQ may invite to participate in meetings of the Committee, representatives of other agencies, as appropriate.

(b) The Committee shall:

(1) establish formal guidelines for designation as an American Heritage River;
(2) periodically review the actions of agencies in support of the American Heritage Rivers;
(3) report to the President on the progress, accomplishments, and effectiveness of the American Heritage Rivers initiative; and
(4) perform other duties as directed by the Chair of the CEQ.

SEC. 4. *Responsibilities of the Federal Agencies*. Consistent with Title I of the National Environmental Policy Act of 1969 [42 U.S.C. 4331 et seq.], agencies shall:

(a) identify their existing programs and plans that give them the authority to offer assistance to communities involved in river conservation and community health and revitalization;

(b) to the extent practicable and permitted by law and regulation, refocus programs, grants, and technical assistance to provide support for communities adjacent to American Heritage Rivers;

(c) identify all technical tools, including those developed for purposes other than river conservation, that can be applied to river protection, restoration, and community revitalization;

(d) provide access to existing scientific data and information to the extent permitted by law and consistent with the agencies mission and resources;

(e) cooperate with State, local, and tribal governments and communities with respect to their activities that take place in, or affect the area around, an American Heritage River;

(f) commit to a policy, as set forth in section 1(j) of this order, in making decisions affecting the quality of an American Heritage River;

(g) select from among all the agencies a single individual called the "River Navigator," for each river that is designated an American Heritage River, with whom the communities can communicate goals and needs and who will facilitate community-agency interchange;

(h) allow public access to the river, for agencies with facilities along American Heritage Rivers, to the extent practicable and consistent with their mission; and

(i) cooperate, as appropriate, with communities on projects that protect or preserve stretches of the river that are on Federal property or adjacent to a Federal facility.

SEC. 5. *Responsibilities of the Committee and the Council on Environmental Quality*. The CEQ shall serve as Executive agent for the Committee, and the CEQ and the Committee shall ensure the implementation of the policies and purposes of this initiative.

SEC. 6. *Definition*. For the purposes of this order, Executive agency means any agency on the Committee and such other agency as may be designated by the President.

SEC. 7. *Judicial Review*. This order does not create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

WILLIAM J. CLINTON.

EXECUTIVE ORDER NO. 13080

Ex. Ord. No. 13080, Apr. 7, 1998, 63 F.R. 17667, as amended by Ex. Ord. No. 13093, July 27, 1998, 63

F.R. 40357, which established the American Heritage Rivers Initiative Advisory Committee, was revoked by Ex. Ord. No. 13225, §3(b), Sept. 28, 2001, 66 F.R. 50292, formerly set out as a note under section 1013 of Title 5, Government Organization and Employees.

PROC. NO. 7112. DESIGNATION OF AMERICAN HERITAGE RIVERS

Proc. No. 7112, July 30, 1998, 63 F.R. 41949, provided:

In celebration of America's rivers, and to recognize and reward grassroots efforts to restore them, last year I announced the American Heritage Rivers initiative. My goal was to help communities realize their visions for their rivers by making it easier for them to tap existing programs and resources of the Federal Government. From across the country, hundreds of communities answered my call for nominations, asking that their rivers be designated American Heritage Rivers. I applaud all of the communities that have drawn together and dedicated themselves to the goal of healthy rivers, now and forever.

Having reviewed the recommendations of the American Heritage Rivers Initiative Advisory Committee, I am pleased to be able to recognize a select group of rivers and communities that reflect the true diversity and splendor of America's natural endowment, and the tremendous energy and commitment of its citizenry.

Pursuant to Executive Orders 13061 [set out above], 13080, and 13093 [set out above], I hereby designate the following American Heritage Rivers:

- The Blackstone and Woonasquatucket Rivers, in the States of Massachusetts and Rhode Island;
- The Connecticut River, in the States of Connecticut, Massachusetts, New Hampshire, and Vermont;
- The Cuyahoga River, in the State of Ohio;
- The Detroit River, in the State of Michigan;
- The Hanalei River, in the State of Hawaii;
- The Hudson River, in the State of New York;
- The Upper Mississippi River, in the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin;
- The Lower Mississippi River, in the States of Louisiana and Tennessee;
- The New River, in the States of North Carolina, Virginia, and West Virginia;
- The Rio Grande, in the State of Texas;
- The Potomac River, in the District of Columbia and the States of Maryland, Pennsylvania, Virginia, and West Virginia;
- The St. Johns River, in the State of Florida;
- The Upper Susquehanna and Lackawanna Rivers, in the State of Pennsylvania;
- The Willamette River, in the State of Oregon.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of July, in the year of our Lord nineteen hundred and ninety-eight, and of the Independence of the United States of America the two hundred and twenty-third.

WILLIAM J. CLINTON.

EX. ORD. NO. 13112. INVASIVE SPECIES

Ex. Ord. No. 13112, Feb. 3, 1999, 64 F.R. 6183, as amended by Ex. Ord. No. 13286, §15, Feb. 28, 2003, 68 F.R. 10623; Ex. Ord. No. 13751, §§2, 3, 5–9, Dec. 5, 2016, 81 F.R. 88610, 88612–88614, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, as amended (16 U.S.C. 4701 *et seq.*), Lacey Act, as amended (18 U.S.C. 42), Federal Plant Pest Act (7 U.S.C. 150aa *et seq.*), Federal Noxious Weed Act of 1974, as amended (7 U.S.C. 2801 *et seq.*), Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and other pertinent statutes, to prevent the introduction of invasive species and provide for their control and to minimize the economic, ecological, and human health impacts that invasive species cause, it is ordered as follows:

SECTION 1. *Definitions*. (a) "Control" means containing, suppressing, or reducing populations of invasive species.

(b) "Eradication" means the removal or destruction of an entire population of invasive species.

(c) "Federal agency" means an executive department or agency, but does not include independent establishments as defined by 5 U.S.C. 104.

(d) "Introduction" means, as a result of human activity, the intentional or unintentional escape, release, dissemination, or placement of an organism into an ecosystem to which it is not native.

(e) "Invasive species" means, with regard to a particular ecosystem, a non-native organism whose introduction causes or is likely to cause economic or environmental harm, or harm to human, animal, or plant health.

(f) "Non-native species" or "alien species" means, with respect to a particular ecosystem, an organism, including its seeds, eggs, spores, or other biological material capable of propagating that species, that occurs outside of its natural range.

(g) "Pathway" means the mechanisms and processes by which non-native species are moved, intentionally or unintentionally, into a new ecosystem.

(h) "Prevention" means the action of stopping invasive species from being introduced or spreading into a new ecosystem.

(i) "United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, the Commonwealth of the Northern Mariana Islands, all possessions, and the territorial sea of the United States as defined by Presidential Proclamation 5928 of December 27, 1988.

SEC. 2. *Federal Agency Duties*. (a) Each Federal agency for which that agency's actions may affect the introduction, establishment, or spread of invasive species shall, to the extent practicable and permitted by law,

(1) identify such agency actions;

(2) subject to the availability of appropriations, and within administrative, budgetary, and jurisdictional limits, use relevant agency programs and authorities to:

(i) prevent the introduction, establishment, and spread of invasive species;

(ii) detect and respond rapidly to eradicate or control populations of invasive species in a manner that is cost-effective and minimizes human, animal, plant, and environmental health risks;

(iii) monitor invasive species populations accurately and reliably;

(iv) provide for the restoration of native species, ecosystems, and other assets that have been impacted by invasive species;

(v) conduct research on invasive species and develop and apply technologies to prevent their introduction, and provide for environmentally sound methods of eradication and control of invasive species;

(vi) promote public education and action on invasive species, their pathways, and ways to address them, with an emphasis on prevention, and early detection and rapid response;

(vii) assess and strengthen, as appropriate, policy and regulatory frameworks pertaining to the prevention, eradication, and control of invasive species and address regulatory gaps, inconsistencies, and conflicts;

(viii) coordinate with and complement similar efforts of States, territories, federally recognized American Indian tribes, Alaska Native Corporations, Native Hawaiians, local governments, nongovernmental organizations, and the private sector; and

(ix) in consultation with the Department of State and with other agencies as appropriate, coordinate with foreign governments to prevent the movement and minimize the impacts of invasive species; and

(3) refrain from authorizing, funding, or implementing actions that are likely to cause or promote the introduction, establishment, or spread of invasive species in the United States unless, pursuant to guidelines that it has prescribed, the agency has determined and made public its determination that the benefits of such actions clearly outweigh the potential harm caused by invasive species; and that all feasible and prudent measures to minimize risk of harm will be taken in conjunction with the actions.

(c) [sic] Federal agencies shall pursue the duties set forth in this section in coordination, to the extent practicable, with other member agencies of the Council and staff, consistent with the National Invasive Species Council Management Plan, and in cooperation with State, local, tribal, and territorial governments, and stakeholders, as appropriate, and in consultation with the Department of State when Federal agencies are working with international organizations and foreign nations.

(d) Federal agencies that are members of the Council, and Federal interagency bodies working on issues relevant to the prevention, eradication, and control of invasive species, shall provide the Council with annual information on actions taken that implement these duties and identify barriers to advancing priority actions.

(e) To the extent practicable, Federal agencies shall also expand the use of new and existing technologies and practices; develop, share, and utilize similar metrics and standards, methodologies, and databases and, where relevant, platforms for monitoring invasive species; and, facilitate the interoperability of information systems, open data, data analytics, predictive modeling, and data reporting necessary to inform timely, science-based decision making.

SEC. 3. *National Invasive Species Council*. (a) A National Invasive Species Council (Council) is hereby established. The mission of the Council is to provide the vision and leadership to coordinate, sustain, and expand Federal efforts to safeguard the interests of the United States through the prevention, eradication, and control of invasive species, and through the restoration of ecosystems and other assets impacted by invasive species.

(b) The Council's membership shall be composed of the following officials, who may designate a

senior-level representative to perform the functions of the member:

(i) Secretary of State;

(ii) Secretary of the Treasury;

(iii) Secretary of Defense;

(iv) Secretary of the Interior;

(v) Secretary of Agriculture;

(vi) Secretary of Commerce;

(vii) Secretary of Health and Human Services;

(viii) Secretary of Transportation;

(ix) Secretary of Homeland Security;

(x) Administrator of the National Aeronautics and Space Administration;

(xi) Administrator of the Environmental Protection Agency;

(xii) Administrator of the United States Agency for International Development;

(xiii) United States Trade Representative;

(xiv) Director or Chair of the following components of the Executive Office of the President: the Office of Science and Technology Policy, the Council on Environmental Quality, and the Office of Management and Budget; and

(xv) Officials from such other departments, agencies, offices, or entities as the agencies set forth above, by consensus, deem appropriate.

(c) The Council shall be co-chaired by the Secretary of the Interior (Secretary), the Secretary of Agriculture, and the Secretary of Commerce, who shall meet quarterly or more frequently if needed, and who may designate a senior-level representative to perform the functions of the Co-Chair. The Council shall meet no less than once each year. The Secretary of the Interior shall, after consultation with the Co-Chairs, appoint an Executive Director of the Council to oversee a staff that supports the duties of the Council. Within 1 year of the date of this order, the Co-Chairs of the Council shall, with consensus of its members, complete a charter, which shall include any administrative policies and processes necessary to ensure the Council can satisfy the functions and responsibilities described in this order.

(d) The Secretary of the Interior shall maintain the current Invasive Species Advisory Committee established under the Federal Advisory Committee Act, [former] 5 U.S.C. App. [see 5 U.S.C. 1001 et seq.], to provide information and advice for consideration by the Council. The Secretary shall, after consultation with other members of the Council, appoint members of the advisory committee who represent diverse stakeholders and who have expertise to advise the Council.

(e) Administration of the Council. The Department of the Interior shall provide funding and administrative support for the Council and the advisory committee consistent with existing authorities. To the extent permitted by law, including the Economy Act, and within existing appropriations, participating agencies may detail staff to the Department of the Interior to support the Council's efforts.

SEC. 4. *Duties of the National Invasive Species Council*. The Council shall provide national leadership regarding invasive species and shall:

(a) with regard to the implementation of this order, work to ensure that the Federal agency and interagency activities concerning invasive species are coordinated, complementary, cost-efficient, and effective;

(b) undertake a National Invasive Species Assessment in coordination with the U.S. Global Change Research Program's periodic national assessment, that evaluates the impact of invasive species on major U.S. assets, including food security, water resources, infrastructure, the environment, human, animal, and plant health, natural resources, cultural identity and resources, and military readiness, from ecological, social, and economic perspectives;

(c) advance national incident response, data collection, and rapid reporting capacities that build on existing frameworks and programs and strengthen early detection of and rapid response to invasive species, including those that are vectors, reservoirs, or causative agents of disease;

(d) publish an assessment by 2020 that identifies the most pressing scientific, technical, and programmatic coordination challenges to the Federal Government's capacity to prevent the introduction of invasive species, and that incorporate recommendations and priority actions to overcome these challenges into the National Invasive Species Council Management Plan, as appropriate;

(e) support and encourage the development of new technologies and practices, and promote the use of existing technologies and practices, to prevent, eradicate, and control invasive species, including those that are vectors, reservoirs, and causative agents of disease;

(f) convene annually to discuss and coordinate interagency priorities and report annually on activities and budget requirements for programs that contribute directly to the implementation of this order; and

(g) publish a National Invasive Species Council Management Plan as set forth in section 5 of this order.

SEC. 5. *National Invasive Species Council Management Plan*. (a) By December 31, 2019, the Council shall publish a National Invasive Species Council Management Plan (Management Plan), which shall, among other priorities identified by the Council, include actions to further the implementation of the duties of the National Invasive Species Council.

(b) The Management Plan shall recommend strategies to:

(1) provide institutional leadership and priority setting;

(2) achieve effective interagency coordination and cost-efficiency;

(3) raise awareness and motivate action, including through the promotion of appropriate transparency, community-level consultation, and stakeholder outreach concerning the benefits and risks to human, animal, or plant health when controlling or eradicating an invasive species;

(4) remove institutional and policy barriers;

(5) assess and strengthen capacities; and

(6) foster scientific, technical, and programmatic innovation.

(c) The Council shall evaluate the effectiveness of the Management Plan implementation and update the Plan every 3 years. The Council shall provide an annual report of its achievements to the public.

(d) Council members may complement the Management Plan with invasive species policies and plans specific to their respective agency's roles, responsibilities, and authorities.

SEC. 6. *Judicial Review and Administration*. (a) This order is intended only to improve the internal management of the executive branch and is not intended to create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any other person.

(b) Executive Order 11987 of May 24, 1977, is hereby revoked.

(c) The requirements of this order do not affect the obligations of Federal agencies under 16 U.S.C. 4713 with respect to ballast water programs.

(d) The duties of section 3(a)(2) [probably means 2(a)(2)] and section 3(a)(3) [2(a)(3)] of this order shall not apply to any action of the Department of State if the Secretary of State finds that exemption from such requirements is necessary for foreign policy, readiness, or national security reasons. The duties of section 3(a)(2) [2(a)(2)] and section 3(a)(3) [2(a)(3)] of this order shall not apply to any action of the Department of Defense if the Secretary of Defense finds that exemption from such requirements is necessary for foreign policy, readiness, or national security reasons.

(e) The requirements of this order do not affect the obligations of the Department of Health and Human Services under the Public Health Service Act or the Federal Food, Drug, and Cosmetic Act.

EXTENSION OF TERM OF INVASIVE SPECIES ADVISORY COMMITTEE

Term of Invasive Species Advisory Committee extended until Sept. 30, 2025, by Ex. Ord. No. 14109, Sept. 29, 2023, 88 F.R. 68447, set out as a note under section 1013 of Title 5, Government Organization and Employees.

Previous extensions of term of Invasive Species Advisory Committee were contained in the following prior Executive Orders:

Ex. Ord. No. 14048, Sept. 30, 2021, 86 F.R. 55465, extended term until Sept. 30, 2023.

Ex. Ord. No. 13811, Sept. 29, 2017, 82 F.R. 46363, extended term until Sept. 30, 2019.

Ex. Ord. No. 13708, Sept. 30, 2015, 80 F.R. 60271, extended term until Sept. 30, 2017.

EXECUTIVE ORDER NO. 13148

Ex. Ord. No. 13148, Apr. 21, 2000, 65 F.R. 24595, which directed Federal agencies to establish strategies that supported environmental leadership programs, policies, and procedures and to implement environmental compliance audit programs and policies that emphasized pollution prevention, was revoked by Ex. Ord. No. 13423, §11(a)(iv), Jan. 24, 2007, 72 F.R. 3923, formerly set out below.

EXECUTIVE ORDER NO. 13423

Ex. Ord. No. 13423, Jan. 24, 2007, 72 F.R. 3919, which set out various goals and duties for Federal Agencies to conduct their environmental, transportation, and energy-related activities under the law in support of their respective missions in an environmentally, economically and fiscally sound, integrated, continuously improving, efficient, and sustainable manner, was revoked by Ex. Ord. No. 13693, §16(a), Mar. 19, 2015, 80 F.R. 15880, formerly set out below.

EXECUTIVE ORDER NO. 13514

Ex. Ord. No. 13514, Oct. 5, 2009, 74 F.R. 52117, which related to environmental sustainability in the Federal Government, was revoked by Ex. Ord. No. 13693, §16(b), Mar. 19, 2015, 80 F.R. 15880, formerly set

out below.

EXECUTIVE ORDER NO. 13653

Ex. Ord. No. 13653, Nov. 1, 2013, 78 F.R. 66819, as amended by Ex. Ord. No. 13683, §2, Dec. 11, 2014, 79 F.R. 75041; Ex. Ord. No. 13693, §16(f), Mar. 19, 2015, 80 F.R. 15881, which related to preparing the United States for the impacts of climate change by undertaking actions to enhance climate preparedness and resilience, was revoked by Ex. Ord. No. 13783, §3(a)(i), Mar. 28, 2017, 82 F.R. 16094, formerly set out as a note under section 13201 of this title.

EX. ORD. NO. 13690. ESTABLISHING A FEDERAL FLOOD RISK MANAGEMENT STANDARD AND A PROCESS FOR FURTHER SOLICITING AND CONSIDERING STAKEHOLDER INPUT

Ex. Ord. No. 13690, Jan. 30, 2015, 80 F.R. 6425, revoked by Ex. Ord. No. 13807, §6, Aug. 15, 2017, 82 F.R. 40469, reinstated by Ex. Ord. No. 14030, §5(e), May 20, 2021, 86 F.R. 27969, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to improve the Nation's resilience to current and future flood risk, I hereby direct the following:

SECTION 1. *Policy*. It is the policy of the United States to improve the resilience of communities and Federal assets against the impacts of flooding. These impacts are anticipated to increase over time due to the effects of climate change and other threats. Losses caused by flooding affect the environment, our economic prosperity, and public health and safety, each of which affects our national security.

The Federal Government must take action, informed by the best-available and actionable science, to improve the Nation's preparedness and resilience against flooding. Executive Order 11988 of May 24, 1977 (Floodplain Management) [set out above], requires executive departments and agencies (agencies) to avoid, to the extent possible, the long- and short-term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative. The Federal Government has developed processes for evaluating the impacts of Federal actions in or affecting floodplains to implement Executive Order 11988.

As part of a national policy on resilience and risk reduction consistent with my *Climate Action Plan*, the National Security Council staff coordinated an interagency effort to create a new flood risk reduction standard for federally funded projects. The views of Governors, mayors, and other stakeholders were solicited and considered as efforts were made to establish a new flood risk reduction standard for federally funded projects. The result of these efforts is the Federal Flood Risk Management Standard (Standard), a flexible framework to increase resilience against flooding and help preserve the natural values of floodplains. Incorporating this Standard will ensure that agencies expand management from the current base flood level to a higher vertical elevation and corresponding horizontal floodplain to address current and future flood risk and ensure that projects funded with taxpayer dollars last as long as intended.

This order establishes the Standard and sets forth a process for further solicitation and consideration of public input, including from Governors, mayors, and other stakeholders, prior to implementation of the Standard.

SEC. 2. *Amendments to Executive Order 11988*. [Amended Ex. Ord. No. 11988, set out above.]

SEC. 3. *Agency Action*. (a) Prior to any action to implement the Standard, additional input from stakeholders shall be solicited and considered. To carry out this process:

(i) the Federal Emergency Management Agency, on behalf of the Mitigation Framework Leadership Group, shall publish for public comment draft amended Floodplain Management Guidelines for Implementing Executive Order 11988 (Guidelines) to provide guidance to agencies on the implementation of Executive Order 11988, as amended, consistent with the Standard;

(ii) during the comment period, the Mitigation Framework Leadership Group shall host public meetings with stakeholders to solicit input; and

(iii) after the comment period closes, and based on the comments received on the draft Guidelines during the comment period, in accordance with subsections (a)(i) and (ii) of this section, the Mitigation Framework Leadership Group shall provide recommendations to the Water Resources Council.

(b) After additional input from stakeholders has been solicited and considered as set forth in subsections (a)(i) and (ii) of this section and after consideration of the recommendations made by the Mitigation Framework Leadership Group pursuant to subsection (a)(iii) of this section, the Water Resources Council shall issue amended Guidelines to provide guidance to agencies on the implementation of Executive Order 11988, as amended, consistent with the Standard.

(c) To the extent permitted by law, each agency shall, in consultation with the Water Resources Council, Federal Interagency Floodplain Management Task Force, Federal Emergency Management Agency, and

Council on Environmental Quality, issue or amend existing regulations and procedures to comply with this order, and update those regulations and procedures as warranted. Within 30 days of the closing of the public comment period for the draft amendments to the Guidelines as described in subsection (a) of this section, each agency shall submit an implementation plan to the National Security Council staff that contains milestones and a timeline for implementation of this order and the Standard, by the agency as it applies to the agency's processes and mission. Agencies shall not issue or amend existing regulations and procedures pursuant to this subsection until after the Water Resources Council has issued amended Guidelines pursuant to subsection (b) of this order [sic].

SEC. 4. *Reassessment*. (a) The Water Resources Council shall issue any further amendments to the Guidelines as warranted.

(b) The Mitigation Framework Leadership Group in consultation with the Federal Interagency Floodplain Management Task Force shall reassess the Standard annually, after seeking stakeholder input, and provide recommendations to the Water Resources Council to update the Standard if warranted based on accurate and actionable science that takes into account changes to climate and other changes in flood risk. The Water Resources Council shall issue an update to the Standard at least every 5 years.

SEC. 5. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Water Resources Council shall carry out its responsibilities under this order in consultation with the Mitigation Framework Leadership Group.

[BARACK OBAMA.]

EXECUTIVE ORDER NO. 13693

Ex. Ord. No. 13693, Mar. 19, 2015, 80 F.R. 15871, which related to planning by executive departments and agencies for environmental sustainability, was revoked by Ex. Ord. No. 13834, §8, May 17, 2018, 83 F.R. 23773, formerly set out below.

EX. ORD. NO. 13751. SAFEGUARDING THE NATION FROM THE IMPACTS OF INVASIVE SPECIES

Ex. Ord. No. 13751, Dec. 5, 2016, 81 F.R. 88609, provided:

By the authority vested in me as President by the Constitution and to ensure the faithful execution of the laws of the United States of America, including the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, (16 U.S.C. 4701 et seq.), the Plant Protection Act (7 U.S.C. 7701 et seq.), the Lacey Act, as amended (18 U.S.C. 42, 16 U.S.C. 3371–3378 et seq.), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), the Noxious Weed Control and Eradication Act of 2004 (7 U.S.C. 7781 et seq.), and other pertinent statutes, to prevent the introduction of invasive species and provide for their control, and to minimize the economic, plant, animal, ecological, and human health impacts that invasive species cause, it is hereby ordered as follows:

SECTION 1. *Policy*. It is the policy of the United States to prevent the introduction, establishment, and spread of invasive species, as well as to eradicate and control populations of invasive species that are established. Invasive species pose threats to prosperity, security, and quality of life. They have negative impacts on the environment and natural resources, agriculture and food production systems, water resources, human, animal, and plant health, infrastructure, the economy, energy, cultural resources, and military readiness. Every year, invasive species cost the United States billions of dollars in economic losses and other damages.

Of substantial growing concern are invasive species that are or may be vectors, reservoirs, and causative agents of disease, which threaten human, animal, and plant health. The introduction, establishment, and spread of invasive species create the potential for serious public health impacts, especially when considered in the context of changing climate conditions. Climate change influences the establishment, spread, and impacts of invasive species.

Executive Order 13112 of February 3, 1999 (Invasive Species), called upon executive departments and

agencies to take steps to prevent the introduction and spread of invasive species, and to support efforts to eradicate and control invasive species that are established. Executive Order 13112 also created a coordinating body—the Invasive Species Council, also referred to as the National Invasive Species Council—to oversee implementation of the order, encourage proactive planning and action, develop recommendations for international cooperation, and take other steps to improve the Federal response to invasive species. Past efforts at preventing, eradicating, and controlling invasive species demonstrated that collaboration across Federal, State, local, tribal, and territorial government; stakeholders; and the private sector is critical to minimizing the spread of invasive species and that coordinated action is necessary to protect the assets and security of the United States.

This order amends Executive Order 13112 and directs actions to continue coordinated Federal prevention and control efforts related to invasive species. This order maintains the National Invasive Species Council (Council) and the Invasive Species Advisory Committee; expands the membership of the Council; clarifies the operations of the Council; incorporates considerations of human and environmental health, climate change, technological innovation, and other emerging priorities into Federal efforts to address invasive species; and strengthens coordinated, cost-efficient Federal action.

SEC. 2. *Definitions*. [Amended Ex. Ord. No. 13112, set out as a note above.]

SEC. 3. *Federal Agency Duties*. [Amended Ex. Ord. No. 13112, set out as a note above.]

SEC. 4. *Emerging Priorities*. Federal agencies that are members of the Council and Federal interagency bodies working on issues relevant to the prevention, eradication, and control of invasive species shall take emerging priorities into consideration, including:

(a) Federal agencies shall consider the potential public health and safety impacts of invasive species, especially those species that are vectors, reservoirs, and causative agents of disease. The Department of Health and Human Services, in coordination and consultation with relevant agencies as appropriate, shall within 1 year of this order, and as requested by the Council thereafter, provide the Office of Science and Technology Policy and the Council a report on public health impacts associated with invasive species. That report shall describe the disease, injury, immunologic, and safety impacts associated with invasive species, including any direct and indirect impacts on low-income, minority, and tribal communities.

(b) Federal agencies shall consider the impacts of climate change when working on issues relevant to the prevention, eradication, and control of invasive species, including in research and monitoring efforts, and integrate invasive species into Federal climate change coordinating frameworks and initiatives.

(c) Federal agencies shall consider opportunities to apply innovative science and technology when addressing the duties identified in section 2 of Executive Order 13112, as amended, including, but not limited to, promoting open data and data analytics; harnessing technological advances in remote sensing technologies, molecular tools, cloud computing, and predictive analytics; and using tools such as challenge prizes, citizen science, and crowdsourcing.

SEC. 5. *National Invasive Species Council*. [Amended Ex. Ord. No. 13112, set out as a note above.]

SEC. 6. *Duties of the National Invasive Species Council*. [Amended Ex. Ord. No. 13112, set out as a note above.]

SEC. 7. *National Invasive Species Council Management Plan*. [Amended Ex. Ord. No. 13112, set out as a note above.]

SEC. 8. *Actions of the Department of State and Department of Defense*. [Amended Ex. Ord. No. 13112, set out as a note above.]

SEC. 9. *Obligations of the Department of Health and Human Services*. [Amended Ex. Ord. No. 13112, set out as a note above.]

SEC. 10. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(1) the authority granted by law to an executive department or agency, or the head thereof; or

(2) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

EXECUTIVE ORDER NO. 13834

Ex. Ord. No. 13834, May 17, 2018, 83 F.R. 23771, as amended by Ex. Ord. No. 13990, §7(a), Jan. 20, 2021, 86 F.R. 7041, which required executive departments and agencies to meet statutory requirements related

to energy and environmental performance by prioritizing actions that reduce waste, cut costs, enhance the resilience of Federal infrastructure and operations, and enable more effective accomplishment of its mission, was revoked by Ex. Ord. No. 14057, §604, Dec. 8, 2021, 86 F.R. 70943, formerly set out below.

EXECUTIVE ORDER NO. 13990

Ex. Ord. No. 13990, Jan. 20, 2021, 86 F.R. 7037, which related to review of environmental policy of certain agency actions taken between Jan. 20, 2017, and Jan. 20, 2021, was revoked by Ex. Ord. No. 14148, §2(f), Jan. 20, 2025, 90 F.R. 8237, and Ex. Ord. No. 14154, §4(a)(i), Jan. 20, 2025, 90 F.R. 8354.

EXECUTIVE ORDER NO. 14008

Ex. Ord. No. 14008, Jan. 27, 2021, 86 F.R. 7619, as amended by Ex. Ord. No. 14082, §4(a), Sept. 12, 2022, 87 F.R. 56862, which prioritized tackling the climate crisis in foreign policy and national security, was revoked by Ex. Ord. No. 14148, §2(s), Jan. 20, 2025, 90 F.R. 8238, and Ex. Ord. No. 14154, §4(a)(iii), Jan. 20, 2025, 90 F.R. 8354.

EXTENSION OF TERM OF WHITE HOUSE ENVIRONMENTAL JUSTICE ADVISORY COUNCIL

Term of White House Environmental Justice Advisory Council extended until Sept. 30, 2025, by Ex. Ord. No. 14109, Sept. 29, 2023, 88 F.R. 68447, set out as a note under section 1013 of Title 5, Government Organization and Employees.

Previous extension of term of White House Environmental Justice Advisory Council was contained in the following prior Executive Order:

Ex. Ord. No. 14048, Sept. 30, 2021, 86 F.R. 55465, extended term until Sept. 30, 2023.

EXECUTIVE ORDER NO. 14057

Ex. Ord. No. 14057, Dec. 8, 2021, 86 F.R. 70935, which related to accelerating and investing in clean energy industries and jobs through Federal sustainability, was revoked by Ex. Ord. No. 14148, §2(rr), Jan. 20, 2025, 90 F.R. 8239, and Ex. Ord. No. 14154, §4(a)(ix), Jan. 20, 2025, 90 F.R. 8355.

EXECUTIVE ORDER NO. 14096

Ex. Ord. No. 14096, Apr. 21, 2023, 88 F.R. 25251, which related to revitalizing Federal commitment to environmental justice for all, was revoked by Ex. Ord. No. 14148, §2(eee), Jan. 20, 2025, 90 F.R. 8240, and Ex. Ord. No. 14154, §4(a)(xii), Jan. 20, 2025, 90 F.R. 8355.

SUBCHAPTER I—POLICIES AND GOALS

§4331. Congressional declaration of national environmental policy

(a) The Congress, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

(b) In order to carry out the policy set forth in this chapter, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may—

(1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(2) assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;

(3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(c) The Congress recognizes that each person should enjoy a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

(Pub. L. 91–190, title I, §101, Jan. 1, 1970, 83 Stat. 852.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

COMMISSION ON POPULATION GROWTH AND THE AMERICAN FUTURE

Pub. L. 91–213, §§1–9, Mar. 16, 1970, 84 Stat. 67–69, established the Commission on Population Growth and the American Future to conduct and sponsor such studies and research and make such recommendations as might be necessary to provide information and education to all levels of government in the United States, and to our people regarding a broad range of problems associated with population growth and their implications for America's future; prescribed the composition of the Commission; provided for the appointment of its members, and the designation of a Chairman and Vice Chairman; required a majority of the members of the Commission to constitute a quorum, but allowed a lesser number to conduct hearings; prescribed the compensation of members of the Commission; required the Commission to conduct an inquiry into certain prescribed aspects of population growth in the United States and its foreseeable social consequences; provided for the appointment of an Executive Director and other personnel and prescribed their compensation; authorized the Commission to enter into contracts with public agencies, private firms, institutions, and individuals for the conduct of research and surveys, the preparation of reports, and other activities necessary to the discharge of its duties, and to request from any Federal department or agency any information and assistance it deems necessary to carry out its functions; required the General Services Administration to provide administrative services for the Commission on a reimbursable basis; required the Commission to submit an interim report to the President and the Congress one year after it was established and to submit its final report two years after Mar. 16, 1970; terminated the Commission sixty days after the date of the submission of its final report; and authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such amounts as might be necessary to carry out the provisions of Pub. L. 91–213.

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 11507

Ex. Ord. No. 11507, eff. Feb. 4, 1970, 35 F.R. 2573, which related to prevention, control, and abatement of air and water pollution at federal facilities was superseded by Ex. Ord. No. 11752, eff. Dec. 17, 1973, 38 F.R. 34793, formerly set out below.

EXECUTIVE ORDER NO. 11752

Ex. Ord. No. 11752, Dec. 17, 1973, 38 F.R. 34793, which related to the prevention, control, and abatement of environmental pollution at Federal facilities, was revoked by Ex. Ord. No. 12088, Oct. 13, 1978, 43 F.R. 47707, set out as a note under section 4321 of this title.

§4332. Cooperation of agencies; reports; availability of information; recommendations; international and national coordination of efforts

The Congress authorizes and directs that, to the fullest extent possible: (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this chapter, and (2) all agencies of the Federal Government shall—

(A) utilize a systematic, interdisciplinary approach which will ensure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

(B) identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by subchapter II of this chapter, which will ensure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations;

(C) consistent with the provisions of this chapter and except where compliance would be inconsistent with other statutory requirements, include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—

(i) reasonably foreseeable environmental effects of the proposed agency action;

(ii) any reasonably foreseeable adverse environmental effects which cannot be avoided should the proposal be implemented;

(iii) a reasonable range of alternatives to the proposed agency action, including an analysis of any negative environmental impacts of not implementing the proposed agency action in the case of a no action alternative, that are technically and economically feasible, and meet the purpose and need of the proposal;

(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and

(v) any irreversible and irretrievable commitments of Federal resources which would be involved in the proposed agency action should it be implemented.

Prior to making any detailed statement, the head of the lead agency shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of title 5, and shall accompany the proposal through the existing agency review processes;

(D) ensure the professional integrity, including scientific integrity, of the discussion and analysis in an environmental document;

(E) make use of reliable data and resources in carrying out this chapter;

(F) consistent with the provisions of this chapter, study, develop, and describe technically and economically feasible alternatives;

(G) any detailed statement required under subparagraph (C) after January 1, 1970, for any major Federal action funded under a program of grants to States shall not be deemed to be legally insufficient solely by reason of having been prepared by a State agency or official, if:

(i) the State agency or official has statewide jurisdiction and has the responsibility for such action,

(ii) the responsible Federal official furnishes guidance and participates in such preparation,

(iii) the responsible Federal official independently evaluates such statement prior to its approval and adoption, and

(iv) after January 1, 1976, the responsible Federal official provides early notification to, and solicits the views of, any other State or any Federal land management entity of any action or any alternative thereto which may have significant impacts upon such State or affected Federal land management entity and, if there is any disagreement on such impacts, prepares a written assessment of such impacts and views for incorporation into such detailed statement.

The procedures in this subparagraph shall not relieve the Federal official of his responsibilities for

the scope, objectivity, and content of the entire statement or of any other responsibility under this chapter; and further, this subparagraph does not affect the legal sufficiency of statements prepared by State agencies with less than statewide jurisdiction.[1]

(H) study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(I) consistent with the provisions of this chapter, recognize the worldwide and long-range character of environmental problems and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment;

(J) make available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(K) initiate and utilize ecological information in the planning and development of resource-oriented projects; and

(L) assist the Council on Environmental Quality established by subchapter II of this chapter.

(Pub. L. 91–190, title I, §102, Jan. 1, 1970, 83 Stat. 853; Pub. L. 94–83, Aug. 9, 1975, 89 Stat. 424; Pub. L. 118–5, div. C, title III, §321(a), June 3, 2023, 137 Stat. 38.)

EDITORIAL NOTES

AMENDMENTS

2023—Par. (2)(A), (B). Pub. L. 118–5, §321(a)(1), (2), substituted "ensure" for "insure".

Par. (2)(C). Pub. L. 118–5, §321(a)(3)(A), (C), inserted "consistent with the provisions of this chapter and except where compliance would be inconsistent with other statutory requirements," before "include in every" in introductory provisions and substituted "the head of the lead agency" for "the responsible Federal official" in concluding provisions.

Par. (2)(C)(i) to (v). Pub. L. 118–5, §321(a)(3)(B), added cls. (i) to (v) and struck out former cls. (i) to (v) which read as follows:

"(i) the environmental impact of the proposed action,

"(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,

"(iii) alternatives to the proposed action,

"(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

"(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented."

Par. (2)(D). Pub. L. 118–5, §321(a)(6), added subpar. (D). Former subpar. (D) redesignated (G).

Pub. L. 118–5, §321(a)(4), substituted "any detailed" for "Any detailed".

Par. (2)(E), (F). Pub. L. 118–5, §321(a)(6), added subpars. (E) and (F). Former subpars. (E) and (F) redesignated (H) and (I), respectively.

Par. (2)(G), (H). Pub. L. 118–5, §321(a)(5), redesignated subpars. (D) and (E) as (G) and (H), respectively.

Par. (2)(I). Pub. L. 118–5, §321(a)(5), (7), redesignated subpar. (F) as (I) and inserted "consistent with the provisions of this chapter," before "recognize".

Par. (2)(J) to (L). Pub. L. 118–5, §321(a)(5), redesignated subpars. (G) to (I) as (J) to (L), respectively.

1975—Par. (2)(D) to (I). Pub. L. 94–83 added subpar. (D) and redesignated former subpars. (D) to (H) as (E) to (I), respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CERTAIN COMMERCIAL SPACE LAUNCH ACTIVITIES

Pub. L. 104–88, title IV, §401, Dec. 29, 1995, 109 Stat. 955, provided that: "The licensing of a launch vehicle or launch site operator (including any amendment, extension, or renewal of the license) under [former] chapter 701 of title 49, United States Code [now chapter 509 (§50901 et seq.) of Title 51, National and Commercial Space Programs], shall not be considered a major Federal action for purposes of section 102(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)) if—

"(1) the Department of the Army has issued a permit for the activity; and
"(2) the Army Corps of Engineers has found that the activity has no significant impact."

EXECUTIVE DOCUMENTS

EX. ORD. NO. 13352. FACILITATION OF COOPERATIVE CONSERVATION

Ex. Ord. No. 13352, Aug. 26, 2004, 69 F.R. 52989, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Purpose*. The purpose of this order is to ensure that the Departments of the Interior, Agriculture, Commerce, and Defense and the Environmental Protection Agency implement laws relating to the environment and natural resources in a manner that promotes cooperative conservation, with an emphasis on appropriate inclusion of local participation in Federal decisionmaking, in accordance with their respective agency missions, policies, and regulations.

SEC. 2. *Definition*. As used in this order, the term "cooperative conservation" means actions that relate to use, enhancement, and enjoyment of natural resources, protection of the environment, or both, and that involve collaborative activity among Federal, State, local, and tribal governments, private for-profit and nonprofit institutions, other nongovernmental entities and individuals.

SEC. 3. *Federal Activities*. To carry out the purpose of this order, the Secretaries of the Interior, Agriculture, Commerce, and Defense and the Administrator of the Environmental Protection Agency shall, to the extent permitted by law and subject to the availability of appropriations and in coordination with each other as appropriate:

(a) carry out the programs, projects, and activities of the agency that they respectively head that implement laws relating to the environment and natural resources in a manner that:

(i) facilitates cooperative conservation;

(ii) takes appropriate account of and respects the interests of persons with ownership or other legally recognized interests in land and other natural resources;

(iii) properly accommodates local participation in Federal decisionmaking; and

(iv) provides that the programs, projects, and activities are consistent with protecting public health and safety;

(b) report annually to the Chairman of the Council on Environmental Quality on actions taken to implement this order; and

(c) provide funding to the Office of Environmental Quality Management Fund (42 U.S.C. 4375) for the Conference for which section 4 of this order provides.

SEC. 4. *White House Conference on Cooperative Conservation*. The Chairman of the Council on Environmental Quality shall, to the extent permitted by law and subject to the availability of appropriations:

(a) convene not later than 1 year after the date of this order, and thereafter at such times as the Chairman deems appropriate, a White House Conference on Cooperative Conservation (Conference) to facilitate the exchange of information and advice relating to (i) cooperative conservation and (ii) means for achievement of the purpose of this order; and

(b) ensure that the Conference obtains information in a manner that seeks from Conference participants their individual advice and does not involve collective judgment or consensus advice or deliberation.

SEC. 5. *General Provision*. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, instrumentalities or entities, its officers, employees or agents, or any other person.

GEORGE W. BUSH.

[1] *So in original. The period probably should be a semicolon.*

§4332a. Repealed. Pub. L. 114–94, div. A, title I, §1304(j)(2), Dec. 4, 2015, 129 Stat. 1386

Section, Pub. L. 112–141, div. A, title I, §1319, July 6, 2012, 126 Stat. 551, related to accelerated decisionmaking in environmental reviews.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

§4333. Conformity of administrative procedures to national environmental policy

All agencies of the Federal Government shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this chapter and shall propose to the President not later than July 1, 1971, such measures as may be necessary to bring their authority and policies into conformity with the intent, purposes, and procedures set forth in this chapter.

(Pub. L. 91–190, title I, §103, Jan. 1, 1970, 83 Stat. 854.)

§4334. Other statutory obligations of agencies

Nothing in section 4332 or 4333 of this title shall in any way affect the specific statutory obligations of any Federal agency (1) to comply with criteria or standards of environmental quality, (2) to coordinate or consult with any other Federal or State agency, or (3) to act, or refrain from acting contingent upon the recommendations or certification of any other Federal or State agency.

(Pub. L. 91–190, title I, §104, Jan. 1, 1970, 83 Stat. 854.)

§4335. Efforts supplemental to existing authorizations

The policies and goals set forth in this chapter are supplementary to those set forth in existing authorizations of Federal agencies.

(Pub. L. 91–190, title I, §105, Jan. 1, 1970, 83 Stat. 854.)

§4336. Procedure for determination of level of review

(a) Threshold determinations

An agency is not required to prepare an environmental document with respect to a proposed agency action if—

(1) the proposed agency action is not a final agency action within the meaning of such term in chapter 5 of title 5;

(2) the proposed agency action is excluded pursuant to one of the agency's categorical exclusions, another agency's categorical exclusions consistent with section 4336c of this title, or another provision of law;

(3) the preparation of such document would clearly and fundamentally conflict with the requirements of another provision of law; or

(4) the proposed agency action is a nondiscretionary action with respect to which such agency does not have authority to take environmental factors into consideration in determining whether to take the proposed action.

(b) Levels of review

(1) Environmental impact statement

An agency shall issue an environmental impact statement with respect to a proposed agency action requiring an environmental document that has a reasonably foreseeable significant effect on the quality of the human environment.

(2) Environmental assessment

An agency shall prepare an environmental assessment with respect to a proposed agency action that does not have a reasonably foreseeable significant effect on the quality of the human environment, or if the significance of such effect is unknown, unless the agency finds that the proposed agency action is excluded pursuant to one of the agency's categorical exclusions, another agency's categorical exclusions consistent with section 4336c of this title, or another provision of law. Such environmental assessment shall be a concise public document prepared by a Federal agency to set forth the basis of such agency's finding of no significant impact or determination that an environmental impact statement is necessary.

(3) Sources of information

In making a determination under this subsection, an agency—

(A) may make use of any reliable data source; and

(B) is not required to undertake new scientific or technical research unless the new scientific or technical research is essential to a reasoned choice among alternatives, and the overall costs and time frame of obtaining it are not unreasonable.

(Pub. L. 91–190, title I, §106, as added Pub. L. 118–5, div. C, title III, §321(b), June 3, 2023, 137 Stat. 39.)

§4336a. Timely and unified Federal reviews

(a) Lead agency

(1) Designation

(A) In general

If there are two or more participating Federal agencies, such agencies shall determine, by letter or memorandum, which agency shall be the lead agency based on consideration of the—

(i) magnitude of agency's involvement;

(ii) project approval or disapproval authority;

(iii) expertise concerning the action's environmental effects;

(iv) duration of agency's involvement; and

(v) sequence of agency's involvement.

(B) Joint lead agencies

In making a determination under subparagraph (A), the participating Federal agencies may appoint such State, Tribal, or local agencies as joint lead agencies as the involved Federal agencies shall determine appropriate. Joint lead agencies shall jointly fulfill the role described in paragraph (2).

(2) Role

A lead agency shall, with respect to a proposed agency action—

(A) supervise the preparation of an environmental document if, with respect to such proposed agency action, there is more than one participating Federal agency;

(B) request the participation of each cooperating agency at the earliest practicable time;

(C) in preparing an environmental document, give consideration to any analysis or proposal created by a cooperating agency;

(D) develop a schedule, in consultation with each cooperating agency, the applicant, and such other entities as the lead agency determines appropriate, for completion of any environmental review, permit, or authorization required to carry out the proposed agency action;

(E) if the lead agency determines that a review, permit, or authorization will not be completed in accordance with the schedule developed under subparagraph (D), notify the agency

responsible for issuing such review, permit, or authorization of the discrepancy and request that such agency take such measures as such agency determines appropriate to comply with such schedule; and

(F) meet with a cooperating agency that requests such a meeting.

(3) Cooperating agency

The lead agency may, with respect to a proposed agency action, designate any Federal, State, Tribal, or local agency that has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal to serve as a cooperating agency. A cooperating agency may, not later than a date specified in the schedule established by the lead agency, submit comments to the lead agency.

(4) Request for designation

Any Federal, State, Tribal, or local agency or person that is substantially affected by the lack of a designation of a lead agency with respect to a proposed agency action under paragraph (1) may submit a written request for such a designation to a participating Federal agency. An agency that receives a request under this paragraph shall transmit such request to each participating Federal agency and to the Council.

(5) Council designation

(A) Request

If the participating Federal agencies are unable to agree on the designation of a lead agency within 45 days of the request under paragraph (4), then the Federal, State, Tribal or local agency or person that is substantially affected by the lack or a designation of a lead agency may request that the Council designate a lead agency. Such request shall consist of—

(i) a precise description of the nature and extent of the proposed agency action; and

(ii) a detailed statement with respect to each participating Federal agency and each factor listed in paragraph (1) regarding which agency should serve as lead agency.

(B) Transmission

The Council shall transmit a request received under subparagraph (A) to each participating Federal agency.

(C) Response

A participating Federal agency may, not later than 20 days after the date of the submission of a request under subparagraph (A), submit to the Council a response to such request.

(D) Designation

Not later than 40 days after the date of the submission of a request under subparagraph (A), the Council shall designate the lead agency with respect to the relevant proposed agency action.

(b) One document

To the extent practicable, if a proposed agency action will require action by more than one Federal agency and the lead agency has determined that it requires preparation of an environmental document, the lead and cooperating agencies shall evaluate the proposal in a single environmental document.

(c) Request for public comment

Each notice of intent to prepare an environmental impact statement under section 4332 of this title shall include a request for public comment on alternatives or impacts and on relevant information, studies, or analyses with respect to the proposed agency action.

(d) Statement of purpose and need

Each environmental document shall include a statement of purpose and need that briefly summarizes the underlying purpose and need for the proposed agency action.

(e) Page limits

(1) Environmental impact statements

(A) In general

Except as provided in subparagraph (B), an environmental impact statement shall not exceed 150 pages, not including any citations or appendices.

(B) Extraordinary complexity

An environmental impact statement for a proposed agency action of extraordinary complexity shall not exceed 300 pages, not including any citations or appendices.

(2) Environmental assessments

An environmental assessment shall not exceed 75 pages, not including any citations or appendices.

(f) Sponsor preparation

A lead agency shall prescribe procedures to allow a project sponsor to prepare an environmental assessment or an environmental impact statement under the supervision of the agency. Such agency may provide such sponsor with appropriate guidance and assist in the preparation. The lead agency shall independently evaluate the environmental document and shall take responsibility for the contents.

(g) Deadlines

(1) In general

Except as provided in paragraph (2), with respect to a proposed agency action, a lead agency shall complete, as applicable—

(A) the environmental impact statement not later than the date that is 2 years after the sooner of, as applicable—

(i) the date on which such agency determines that section 4332(2)(C) of this title requires the issuance of an environmental impact statement with respect to such action;

(ii) the date on which such agency notifies the applicant that the application to establish a right-of-way for such action is complete; and

(iii) the date on which such agency issues a notice of intent to prepare the environmental impact statement for such action; and

(B) the environmental assessment not later than the date that is 1 year after the sooner of, as applicable—

(i) the date on which such agency determines that section 4336(b)(2) of this title requires the preparation of an environmental assessment with respect to such action;

(ii) the date on which such agency notifies the applicant that the application to establish a right-of-way for such action is complete; and

(iii) the date on which such agency issues a notice of intent to prepare the environmental assessment for such action.

(2) Delay

A lead agency that determines it is not able to meet the deadline described in paragraph (1) may extend such deadline, in consultation with the applicant, to establish a new deadline that provides only so much additional time as is necessary to complete such environmental impact statement or environmental assessment.

(3) Petition to court

(A) Right to petition

A project sponsor may obtain a review of an alleged failure by an agency to act in accordance with an applicable deadline under this section by filing a written petition with a court of competent jurisdiction seeking an order under subparagraph (B).

(B) Court order

If a court of competent jurisdiction finds that an agency has failed to act in accordance with an applicable deadline, the court shall set a schedule and deadline for the agency to act as soon as practicable, which shall not exceed 90 days from the date on which the order of the court is issued, unless the court determines a longer time period is necessary to comply with applicable law.

(h) Report

(1) In general

The head of each lead agency shall annually submit to the Committee on Natural Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that—

(A) identifies any environmental assessment and environmental impact statement that such lead agency did not complete by the deadline described in subsection (g); and

(B) provides an explanation for any failure to meet such deadline.

(2) Inclusions

Each report submitted under paragraph (1) shall identify, as applicable—

(A) the office, bureau, division, unit, or other entity within the Federal agency responsible for each such environmental assessment and environmental impact statement;

(B) the date on which—

(i) such lead agency notified the applicant that the application to establish a right-of-way for the major Federal action is complete;

(ii) such lead agency began the scoping for the major Federal action; or

(iii) such lead agency issued a notice of intent to prepare the environmental assessment or environmental impact statement for the major Federal action; and

(C) when such environmental assessment and environmental impact statement is expected to be complete.

(Pub. L. 91–190, title I, §107, as added Pub. L. 118–5, div. C, title III, §321(b), June 3, 2023, 137 Stat. 40.)

§4336b. Programmatic environmental document

When an agency prepares a programmatic environmental document for which judicial review was available, the agency may rely on the analysis included in the programmatic environmental document in a subsequent environmental document for related actions as follows:

(1) Within 5 years and without additional review of the analysis in the programmatic environmental document, unless there are substantial new circumstances or information about the significance of adverse effects that bear on the analysis.

(2) After 5 years, so long as the agency reevaluates the analysis in the programmatic environmental document and any underlying assumption to ensure reliance on the analysis remains valid.

(Pub. L. 91–190, title I, §108, as added Pub. L. 118–5, div. C, title III, §321(b), June 3, 2023, 137 Stat. 43.)

§4336c. Adoption of categorical exclusions

An agency may adopt a categorical exclusion listed in another agency's NEPA procedures for a category of proposed agency actions for which the categorical exclusion was established consistent with this paragraph. The agency shall—

(1) identify the categorical exclusion listed in another agency's NEPA procedures that covers a category of proposed actions or related actions;

(2) consult with the agency that established the categorical exclusion to ensure that the proposed adoption of the categorical exclusion to a category of actions is appropriate;

(3) identify to the public the categorical exclusion that the agency plans to use for its proposed actions; and

(4) document adoption of the categorical exclusion.

(Pub. L. 91–190, title I, §109, as added Pub. L. 118–5, div. C, title III, §321(b), June 3, 2023, 137 Stat. 43.)

§4336d. E-NEPA

(a) Permitting portal study

The Council on Environmental Quality shall conduct a study and submit a report to Congress within 1 year of the enactment of this Act [1] on the potential for online and digital technologies to address delays in reviews and improve public accessibility and transparency under section 4332(2)(C) of this title including, but not limited to, a unified permitting portal that would—

(1) allow applicants to—

(A) submit required documents or materials for their project in one unified portal;

(B) upload and collaborate with the applicable agencies to edit documents in real-time, as required;

(C) upload and display visual features such as video, animation, geographic information system displays, and three-dimensional renderings; and

(D) track the progress of individual applications;

(2) include a cloud based, digital tool for more complex reviews that would enhance interagency coordination in consultation by—

(A) centralizing, across all necessary agencies, the data, visuals, and documents, including but not limited to geographic information system displays, other visual renderings, and completed reports and analyses necessary for reviews;

(B) streamlining communications between all necessary agencies and the applicant;

(C) allowing for comments and responses by and to all necessary agencies in one unified portal;

(D) generating analytical reports to aid in organizing and cataloguing public comments; and

(E) be [2] accessible on mobile devices;

(3) boost transparency in agency processes and present information suitable for a lay audience, including but not limited to—

(A) scientific data and analysis; and

(B) anticipated agency process and timeline; and

(4) include examples describing how at least five permits would be reviewed and processed through this portal.

(b) Authorization of appropriations

There is authorized to be appropriated $500,000 for the Council on Environmental Quality to carry out the study directed by this section.

(Pub. L. 91–190, title I, §110, as added Pub. L. 118–5, div. C, title III, §321(b), June 3, 2023, 137 Stat. 44.)

EDITORIAL NOTES

REFERENCES IN TEXT

The enactment of this Act, referred to in subsec. (a), probably means the enactment of Pub. L. 118–5, which

added this section to title I of Pub. L. 91–190 and was approved June 3, 2023.

[1] *See References in Text note below.*

[2] *So in original. Probably should be "being".*

§4336e. Definitions

In this subchapter:

(1) Categorical exclusion

The term "categorical exclusion" means a category of actions that a Federal agency has determined normally does not significantly affect the quality of the human environment within the meaning of section 4332(2)(C) of this title.

(2) Cooperating agency

The term "cooperating agency" means any Federal, State, Tribal, or local agency that has been designated as a cooperating agency under section 4336a(a)(3) of this title.

(3) Council

The term "Council" means the Council on Environmental Quality established in subchapter II.

(4) Environmental assessment

The term "environmental assessment" means an environmental assessment prepared under section 4336(b)(2) of this title.

(5) Environmental document

The term "environmental document" means an environmental impact statement, an environmental assessment, or a finding of no significant impact.

(6) Environmental impact statement

The term "environmental impact statement" means a detailed written statement that is required by section 4332(2)(C) of this title.

(7) Finding of no significant impact

The term "finding of no significant impact" means a determination by a Federal agency that a proposed agency action does not require the issuance of an environmental impact statement.

(8) Participating Federal agency

The term "participating Federal agency" means a Federal agency participating in an environmental review or authorization of an action.

(9) Lead agency

The term "lead agency" means, with respect to a proposed agency action—

(A) the agency that proposed such action; or

(B) if there are 2 or more involved Federal agencies with respect to such action, the agency designated under section 4336a(a)(1) of this title.

(10) Major Federal action

(A) In general

The term "major Federal action" means an action that the agency carrying out such action determines is subject to substantial Federal control and responsibility.

(B) Exclusion

The term "major Federal action" does not include—

(i) a non-Federal action—

(I) with no or minimal Federal funding; or

(II) with no or minimal Federal involvement where a Federal agency cannot control the outcome of the project;

(ii) funding assistance solely in the form of general revenue sharing funds which do not provide Federal agency compliance or enforcement responsibility over the subsequent use of such funds;

(iii) loans, loan guarantees, or other forms of financial assistance where a Federal agency does not exercise sufficient control and responsibility over the subsequent use of such financial assistance or the effect of the action;

(iv) business loan guarantees provided by the Small Business Administration pursuant to section 7(a) or (b) and [1] of the Small Business Act (U.S.C. 636(a)),[2] or title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.);

(v) bringing judicial or administrative civil or criminal enforcement actions;

(vi) extraterritorial activities or decisions, which means agency activities or decisions with effects located entirely outside of the jurisdiction of the United States; or

(vii) activities or decisions that are non-discretionary and made in accordance with the agency's statutory authority.

(11) Programmatic environmental document

The term "programmatic environmental document" means an environmental impact statement or environmental assessment analyzing all or some of the environmental effects of a policy, program, plan, or group of related actions.

(12) Proposal

The term "proposal" means a proposed action at a stage when an agency has a goal, is actively preparing to make a decision on one or more alternative means of accomplishing that goal, and can meaningfully evaluate its effects.

(13) Special expertise

The term "special expertise" means statutory responsibility, agency mission, or related program experience.

(Pub. L. 91–190, title I, §111, as added Pub. L. 118–5, div. C, title III, §321(b), June 3, 2023, 137 Stat. 44.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Small Business Investment Act of 1958, referred to in par. (10)(B)(iv), is Pub. L. 85–699, Aug. 21, 1958, 72 Stat. 689. Title V of the Act is classified generally to subchapter V (§695 et seq.) of chapter 14B of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 661 of Title 15 and Tables.

[1] So in original. The word "and" probably should not appear.

[2] So in original. Probably should refer to 15 U.S.C. 636(a), (b).

§4336f. Project sponsor opt-in fees for environmental reviews

(a) Process

(1) Project sponsor

A project sponsor that intends to pay a fee under this section for the preparation, or supervision

of the preparation, of an environmental assessment or environmental impact statement for a project shall submit to the Council—

(A) a description of the project; and

(B) a declaration of whether the project sponsor intends to prepare the environmental assessment or environmental impact statement under section 4336a(f) of this title.

(2) Council on Environmental Quality

Not later than 15 days after the date on which the Council receives information described in paragraph (1) from a project sponsor, the Council shall provide to the project sponsor notice of the amount of the fee to be paid under this section, as determined under subsection (b).

(3) Payment of fee

A project sponsor may pay a fee under this section after receipt of the notice described in paragraph (2).

(4) Deadline for environmental reviews for which a fee is paid

Notwithstanding section 4336a(g)(1) of this title—

(A) an environmental assessment for which a fee is paid under this section shall be completed not later than 180 days after the date on which the fee is paid; and

(B) an environmental impact statement for which a fee is paid under this section shall be completed not later than 1 year after the date of publication of the notice of intent to prepare the environmental impact statement.

(b) Fee amount

The amount of a fee under this section shall be—

(1) 125 percent of the anticipated costs to prepare the environmental assessment or environmental impact statement; and

(2) in the case of an environmental assessment or environmental impact statement to be prepared in whole or in part by a project sponsor under section 4336a(f) of this title, 125 percent of the anticipated costs to supervise preparation of, and, as applicable, prepare, the environmental assessment or environmental impact statement.

(Pub. L. 91–190, title I, §112, as added Pub. L. 119–21, title VI, §60026, July 4, 2025, 139 Stat. 157.)

SUBCHAPTER II—COUNCIL ON ENVIRONMENTAL QUALITY

§4341. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 91–190, title II, §201, Jan. 1, 1970, 83 Stat. 854, which required the President to transmit to Congress annually an Environmental Quality Report, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, item 1 on page 41 of House Document No. 103–7.

§4342. Establishment; membership; Chairman; appointments

There is created in the Executive Office of the President a Council on Environmental Quality (hereinafter referred to as the "Council"). The Council shall be composed of three members who shall be appointed by the President to serve at his pleasure, by and with the advice and consent of the

Senate. The President shall designate one of the members of the Council to serve as Chairman. Each member shall be a person who, as a result of his training, experience, and attainments, is exceptionally well qualified to analyze and interpret environmental trends and information of all kinds; to appraise programs and activities of the Federal Government in the light of the policy set forth in subchapter I of this chapter; to be conscious of and responsive to the scientific, economic, social, esthetic, and cultural needs and interests of the Nation; and to formulate and recommend national policies to promote the improvement of the quality of the environment.

(Pub. L. 91–190, title II, §202, Jan. 1, 1970, 83 Stat. 854.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

COUNCIL ON ENVIRONMENTAL QUALITY; REDUCTION OF MEMBERS

Provisions stating that notwithstanding this section, the Council was to consist of one member, appointed by the President, by and with the advice and consent of the Senate, serving as chairman and exercising all powers, functions, and duties of the Council, were contained in the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006, Pub. L. 109–54, title III, Aug. 2, 2005, 119 Stat. 543, and were repeated in provisions of subsequent appropriations acts which are not set out in the Code. Similar provisions were also contained in the following prior appropriations acts:

Pub. L. 108–447, div. I, title III, Dec. 8, 2004, 118 Stat. 3332.
Pub. L. 108–199, div. G, title III, Jan. 23, 2004, 118 Stat. 408.
Pub. L. 108–7, div. K, title III, Feb. 20, 2003, 117 Stat. 514.
Pub. L. 107–73, title III, Nov. 26, 2001, 115 Stat. 686.
Pub. L. 106–377, §1(a)(1) [title III], Oct. 27, 2000, 114 Stat. 1441, 1441A–45.
Pub. L. 106–74, title III, Oct. 20, 1999, 113 Stat. 1084.
Pub. L. 105–276, title III, Oct. 21, 1998, 112 Stat. 2500.
Pub. L. 105–65, title III, Oct. 27, 1997, 111 Stat. 1375.

§4343. Employment of personnel, experts and consultants

(a) The Council may employ such officers and employees as may be necessary to carry out its functions under this chapter. In addition, the Council may employ and fix the compensation of such experts and consultants as may be necessary for the carrying out of its functions under this chapter, in accordance with section 3109 of title 5 (but without regard to the last sentence thereof).

(b) Notwithstanding section 1342 of title 31, the Council may accept and employ voluntary and uncompensated services in furtherance of the purposes of the Council.

(Pub. L. 91–190, title II, §203, Jan. 1, 1970, 83 Stat. 855; Pub. L. 94–52, §2, July 3, 1975, 89 Stat. 258.)

EDITORIAL NOTES

REFERENCES IN TEXT

The last sentence of section 3109 of title 5, referred to in subsec. (a), probably means the last sentence of section 3109(b) of title 5, which was the last sentence of that section when the reference was enacted. Since then, section 3109 of title 5 has been amended to add subsecs. (c) to (e) at the end.

CODIFICATION

In subsec. (b), "section 1342 of title 31" substituted for "section 3679(b) of the Revised Statutes (31 U.S.C. 665(b))" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1975—Pub. L. 94–52 designated existing provisions as subsec. (a) and added subsec. (b).

§4344. Duties and functions

It shall be the duty and function of the Council—

(1) to assist and advise the President in the preparation of the Environmental Quality Report required by section 4341 [1] of this title;

(2) to gather timely and authoritative information concerning the conditions and trends in the quality of the environment both current and prospective, to analyze and interpret such information for the purpose of determining whether such conditions and trends are interfering, or are likely to interfere, with the achievement of the policy set forth in subchapter I of this chapter, and to compile and submit to the President studies relating to such conditions and trends;

(3) to review and appraise the various programs and activities of the Federal Government in the light of the policy set forth in subchapter I of this chapter for the purpose of determining the extent to which such programs and activities are contributing to the achievement of such policy, and to make recommendations to the President with respect thereto;

(4) to develop and recommend to the President national policies to foster and promote the improvement of environmental quality to meet the conservation, social, economic, health, and other requirements and goals of the Nation;

(5) to conduct investigations, studies, surveys, research, and analyses relating to ecological systems and environmental quality;

(6) to document and define changes in the natural environment, including the plant and animal systems, and to accumulate necessary data and other information for a continuing analysis of these changes or trends and an interpretation of their underlying causes;

(7) to report at least once each year to the President on the state and condition of the environment; and

(8) to make and furnish such studies, reports thereon, and recommendations with respect to matters of policy and legislation as the President may request.

(Pub. L. 91–190, title II, §204, Jan. 1, 1970, 83 Stat. 855.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 4341 of this title, referred to in par. (1), was omitted from the Code.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

So much of functions of Council on Environmental Quality under par. (5) of this section as pertains to ecological systems transferred to Administrator of Environmental Protection Agency by Reorg. Plan No. 3 of 1970, §2(a)(5), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2086, set out under section 4321 of this title.

[1] *See References in Text note below.*

§4345. Consultation with Citizens' Advisory Committee on Environmental Quality and other representatives

In exercising its powers, functions, and duties under this chapter, the Council shall—

(1) consult with the Citizens' Advisory Committee on Environmental Quality established by Executive Order numbered 11472, dated May 29, 1969, and with such representatives of science, industry, agriculture, labor, conservation organizations, State and local governments and other groups, as it deems advisable; and

(2) utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies and organizations, and individuals, in order

that duplication of effort and expense may be avoided, thus assuring that the Council's activities will not unnecessarily overlap or conflict with similar activities authorized by law and performed by established agencies.

(Pub. L. 91–190, title II, §205, Jan. 1, 1970, 83 Stat. 855.)

EDITORIAL NOTES

REFERENCES IN TEXT

Executive Order numbered 11472, dated May 29, 1969, referred to in par. (1), is set out as a note under section 4321 of this title.

EXECUTIVE DOCUMENTS

CITIZENS' ADVISORY COMMITTEE ON ENVIRONMENTAL QUALITY

For provisions relating to termination of Citizens' Advisory Committee on Environmental Quality, see Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839, formerly set out as a note under section 1013 of Title 5, Government Organization and Employees.

§4346. Tenure and compensation of members

Members of the Council shall serve full time and the Chairman of the Council shall be compensated at the rate provided for Level II of the Executive Schedule Pay Rates (5 U.S.C. 5313). The other members of the Council shall be compensated at the rate provided for Level IV or [1] the Executive Schedule Pay Rates (5 U.S.C. 5315).

(Pub. L. 91–190, title II, §206, Jan. 1, 1970, 83 Stat. 856.)

[1] *So in original. Probably should be "of".*

§4346a. Travel reimbursement by private organizations and Federal, State, and local governments

The Council may accept reimbursements from any private nonprofit organization or from any department, agency, or instrumentality of the Federal Government, any State, or local government, for the reasonable travel expenses incurred by an officer or employee of the Council in connection with his attendance at any conference, seminar, or similar meeting conducted for the benefit of the Council.

(Pub. L. 91–190, title II, §207, as added Pub. L. 94–52, §3, July 3, 1975, 89 Stat. 258.)

§4346b. Expenditures in support of international activities

The Council may make expenditures in support of its international activities, including expenditures for: (1) international travel; (2) activities in implementation of international agreements; and (3) the support of international exchange programs in the United States and in foreign countries.

(Pub. L. 91–190, title II, §208, as added Pub. L. 94–52, §3, July 3, 1975, 89 Stat. 258.)

§4347. Authorization of appropriations

There are authorized to be appropriated to carry out the provisions of this chapter not to exceed

$300,000 for fiscal year 1970, $700,000 for fiscal year 1971, and $1,000,000 for each fiscal year thereafter.

(Pub. L. 91–190, title II, §209, formerly §207, Jan. 1, 1970, 83 Stat. 856, renumbered §209, Pub. L. 94–52, §3, July 3, 1975, 89 Stat. 258.)

SUBCHAPTER III—MISCELLANEOUS PROVISIONS

§§4361, 4361a. Repealed. Pub. L. 104–66, title II, §2021(k)(1), (2), Dec. 21, 1995, 109 Stat. 728

Section 4361, Pub. L. 94–475, §5, Oct. 11, 1976, 90 Stat. 2071, related to 5-year plan for research, development, and demonstration.

Section 4361a, Pub. L. 95–155, §4, Nov. 8, 1977, 91 Stat. 1258, related to budget projections in annual revisions of the plan for research, development, and demonstration.

§4361b. Implementation by Administrator of Environmental Protection Agency of recommendations of "CHESS" Investigative Report; waiver; inclusion of status of implementation requirements in annual revisions of plan for research, development, and demonstration

The Administrator of the Environmental Protection Agency shall implement the recommendations of the report prepared for the House Committee on Science and Technology entitled "The Environmental Protection Agency Research Program with primary emphasis on the Community Health and Environmental Surveillance System (CHESS): An Investigative Report", unless for any specific recommendation he determines (1) that such recommendation has been implemented, (2) that implementation of such recommendation would not enhance the quality of the research, or (3) that implementation of such recommendation will require funding which is not available. Where such funding is not available, the Administrator shall request the required authorization or appropriation for such implementation. The Administrator shall report the status of such implementation in each annual revision of the five-year plan transmitted to the Congress under section 4361 [1] of this title.

(Pub. L. 95–155, §10, Nov. 8, 1977, 91 Stat. 1262.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 4361 of this title, referred to in text, was repealed by Pub. L. 104–66, title II, §2021(k)(1), Dec. 21, 1995, 109 Stat. 728.

CODIFICATION

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1978, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Science and Technology of House of Representatives changed to Committee on Science, Space, and Technology of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

[1] *See References in Text note below.*

§4361c. Staff management

(a) Appointments for educational programs

(1) The Administrator is authorized to select and appoint up to 75 full-time permanent staff members in the Office of Research and Development to pursue full-time educational programs for the purpose of (A) securing an advanced degree or (B) securing academic training, for the purpose of making a career change in order to better carry out the Agency's research mission.

(2) The Administrator shall select and appoint staff members for these assignments according to rules and criteria promulgated by him. The Agency may continue to pay the salary and benefits of the appointees as well as reasonable and appropriate relocation expenses and tuition.

(3) The term of each appointment shall be for up to one year, with a single renewal of up to one year in appropriate cases at the discretion of the Administrator.

(4) Staff members appointed to this program shall not count against any Agency personnel ceiling during the term of their appointment.

(b) Post-doctoral research fellows

(1) The Administrator is authorized to appoint up to 25 Post-doctoral Research Fellows in accordance with the provisions of section 213.3102(aa) of title 5 of the Code of Federal Regulations.

(2) Persons holding these appointments shall not count against any personnel ceiling of the Agency.

(c) Non-Government research associates

(1) The Administrator is authorized and encouraged to utilize research associates from outside the Federal Government in conducting the research, development, and demonstration programs of the Agency.

(2) These persons shall be selected and shall serve according to rules and criteria promulgated by the Administrator.

(d) Women and minority groups

For all programs in this section, the Administrator shall place special emphasis on providing opportunities for education and training of women and minority groups.

(Pub. L. 95–477, §6, Oct. 18, 1978, 92 Stat. 1510.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1979, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CONTRACTS BY OFFICE OF RESEARCH AND DEVELOPMENT OF THE ENVIRONMENTAL PROTECTION AGENCY

Pub. L. 108–7, div. K, title III, Feb. 20, 2003, 117 Stat. 509, provided in part: "That the Office of Research and Development of the Environmental Protection Agency may hereafter contract directly with individuals or indirectly with institutions or nonprofit organizations, without regard to 41 U.S.C. 5 [see 41 U.S.C. 6101], for the temporary or intermittent personal services of students or recent graduates, who shall be considered employees for the purposes of chapters 57 and 81 of title 5, United States Code, relating to compensation for travel and work injuries, and chapter 171 of title 28, United States Code, relating to tort claims, but shall not be considered to be Federal employees for any other purposes."

§4362. Interagency cooperation on prevention of environmental cancer and heart and lung disease

(a) Not later than three months after August 7, 1977, there shall be established a Task Force on Environmental Cancer and Heart and Lung Disease (hereinafter referred to as the "Task Force"). The Task Force shall include representatives of the Environmental Protection Agency, the National Cancer Institute, the National Heart, Lung, and Blood Institute, the National Institute of Occupational Safety and Health, and the National Institute on Environmental Health Sciences, and shall be chaired by the Administrator (or his delegate).

(b) The Task Force shall—

(1) recommend a comprehensive research program to determine and quantify the relationship between environmental pollution and human cancer and heart and lung disease;

(2) recommend comprehensive strategies to reduce or eliminate the risks of cancer or such other diseases associated with environmental pollution;

(3) recommend research and such other measures as may be appropriate to prevent or reduce the incidence of environmentally related cancer and heart and lung diseases;

(4) coordinate research by, and stimulate cooperation between, the Environmental Protection Agency, the Department of Health and Human Services, and such other agencies as may be appropriate to prevent environmentally related cancer and heart and lung diseases; and

(5) report to Congress, not later than one year after August 7, 1977, and annually thereafter, on the problems and progress in carrying out this section.

(Pub. L. 95–95, title IV, §402, Aug. 7, 1977, 91 Stat. 791; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Clean Air Act Amendments of 1977, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Department of Health and Human Services" substituted for "Department of Health, Education, and Welfare" in subsec. (b)(4) pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE

Section effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95–95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (b)(5) of this section relating to annual report 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 item 18 on page 164 of House Document No. 103–7.

§4362a. Membership of Task Force on Environmental Cancer and Heart and Lung Disease

The Director of the National Center for Health Statistics and the head of the Center for Disease Control (or the successor to such entity) shall each serve as members of the Task Force on Environmental Cancer and Heart and Lung Disease established under section 4362 of this title.

(Pub. L. 95–623, §9, Nov. 9, 1978, 92 Stat. 3455.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Health Services Research, Health Statistics, and Health Care Technology Act of 1978, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Centers for Disease Control changed to Centers for Disease Control and Prevention by Pub. L. 102–531, title III, §312, Oct. 27, 1992, 106 Stat. 3504.

§4363. Continuing and long-term environmental research and development

The Administrator of the Environmental Protection Agency shall establish a separately identified program of continuing, long-term environmental research and development for each activity listed in section 2(a) of this Act. Unless otherwise specified by law, at least 15 per centum of funds appropriated to the Administrator for environmental research and development for each activity listed in section 2(a) of this Act shall be obligated and expended for such long-term environmental research and development under this section.

(Pub. L. 96–569, §2(f), Dec. 22, 1980, 94 Stat. 3337.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 2(a) of this Act, referred to in text, is section 2(a) of Pub. L. 96–569, Dec. 22, 1980, 94 Stat. 3335, which is not classified to the Code.

CODIFICATION

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1981, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior authorization acts:
1980—Pub. L. 96–229, §2(e), Apr. 7, 1980, 94 Stat. 327.
1977—Pub. L. 95–155, §6, Nov. 8, 1977, 91 Stat. 1259.

§4363a. Pollution control technologies demonstrations

(1) The Administrator shall continue to be responsible for conducting and shall continue to conduct full-scale demonstrations of energy-related pollution control technologies as necessary in his judgment to fulfill the provisions of the Clean Air Act as amended [42 U.S.C. 7401 et seq.], the Federal Water Pollution Control Act as amended [33 U.S.C. 1251 et seq.], and other pertinent pollution control statutes.

(2) Energy-related environmental protection projects authorized to be administered by the Environmental Protection Agency under this Act shall not be transferred administratively to the Department of Energy or reduced through budget amendment. No action shall be taken through administrative or budgetary means to diminish the ability of the Environmental Protection Agency to initiate such projects.

(Pub. L. 96–229, §2(d), Apr. 7, 1980, 94 Stat. 327.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Clean Air Act, referred to in par. (1), is act July 14, 1955, ch. 360, 69 Stat. 322, which is classified generally to chapter 85 (§7401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of this title and Tables.

The Federal Water Pollution Control Act, referred to in par. (1), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, §2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

This Act, referred to in par. (2), is Pub. L. 96–229, Apr. 7, 1980, 94 Stat. 325, known as the Environmental, Research, Development, and Demonstration Authorization Act of 1980, which enacted sections 4363, 4363a, 4369a, and 4370 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1980, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior authorization act:
1979—Pub. L. 95–477, §2(d), Oct. 18, 1978, 92 Stat. 1508.

§4364. Expenditure of funds for research and development related to regulatory program activities

(a) Coordination, etc., with research needs and priorities of program offices and Environmental Protection Agency

The Administrator of the Environmental Protection Agency shall assure that the expenditure of any funds appropriated pursuant to this Act or any other provision of law for environmental research and development related to regulatory program activities shall be coordinated with and reflect the research needs and priorities of the program offices, as well as the overall research needs and priorities of the Agency, including those defined in the five-year research plan.

(b) Program offices subject to coverage

For purposes of subsection (a), the appropriate program offices are—

(1) the Office of Air and Waste Management, for air quality activities;

(2) the Office of Water and Hazardous Materials, for water quality activities and water supply activities;

(3) the Office of Pesticides, for environmental effects of pesticides;

(4) the Office of Solid Waste, for solid waste activities;

(5) the Office of Toxic Substances, for toxic substance activities;

(6) the Office of Radiation Programs, for radiation activities; and

(7) the Office of Noise Abatement and Control, for noise activities.

(c) Report to Congress; contents

The Administrator shall submit to the President and the Congress a report concerning the most appropriate means of assuring, on a continuing basis, that the research efforts of the Agency reflect the needs and priorities of the regulatory program offices, while maintaining a high level of scientific quality. Such report shall be submitted on or before March 31, 1978.

(Pub. L. 95–155, §7, Nov. 8, 1977, 91 Stat. 1259.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 95–155, Nov. 8, 1977, 91 Stat. 1257, known as the Environmental Research, Development, and Demonstration Authorization Act of 1978, which to the extent classified to the Code enacted sections 300j–3a, 4361a, 4361b, and 4363 to 4367 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1978, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

§4365. Science Advisory Board

(a) Establishment; requests for advice by Administrator of Environmental Protection Agency and Congressional committees

The Administrator of the Environmental Protection Agency shall establish a Science Advisory Board which shall provide such scientific advice as may be requested by the Administrator, the Committee on Environment and Public Works of the United States Senate, or the Committee on Science, Space, and Technology, on Energy and Commerce, or on Public Works and Transportation of the House of Representatives.

(b) Membership; Chairman; meetings; qualifications of members

Such Board shall be composed of at least nine members, one of whom shall be designated Chairman, and shall meet at such times and places as may be designated by the Chairman of the Board in consultation with the Administrator. Each member of the Board shall be qualified by education, training, and experience to evaluate scientific and technical information on matters referred to the Board under this section.

(c) Proposed environmental criteria document, standard, limitation, or regulation; functions respecting in conjunction with Administrator

(1) The Administrator, at the time any proposed criteria document, standard, limitation, or regulation under the Clean Air Act [42 U.S.C. 7401 et seq.], the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.], the Resource Conservation and Recovery Act of 1976 [42 U.S.C. 6901 et seq.], the Noise Control Act [42 U.S.C. 4901 et seq.], the Toxic Substances Control Act [15 U.S.C. 2601 et seq.], or the Safe Drinking Water Act [42 U.S.C. 300f et seq.], or under any other authority of the Administrator, is provided to any other Federal agency for formal review and comment, shall make available to the Board such proposed criteria document, standard, limitation, or regulation, together with relevant scientific and technical information in the possession of the Environmental Protection Agency on which the proposed action is based.

(2) The Board may make available to the Administrator, within the time specified by the Administrator, its advice and comments on the adequacy of the scientific and technical basis of the proposed criteria document, standard, limitation, or regulation, together with any pertinent information in the Board's possession.

(d) Utilization of technical and scientific capabilities of Federal agencies and national environmental laboratories for determining adequacy of scientific and technical basis of proposed criteria document, etc.

In preparing such advice and comments, the Board shall avail itself of the technical and scientific capabilities of any Federal agency, including the Environmental Protection Agency and any national environmental laboratories.

(e) Committees

(1) Member committees

(A) In general

The Board is authorized to establish such member committees and investigative panels as the Administrator and the Board determine to be necessary to carry out this section.

(B) Chairmanship

Each member committee or investigative panel established under this subsection shall be chaired by a member of the Board.

(2) Agriculture-related committees

(A) In general

The Administrator and the Board—

(i) shall establish a standing agriculture-related committee; and

(ii) may establish such additional agriculture-related committees and investigative panels as the Administrator and the Board determines to be necessary to carry out the duties under subparagraph (C).

(B) Membership

The standing committee and each agriculture-related committee or investigative panel established under subparagraph (A) shall be—

(i) composed of—

(I) such quantity of members as the Administrator and the Board determines to be necessary; and

(II) individuals who are not members of the Board on the date of appointment to the committee or investigative panel; and

(ii) appointed by the Administrator and the Board, in consultation with the Secretary of Agriculture.

(C) Duties

The agriculture-related standing committee and each additional committee and investigative panel established under subparagraph (A) shall provide scientific and technical advice to the Board relating to matters referred to the Board that the Administrator and the Board determines, in consultation with the Secretary of Agriculture, to have a significant direct impact on enterprises that are engaged in the business of the production of food and fiber, ranching and raising livestock, aquaculture, and all other farming- and agriculture-related industries.

(f) Appointment and compensation of secretary and other personnel; compensation of members

(1) Upon the recommendation of the Board, the Administrator shall appoint a secretary, and such other employees as deemed necessary to exercise and fulfill the Board's powers and responsibilities. The compensation of all employees appointed under this paragraph shall be fixed in accordance with chapter 51 and subchapter III of chapter 53 of title 5.

(2) Members of the Board may be compensated at a rate to be fixed by the President but not in excess of the maximum rate of pay for grade GS–18, as provided in the General Schedule under section 5332 of title 5.

(g) Consultation and coordination with Scientific Advisory Panel

In carrying out the functions assigned by this section, the Board shall consult and coordinate its activities with the Scientific Advisory Panel established by the Administrator pursuant to section 136w(d) of title 7.

(h) Public participation and transparency

The Board shall make every effort, consistent with applicable law, including section 552 of title 5 (commonly known as the "Freedom of Information Act") and section 552a of title 5 (commonly known as the "Privacy Act"), to maximize public participation and transparency, including making

the scientific and technical advice of the Board and any committees or investigative panels of the Board publically available in electronic form on the website of the Environmental Protection Agency.

(i) Report to Congress

The Administrator shall annually report to the Committees on Environment and Public Works and Agriculture of the Senate and the Committees on Transportation and Infrastructure, Energy and Commerce, and Agriculture of the House of Representatives regarding the membership and activities of the standing agriculture-related committee established pursuant to subsection (e)(2)(A)(i).

(Pub. L. 95–155, §8, Nov. 8, 1977, 91 Stat. 1260; Pub. L. 96–569, §3, Dec. 22, 1980, 94 Stat. 3337; Pub. L. 103–437, §15(o), Nov. 2, 1994, 108 Stat. 4593; Pub. L. 104–66, title II, §2021(k)(3), Dec. 21, 1995, 109 Stat. 728; Pub. L. 113–79, title XII, §12307, Feb. 7, 2014, 128 Stat. 989.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (c)(1), is act July 14, 1955, ch. 360, 69 Stat. 322, which is classified generally to chapter 85 (§7401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of this title and Tables.

The Federal Water Pollution Control Act, referred to in subsec. (c)(1), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, §2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Resource Conservation and Recovery Act of 1976, referred to in subsec. (c)(1), is Pub. L. 94–580, Oct. 21, 1976, 90 Stat. 2796, which is classified generally to chapter 82 (§6901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 6901 of this title and Tables.

The Noise Control Act, referred to in subsec. (c)(1), probably means the Noise Control Act of 1972, Pub. L. 92–574, Oct. 27, 1972, 86 Stat. 1234, which is classified principally to chapter 65 (§4901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4901 of this title and Tables.

The Toxic Substances Control Act, referred to in subsec. (c)(1), is Pub. L. 94–469, Oct. 11, 1976, 90 Stat. 2003, which is classified generally to chapter 53 (§2601 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 15 and Tables.

The Safe Drinking Water Act, referred to in subsec. (c)(1), is title XIV of act July 1, 1944, as added Dec. 16, 1974, Pub. L. 93–523, §2(a), 88 Stat. 1660, which is classified generally to subchapter XII (§300f et seq.) of chapter 6A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

CODIFICATION

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1978, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

AMENDMENTS

2014—Subsec. (e). Pub. L. 113–79, §12307(1), added subsec. (e) and struck out former subsec. (e). Text read as follows: "The Board is authorized to constitute such member committees and investigative panels as the Administrator and the Board find necessary to carry out this section. Each such member committee or investigative panel shall be chaired by a member of the Board."

Subsecs. (h), (i). Pub. L. 113–79, §12307(2), added subsecs. (h) and (i).

1995—Subsecs. (c) to (i). Pub. L. 104–66 redesignated subsecs. (e) to (i) as (c) to (g), respectively, and struck out former subsec. (c) which read as follows: "In addition to providing scientific advice when requested by the Administrator under subsection (a) of this section, the Board shall review and comment on the Administration's five-year plan for environmental research, development, and demonstration provided for by

section 4361 of this title and on each annual revision thereof. Such review and comment shall be transmitted to the Congress by the Administrator, together with his comments thereon, at the time of the transmission to the Congress of the annual revision involved."

1994—Subsec. (a). Pub. L. 103–437, §15(o)(1), substituted "Committee on Science, Space, and Technology, on Energy and Commerce, or on" for "Committees on Science and Technology, Interstate and Foreign Commerce, or".

Subsec. (d). Pub. L. 103–437, §15(o)(2), struck out subsec. (d) which related to review and report to Administrator, President, and Congress on health effects research.

1980—Subsec. (a). Pub. L. 96–569 inserted provisions relating to requests by the enumerated Congressional committees.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

Committee on Public Works and Transportation of House of Representatives treated as referring to Committee on Transportation and Infrastructure of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2.

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided for by law. See sections 1001(2) and 1013 of Title 5, Government Organization and Employees.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§4366. Identification and coordination of research, development, and demonstration activities

(a) Consultation and cooperation of Administrator of Environmental Protection Agency with heads of Federal agencies; inclusion of activities in annual revisions of plan for research, etc.

The Administrator of the Environmental Protection Agency, in consultation and cooperation with the heads of other Federal agencies, shall take such actions on a continuing basis as may be necessary or appropriate—

(1) to identify environmental research, development, and demonstration activities, within and outside the Federal Government, which may need to be more effectively coordinated in order to minimize unnecessary duplication of programs, projects, and research facilities;

(2) to determine the steps which might be taken under existing law, by him and by the heads of such other agencies, to accomplish or promote such coordination, and to provide for or encourage the taking of such steps; and

(3) to determine the additional legislative actions which would be needed to assure such coordination to the maximum extent possible.

The Administrator shall include in each annual revision of the five-year plan provided for by

section 4361 [1] of this title a full and complete report on the actions taken and determinations made during the preceding year under this subsection, and may submit interim reports on such actions and determinations at such other times as he deems appropriate.

(b) Coordination of programs by Administrator

The Administrator of the Environmental Protection Agency shall coordinate environmental research, development, and demonstration programs of such Agency with the heads of other Federal agencies in order to minimize unnecessary duplication of programs, projects, and research facilities.

(c) Joint study by Council on Environmental Quality in consultation with Office of Science and Technology Policy for coordination of activities; report to President and Congress; report by President to Congress on implementation of joint study and report

(1) In order to promote the coordination of environmental research and development activities, and to assure that the action taken and methods used (under subsection (a) and otherwise) to bring about such coordination will be as effective as possible for that purpose, the Council on Environmental Quality in consultation with the Office of Science and Technology Policy shall promptly undertake and carry out a joint study of all aspects of the coordination of environmental research and development. The Chairman of the Council shall prepare a report on the results of such study, together with such recommendations (including legislative recommendations) as he deems appropriate, and shall submit such report to the President and the Congress not later than May 31, 1978.

(2) Not later than September 30, 1978, the President shall report to the Congress on steps he has taken to implement the recommendations included in the report under paragraph (1), including any recommendations he may have for legislation.

(Pub. L. 95–155, §9, Nov. 8, 1977, 91 Stat. 1261.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 4361 of this title, referred to in subsec. (a), was repealed by Pub. L. 104–66, title II, §2021(k)(1), Dec. 21, 1995, 109 Stat. 728.

CODIFICATION

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1978, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

COORDINATION OF ENVIRONMENTAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION EFFORTS; STUDY AND REPORT

Pub. L. 95–477, §3(c), Oct. 18, 1978, 92 Stat. 1509, authorized to be appropriated to the Environmental Protection Agency for the fiscal year 1979, $1,000,000, and for the fiscal year 1980, $1,000,000, for a study and report, under a contract let by the Administrator, to be conducted outside the Federal Government, on coordination of the Federal Government's efforts in environmental research, development, and demonstration, and the application of the results of such efforts to environmental problems, with the report on the study submitted to the President, the Administrator, and the Congress within two years after Oct. 18, 1978, accompanied by recommendations for action by the President, the Administrator, other agencies, or the Congress, as may be appropriate.

[1] *See References in Text note below.*

§4366a. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 101–617, §4, Nov. 16, 1990, 104 Stat. 3287, which related to development of data base of environmental research articles indexed by geographic location, expired 10 years after Nov. 16, 1990, pursuant to section 6 of Pub. L. 101–617, formerly set out as a Termination Date note under this section.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION DATE

Pub. L. 101–617, §6, Nov. 16, 1990, 104 Stat. 3287, provided that Pub. L. 101–617, which enacted this section and provisions formerly set out under this section, was to expire 10 years after Nov. 16, 1990.

SHORT TITLE; FINDINGS; PURPOSE; AUTHORIZATION

Pub. L. 101–617, §§1–3, 5, Nov. 16, 1990, 104 Stat. 3287, which provided that Pub. L. 101–617, which enacted this section and provisions formerly set out under this section, could be cited as the "Environmental Research Geographic Location Information Act", and further provided for findings, purpose to develop data base of environmental research articles indexed by geographic location, and authorization of appropriations, expired 10 years after Nov. 16, 1990, pursuant to section 6 of Pub. L. 101–617, formerly set out as a note under this section.

§4367. Reporting requirements of financial interests of officers and employees of Environmental Protection Agency

(a) Covered officers and employees

Each officer or employee of the Environmental Protection Agency who—

(1) performs any function or duty under this Act; and

(2) has any known financial interest in any person who applies for or receives grants, contracts, or other forms of financial assistance under this Act,

shall, beginning on February 1, 1978, annually file with the Administrator a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

(b) Implementation of requirements by Administrator

The Administrator shall—

(1) act within ninety days after November 8, 1977—

(A) to define the term "known financial interest" for purposes of subsection (a) of this section; and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provision for the filing by such officers and employees of such statements and the review by the Administrator of such statements; and

(2) Omitted.

(c) Exemption of positions by Administrator

In the rules prescribed under subsection (b) of this section, the Administrator may identify specific positions of a nonpolicymaking nature within the Administration and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Violations; penalties

Any officer or employee who is subject to, and knowingly violates, this section, shall be fined not

more than $2,500 or imprisoned not more than one year, or both.

(Pub. L. 95–155, §12, Nov. 8, 1977, 91 Stat. 1263.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(1), (2), is Pub. L. 95–155, Nov. 8, 1977, 91 Stat. 1257, known as the Environmental Research, Development, and Demonstration Authorization Act of 1978, which to the extent classified to the Code enacted sections 300j–3a, 4361a, 4361b, and 4363 to 4367 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Subsec. (b)(2) of this section, which required the Administrator to report to Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, item 9 on page 164 of House Document No. 103–7.

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1978, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

§4368. Grants to qualified citizens groups

(1) There is authorized to be appropriated to the Environmental Protection Agency, for grants to qualified citizens groups in States and regions, $3,000,000.

(2) Grants under this section may be made for the purpose of supporting and encouraging participation by qualified citizens groups in determining how scientific, technological, and social trends and changes affect the future environment and quality of life of an area, and for setting goals and identifying measures for improvement.

(3) The term "qualified citizens group" shall mean a nonprofit organization of citizens having an area based focus, which is not single-issue oriented and which can demonstrate a prior record of interest and involvement in goal-setting and research concerned with improving the quality of life, including plans to identify, protect and enhance significant natural and cultural resources and the environment.

(4) A citizens group shall be eligible for assistance only if certified by the Governor in consultation with the State legislature as a bonafide organization entitled to receive Federal assistance to pursue the aims of this program. The group shall further demonstrate its capacity to employ usefully the funds for the purposes of this program and its broad-based representative nature.

(5) After an initial application for assistance under this section has been approved, the Administrator may make grants on an annual basis, on condition that the Governor recertify the group and that the applicant submits to the Administrator annually—

(A) an evaluation of the progress made during the previous year in meeting the objectives for which the grant was made;

(B) a description of any changes in the objectives of the activities; and

(C) a description of the proposed activities for the succeeding one year period.

(6) A grant made under this program shall not exceed 75 per centum of the estimated cost of the project or program for which the grant is made, and no group shall receive more than $50,000 in any one year.

(7) No financial assistance provided under this section shall be used to support lobbying or litigation by any recipient group.

(Pub. L. 95–477, §3(d), Oct. 18, 1978, 92 Stat. 1509.)

EDITORIAL NOTES

REFERENCES IN TEXT

This section, referred to in par. (5), means section 3 of Pub. L. 95–477, in its entirety, subsec. (d) of which enacted this section, subsecs. (a) and (b) of which were not classified to the Code, and subsec. (c) of which is set out as a note under section 4366 of this title.

CODIFICATION

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1979, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

§4368a. Utilization of talents of older Americans in projects of pollution prevention, abatement, and control

(a) Technical assistance to environmental agencies

Notwithstanding any other provision of law relating to Federal grants and cooperative agreements, the Administrator of the Environmental Protection Agency is authorized to make grants to, or enter into cooperative agreements with, private nonprofit organizations designated by the Secretary of Labor under title V of the Older Americans Act of 1965 [42 U.S.C. 3056 et seq.] to utilize the talents of older Americans in programs authorized by other provisions of law administered by the Administrator (and consistent with such provisions of law) in providing technical assistance to Federal, State, and local environmental agencies for projects of pollution prevention, abatement, and control. Funding for such grants or agreements may be made available from such programs or through title V of the Older Americans Act of 1965 and subtitle D of title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3221 et seq.].

(b) Pre-award certifications

Prior to awarding any grant or agreement under subsection (a), the applicable Federal, State, or local environmental agency shall certify to the Administrator that such grants or agreements will not—

(1) result in the displacement of individuals currently employed by the environmental agency concerned (including partial displacement through reduction of nonovertime hours, wages, or employment benefits);

(2) result in the employment of any individual when any other person is in a layoff status from the same or substantially equivalent job within the jurisdiction of the environmental agency concerned; or

(3) affect existing contracts for services.

(c) Prior appropriation Acts

Grants or agreements awarded under this section shall be subject to prior appropriation Acts.

(Pub. L. 98–313, §2, June 12, 1984, 98 Stat. 235; Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(35), (f)(27)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–426, 2681–434; Pub. L. 113–128, title V, §512(j), July 22, 2014, 128 Stat. 1709.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Older Americans Act of 1965, referred to in subsec. (a), is Pub. L. 89–73, July 14, 1965, 79 Stat. 218. Title V of the Act, known as the "Community Service Senior Opportunities Act", is classified generally to subchapter IX (§3056 et seq.) of chapter 35 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables.

The Workforce Innovation and Opportunity Act, referred to in subsec. (a), is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425. Subsection D of title I of the Act is classified generally to part D (§3221 et seq.) of

subchapter I of chapter 32 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

CODIFICATION

Section was enacted as part of the Environmental Programs Assistance Act of 1984, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

AMENDMENTS

2014—Subsec. (a). Pub. L. 113–128 substituted "Funding for such grants or agreements may be made available from such programs or through title V of the Older Americans Act of 1965 and subtitle D of title I of the Workforce Innovation and Opportunity Act" for "Funding for such grants or agreements may be made available from such programs or through title V of the Older Americans Act of 1965 and subtitle D of title I of the Workforce Investment Act of 1998".

1998—Subsec. (a). Pub. L. 105–277, §101(f) [title VIII, §405(f)(27)], struck out "title IV of the Job Training Partnership Act or" after "title V of the Older Americans Act of 1965 and" in last sentence.

Pub. L. 105–277, §101(f) [title VIII, §405(d)(35)], substituted "and title IV of the Job Training Partnership Act or subtitle D of title I of the Workforce Investment Act of 1998" for "and title IV of the Job Training Partnership Act" in second sentence.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 101(f) [title VIII, §405(d)(35)] of Pub. L. 105–277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, §405(f)(27)] of Pub. L. 105–277 effective July 1, 2000, see section 101(f) [title VIII, §405(g)(1), (2)(B)] of Pub. L. 105–277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

SHORT TITLE

Pub. L. 98–313, §1, June 12, 1984, 98 Stat. 235, provided that: "This Act [enacting this section] may be cited as the 'Environmental Programs Assistance Act of 1984'."

§4368b. General assistance program

(a) Short title

This section may be cited as the "Indian Environmental General Assistance Program Act of 1992".

(b) Purposes

The purposes of this section are to—

(1) provide general assistance grants to Indian tribal governments and intertribal consortia to build capacity to administer environmental regulatory programs that may be delegated by the Environmental Protection Agency on Indian lands; and

(2) provide technical assistance from the Environmental Protection Agency to Indian tribal governments and intertribal consortia in the development of multimedia programs to address environmental issues on Indian lands.

(c) Definitions

For purposes of this section:

(1) The term "Indian tribal government" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village

corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C.A. 1601, et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

(2) The term "intertribal consortia" or "intertribal consortium" means a partnership between two or more Indian tribal governments authorized by the governing bodies of those tribes to apply for and receive assistance pursuant to this section.

(3) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(d) General assistance program

(1) The Administrator of the Environmental Protection Agency shall establish an Indian Environmental General Assistance Program that provides grants to eligible Indian tribal governments or intertribal consortia to cover the costs of planning, developing, and establishing environmental protection programs consistent with other applicable provisions of law providing for enforcement of such laws by Indian tribes on Indian lands.

(2) Each grant awarded for general assistance under this subsection for a fiscal year shall be no less than $75,000, and no single grant may be awarded to an Indian tribal government or intertribal consortium for more than 10 percent of the funds appropriated under subsection (h) of this section.

(3) The term of any general assistance award made under this subsection may exceed one year. Any awards made pursuant to this section shall remain available until expended. An Indian tribal government or intertribal consortium may receive a general assistance grant for a period of up to four years in each specific media area.

(e) No reduction in amounts

In no case shall the award of a general assistance grant to an Indian tribal government or intertribal consortium under this section result in a reduction of Environmental Protection Agency grants for environmental programs to that tribal government or consortium. Nothing in this section shall preclude an Indian tribal government or intertribal consortium from receiving individual media grants or cooperative agreements. Funds provided by the Environmental Protection Agency through the general assistance program shall be used by an Indian tribal government or intertribal consortium to supplement other funds provided by the Environmental Protection Agency through individual media grants or cooperative agreements.

(f) Expenditure of general assistance

Any general assistance under this section shall be expended for the purpose of planning, developing, and establishing the capability to implement programs administered by the Environmental Protection Agency and specified in the assistance agreement. Purposes and programs authorized under this section shall include the development and implementation of solid and hazardous waste programs for Indian lands. An Indian tribal government or intertribal consortium receiving general assistance pursuant to this section shall utilize such funds for programs and purposes to be carried out in accordance with the terms of the assistance agreement. Such programs and general assistance shall be carried out in accordance with the purposes and requirements of applicable provisions of law, including the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(g) Procedures

(1) Within 12 months following October 24, 1992, the Administrator shall promulgate regulations establishing procedures under which an Indian tribal government or intertribal consortium may apply for general assistance grants under this section.

(2) The Administrator shall publish regulations issued pursuant to this section in the Federal Register.

(3) The Administrator shall establish procedures for accounting, auditing, evaluating, and reviewing any programs or activities funded in whole or in part for a general assistance grant under this section.

(h) Authorization

There are authorized to be appropriated to carry out the provisions of this section, such sums as

may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.

(i) Report to Congress

The Administrator shall transmit an annual report to the appropriate Committees of the Congress with jurisdiction over the applicable environmental laws and Indian tribes describing which Indian tribes or intertribal consortia have been granted approval by the Administrator pursuant to law to enforce certain environmental laws and the effectiveness of any such enforcement.

(Pub. L. 95–134, title V, §502, as added Pub. L. 102–497, §11, Oct. 24, 1992, 106 Stat. 3258; amended Pub. L. 103–155, Nov. 24, 1993, 107 Stat. 1523; Pub. L. 104–233, §1, Oct. 2, 1996, 110 Stat. 3057.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in subsec. (c)(1), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

The Solid Waste Disposal Act, referred to in subsec. (f), is title II of Pub. L. 89–272, Oct. 20, 1965, 79 Stat. 997, as amended generally by Pub. L. 94–580, §2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§6901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of this title and Tables.

CODIFICATION

Section was enacted as the Indian Environmental General Assistance Program Act of 1992 and as part of the Omnibus Territories Act of 1977, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

AMENDMENTS

1996—Subsec. (h). Pub. L. 104–233 substituted "such sums as may be necessary" for "$15,000,000".

1993—Subsec. (d)(1). Pub. L. 103–155, §3(a), inserted "consistent with other applicable provisions of law providing for enforcement of such laws by Indian tribes" after "programs".

Subsec. (f). Pub. L. 103–155, §3(b), inserted at end "Such programs and general assistance shall be carried out in accordance with the purposes and requirements of applicable provisions of law, including the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.)."

Subsec. (h). Pub. L. 103–155, §1, substituted ", 1994, 1995, 1996, 1997, and 1998" for "and 1994".

Subsec. (i). Pub. L. 103–155, §2, added subsec. (i).

STATUTORY NOTES AND RELATED SUBSIDIARIES

AVAILABILITY OF FUNDS FOR WASTE COLLECTION AND DISPOSAL

Pub. L. 115–141, div. G, title II, Mar. 23, 2018, 132 Stat. 668, provided in part: "That hereafter, notwithstanding other applicable provisions of law, the funds appropriated for the Indian Environmental General Assistance Program shall be available to federally recognized tribes for solid waste and recovered materials collection, transportation, backhaul, and disposal services."

§4369. Miscellaneous reports

(a) Availability to Congressional committees

All reports to or by the Administrator relevant to the Agency's program of research, development, and demonstration shall promptly be made available to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Environment and Public Works of the Senate, unless otherwise prohibited by law.

(b) Transmittal of jurisdictional information

The Administrator shall keep the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Environment and Public Works of the Senate fully and currently informed with respect to matters falling within or related to the jurisdiction of the committees.

(c) Comment by Government agencies and the public

The reports provided for in section 5910 [1] of this title shall be made available to the public for comment, and to the heads of affected agencies for comment and, in the case of recommendations for action, for response.

(d) Transmittal of research information to the Department of Energy

For the purpose of assisting the Department of Energy in planning and assigning priorities in research development and demonstration activities related to environmental control technologies, the Administrator shall actively make available to the Department all information on research activities and results of research programs of the Environmental Protection Agency.

(Pub. L. 95–477, §5, Oct. 18, 1978, 92 Stat. 1510; Pub. L. 103–437, §15(c)(6), Nov. 2, 1994, 108 Stat. 4592.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 5910 of this title, referred to in subsec. (c), was repealed by Pub. L. 104–66, title II, §2021(i), Dec. 21, 1995, 109 Stat. 727.

CODIFICATION

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1979, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

AMENDMENTS

1994—Subsecs. (a), (b). Pub. L. 103–437 substituted "Science, Space, and Technology" for "Science and Technology".

[1] *See References in Text note below.*

§4369a. Reports on environmental research and development activities of Agency

(a) Reports to keep Congressional committees fully and currently informed

The Administrator shall keep the appropriate committees of the House and the Senate fully and currently informed about all aspects of the environmental research and development activities of the Environmental Protection Agency.

(b) Omitted

(Pub. L. 96–229, §4, Apr. 7, 1980, 94 Stat. 328.)

EDITORIAL NOTES

CODIFICATION

Subsec. (b) of this section, which required the Administrator to annually make available to the appropriate committees of Congress sufficient copies of a report fully describing funds requested and the environmental research and development activities to be carried out with these funds, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, item 24 on page 163 of House Document No. 103–7.

Section was enacted as part of the Environmental Research, Development, and Demonstration

Authorization Act of 1980, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

§4370. Reimbursement for use of facilities

(a) Authority to allow outside groups or individuals to use research and test facilities; reimbursement

The Administrator is authorized to allow appropriate use of special Environmental Protection Agency research and test facilities by outside groups or individuals and to receive reimbursement or fees for costs incurred thereby when he finds this to be in the public interest. Such reimbursement or fees are to be used by the Agency to defray the costs of use by outside groups or individuals.

(b) Rules and regulations

The Administrator may promulgate regulations to cover such use of Agency facilities in accordance with generally accepted accounting, safety, and laboratory practices.

(c) Waiver of reimbursement by Administrator

When he finds it is in the public interest the Administrator may waive reimbursement or fees for outside use of Agency facilities by nonprofit private or public entities.

(Pub. L. 96–229, §5, Apr. 7, 1980, 94 Stat. 328.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1980, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

§4370a. Assistant Administrators of Environmental Protection Agency; appointment; duties

(a) The President, by and with the advice and consent of the Senate, may appoint three Assistant Administrators of the Environmental Protection Agency in addition to—

(1) the five Assistant Administrators provided for in section 1(d) of Reorganization Plan Numbered 3 of 1970 (5 U.S.C. Appendix);

(2) the Assistant Administrator provided by section 2625(g) of title 15; and

(3) the Assistant Administrator provided by section 6911a of this title.

(b) Each Assistant Administrator appointed under subsection (a) shall perform such duties as the Administrator of the Environmental Protection Agency may prescribe.

(Pub. L. 98–80, §1, Aug. 23, 1983, 97 Stat. 485.)

EDITORIAL NOTES

REFERENCES IN TEXT

Reorganization Plan Numbered 3 of 1970, referred to in subsec. (a)(1), is set out under section 4321 of this title.

CODIFICATION

Section was not enacted as part of the National Environmental Policy Act of 1969 which comprises this chapter.

§4370b. Availability of fees and charges to carry out Agency programs

Notwithstanding any other provision of law, after September 30, 1990, amounts deposited in the Licensing and Other Services Fund from fees and charges assessed and collected by the Administrator for services and activities carried out pursuant to the statutes administered by the Environmental Protection Agency shall thereafter be available to carry out the Agency's activities in the programs for which the fees or charges are made.

(Pub. L. 101–144, title III, Nov. 9, 1989, 103 Stat. 858.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

§4370c. Environmental Protection Agency fees

(a) Assessment and collection

The Administrator of the Environmental Protection Agency shall, by regulation, assess and collect fees and charges for services and activities carried out pursuant to laws administered by the Environmental Protection Agency.

(b) Amount of fees and charges

Fees and charges assessed pursuant to this section shall be in such amounts as may be necessary to ensure that the aggregate amount of fees and charges collected pursuant to this section, in excess of the amount of fees and charges collected under current law—

(1) in fiscal year 1991, is not less than $28,000,000; and

(2) in each of fiscal years 1992, 1993, 1994, and 1995, is not less than $38,000,000.

(c) Limitation on fees and charges

(1) The maximum aggregate amount of fees and charges in excess of the amounts being collected under current law which may be assessed and collected pursuant to this section in a fiscal year—

(A) for services and activities carried out pursuant ot [1] the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.] is $10,000,000; and

(B) for services and activities in programs within the jurisdiction of the House Committee on Energy and Commerce and administered by the Environmental Protection Agency through the Administrator, shall be limited to such sums collected as of November 5, 1990, pursuant to sections 2625(b) and 2665(e)(2) [2] of title 15, and such sums specifically authorized by the Clean Air Act Amendments of 1990.

(2) Any remaining amounts required to be collected under this section shall be collected from services and programs administered by the Environmental Protection Agency other than those specified in subparagraphs (A) and (B) of paragraph (1).

(d) Rule of construction

Nothing in this section increases or diminishes the authority of the Administrator to promulgate regulations pursuant to section 9701 of title 31.

(e) Uses of fees

Fees and charges collected pursuant to this section shall be deposited into a special account for environmental services in the Treasury of the United States. Subject to appropriation Acts, such funds shall be available to the Environmental Protection Agency to carry out the activities for which such fees and charges are collected. Such funds shall remain available until expended.

(Pub. L. 101–508, title VI, §6501, Nov. 5, 1990, 104 Stat. 1388–320.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Water Pollution Control Act, referred to in subsec. (c)(1)(A), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, §2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

Section 2665(e)(2) of title 15, referred to in subsec. (c)(1)(B), was redesignated section 2665(d)(2) of Title 15, Commerce and Trade, by Pub. L. 104–66, title II, §2021(l)(2), Dec. 21, 1995, 109 Stat. 728.

The Clean Air Act Amendments of 1990, referred to in subsec. (c)(1)(B), means Pub. L. 101–549, Nov. 15, 1990, 104 Stat. 2399. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 7401 of this title and Tables.

CODIFICATION

In subsec. (d), "section 9701 of title 31" was in the original "the Independent Office Appropriations Act (31 U.S.C. 9701)" and substitution was made as if it read for "title V of the Independent Offices Appropriation Act of 1952" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

Section was enacted as part of the Omnibus Budget Reconciliation Act of 1990, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

[1] So in original. Probably should be "to".

[2] See References in Text note below.

§4370d. Percentage of Federal funding for organizations owned by socially and economically disadvantaged individuals

The Administrator of the Environmental Protection Agency shall, on and after October 6, 1992, to the fullest extent possible, ensure that at least 8 per centum of Federal funding for prime and subcontracts awarded in support of authorized programs, including grants, loans, and contracts for wastewater treatment and leaking underground storage tanks grants, be made available to business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 637(a)(5) and (6) of title 15), including historically black colleges and universities. For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

(Pub. L. 102–389, title III, Oct. 6, 1992, 106 Stat. 1602.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

§4370e. Working capital fund in Treasury

There is hereby established in the Treasury a "Working capital fund", to be available without fiscal year limitation for expenses and equipment necessary for the maintenance and operation of such administrative services as the Administrator determines may be performed more advantageously as central services: *Provided*, That any inventories, equipment, and other assets pertaining to the services to be provided by such fund, either on hand or on order, less the related liabilities or unpaid obligations, and any appropriations made hereafter for the purpose of providing capital, shall be used to capitalize such fund: *Provided further*, That such fund shall be paid in advance or reimbursed from funds available to the Agency and other Federal agencies for which such centralized services are performed, at rates which will return in full all expenses of operation, including accrued leave, depreciation of fund plant and equipment, amortization of automated data processing (ADP) software and systems (either acquired or donated), and an amount necessary to maintain a reasonable operating reserve, as determined by the Administrator: *Provided further*, That such fund shall provide services on a competitive basis: *Provided further*, That an amount not to exceed four percent of the total annual income to such fund may be retained in the fund for fiscal year 1997 and each fiscal year thereafter, to remain available until expended, to be used for the acquisition of capital equipment and for the improvement and implementation of Agency financial management, ADP, and other support systems: *Provided further*, That no later than thirty days after the end of each fiscal year amounts in excess of this reserve limitation shall be transferred to the Treasury.

(Pub. L. 104–204, title III, Sept. 26, 1996, 110 Stat. 2912; Pub. L. 105–65, title III, Oct. 27, 1997, 111 Stat. 1374; Pub. L. 105–276, title III, Oct. 21, 1998, 112 Stat. 2499.)

EDITORIAL NOTES

CODIFICATION

Section was formerly set out as a note under section 501 of Title 31, Money and Finance.

Section was enacted as part of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

AMENDMENTS

1998—Pub. L. 105–276, which directed the insertion of "or reimbursed" after "that such fund shall be paid in advance", was executed by making the insertion after "That such fund shall be paid in advance", to reflect the probable intent of Congress.

1997—Pub. L. 105–65 substituted "a 'Working capital fund' to be available without fiscal year limitation for expenses and equipment" for "a franchise fund pilot to be known as the 'Working capital fund', as authorized by section 403 of Public Law 103–356, to be available as provided in such section for expenses and equipment" and struck out proviso at end which read ": *Provided further*, That such franchise fund pilot shall terminate pursuant to section 403(f) of Public Law 103–356".

§4370f. Availability of funds after expiration of period for liquidating obligations

For fiscal year 2001 and thereafter, the obligated balances of sums available in multiple-year appropriations accounts shall remain available through the seventh fiscal year after their period of availability has expired for liquidating obligations made during the period of availability.

(Pub. L. 106–377, §1(a)(1) [title III], Oct. 27, 2000, 114 Stat. 1441, 1441A–44.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

§4370g. Availability of funds for uniforms and certain services

For fiscal year 2009 and thereafter, the Science and Technology and Environmental Programs and Management Accounts are available for uniforms, or allowances therefore, [1] as authorized by sections 5901 and 5902 of title 5 and for services as authorized by section 3109 of title 5, but at rates for individuals not to exceed the daily equivalent of the rate paid for level IV of the Executive Schedule.

(Pub. L. 111–8, div. E, title II, Mar. 11, 2009, 123 Stat. 728.)

EDITORIAL NOTES

REFERENCES IN TEXT

Level IV of the Executive Schedule, referred to in text, is set out under section 5315 of Title 5, Government Organization and Employees.

CODIFICATION

Section was enacted as part of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2009, and also as part of the Omnibus Appropriations Act, 2009, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

[1] So in original. Probably should be "therefor,".

§4370h. Availability of funds for facilities

For fiscal year 2009 and thereafter, the Science and Technology, Environmental Programs and Management, Office of Inspector General, Hazardous Substance Superfund, and Leaking Underground Storage Tank Trust Fund Program Accounts, are available for the construction, alteration, repair, rehabilitation, and renovation of facilities provided that the cost does not exceed $85,000 per project.

(Pub. L. 111–8, div. E, title II, Mar. 11, 2009, 123 Stat. 729.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2009, and also as part of the Omnibus Appropriations Act, 2009, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

§4370i. Regional liaisons for minority, tribal, and low-income communities

(a) In general

The Administrator of the Environmental Protection Agency (referred to in this section as the "Administrator") shall assign at least one employee in each regional office of the Environmental Protection Agency to serve as a liaison to minority, Tribal, and low-income communities in the relevant region.

(b) Public identification

The Administrator shall identify each regional liaison assigned under subsection (a) on the internet website of—

(1) the relevant regional office of the Environmental Protection Agency; and

(2) the Office of Environmental Justice of the Environmental Protection Agency.

(Pub. L. 115–270, title IV, §4305, Oct. 23, 2018, 132 Stat. 3883.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the America's Water Infrastructure Act of 2018, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

§4370j. Municipal Ombudsman

(a) Establishment

There is established within the Office of the Administrator an Office of the Municipal Ombudsman, to be headed by a Municipal Ombudsman.

(b) General duties

The duties of the Municipal Ombudsman shall include the provision of—

(1) technical assistance to municipalities seeking to comply with the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.]; and

(2) information to the Administrator to help the Administrator ensure that agency policies are implemented by all offices of the Environmental Protection Agency, including regional offices.

(c) Actions required

The Municipal Ombudsman shall work with appropriate offices at the headquarters and regional offices of the Environmental Protection Agency to ensure that a municipality seeking assistance is provided information regarding—

(1) available Federal financial assistance for which the municipality is eligible;

(2) flexibility available under the Federal Water Pollution Control Act; and

(3) the opportunity to develop an integrated plan under section 402(s) of the Federal Water Pollution Control Act [33 U.S.C. 1342(s)].

(d) Information sharing

The Municipal Ombudsman shall publish on the website of the Environmental Protection Agency—

(1) general information relating to—

(A) the technical assistance referred to in subsection (b)(1);

(B) the financial assistance referred to in subsection (c)(1);

(C) the flexibility referred to in subsection (c)(2); and

(D) any resources developed by the Administrator related to integrated plans under section 402(s) of the Federal Water Pollution Control Act [33 U.S.C. 1342(s)]; and

(2) a copy of each permit, order, or judicial consent decree that implements or incorporates such an integrated plan.

(Pub. L. 115–436, §4, Jan. 14, 2019, 132 Stat. 5560.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Water Pollution Control Act, referred to in subsec. (b)(1), is act June 30, 1948, ch. 758, as

amended generally by Pub. L. 92–500, §2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

CODIFICATION

Section was enacted as part of the Water Infrastructure Improvement Act, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

Pub. L. 115–436, §2, Jan. 14, 2019, 132 Stat. 5558, provided that: "In this Act [see Short Title of 2019 Amendment note set out under section 1251 of Title 33, Navigation and Navigable Waters]:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(2) MUNICIPALITY.—The term 'municipality' has the meaning given that term in section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362)."

SUBCHAPTER IV—FEDERAL PERMITTING IMPROVEMENT

§4370m. Definitions

In this subchapter:

(1) Agency

The term "agency" has the meaning given the term in section 551 of title 5.

(2) Agency CERPO

The term "agency CERPO" means the chief environmental review and permitting officer of an agency, as designated by the head of the agency under section 4370m–1(b)(2)(A)(iii)(I) of this title.

(3) Authorization

The term "authorization" means any license, permit, approval, finding, determination, or other administrative decision issued by an agency and any interagency consultation that is required or authorized under Federal law in order to site, construct, reconstruct, or commence operations of a covered project administered by a Federal agency or, in the case of a State that chooses to participate in the environmental review and authorization process in accordance with section 4370m–2(c)(3)(A) of this title, a State agency.

(4) Cooperating agency

The term "cooperating agency" has the meaning given the term in section 1508.1 of title 40, Code of Federal Regulations (or successor regulations).

(5) Council

The term "Council" means the Federal Permitting Improvement Steering Council established under section 4370m–1(a) of this title.

(6) Covered project

(A) In general

The term "covered project" means any activity in the United States that requires authorization or environmental review by a Federal agency involving construction of infrastructure for renewable or conventional energy production, electricity transmission, surface transportation, aviation, ports and waterways, water resource projects, broadband, pipelines, manufacturing,

semiconductors, artificial intelligence and machine learning, high-performance computing and advanced computer hardware and software, quantum information science and technology, data storage and data management, cybersecurity, carbon capture, energy storage, or any other sector as determined by a majority vote of the Council that—

(i)(I) is subject to NEPA;

(II) is likely to require a total investment of more than $200,000,000; and

(III) does not qualify for abbreviated authorization or environmental review processes under any applicable law;

(ii) is covered by a programmatic plan or environmental review developed for the primary purpose of facilitating development of carbon dioxide pipelines;

(iii) is—

(I) subject to NEPA;

(II) sponsored by an Indian Tribe (as defined in section 5304 of title 25), an Alaska Native Corporation, a Native Hawaiian organization (as defined in section 7517 of title 20), the Department of Hawaiian Home Lands, or the Office of Hawaiian Affairs; and

(III) located on land owned or under the jurisdiction of the entity that sponsors the activity under subclause (II); or

(iv) is subject to NEPA and the size and complexity of which, in the opinion of the Council, make the project likely to benefit from enhanced oversight and coordination, including a project likely to require—

(I) authorization from or environmental review involving more than 2 Federal agencies; or

(II) the preparation of an environmental impact statement under NEPA.

(B) Exclusion

The term "covered project" does not include—

(i) any project subject to section 139 of title 23; or

(ii) any project subject to section 2348 of title 33.

(C) Inclusion

For purposes of subparagraph (A), construction of infrastructure for carbon capture includes construction of—

(i) any facility, technology, or system that captures, utilizes, or sequesters carbon dioxide emissions, including projects for direct air capture (as defined in paragraph (6)(B)(i) of section 7403(g) of this title); and

(ii) carbon dioxide pipelines.

(7) Dashboard

The term "Dashboard" means the Permitting Dashboard required under section 4370m–2(b) of this title.

(8) Environmental assessment

The term "environmental assessment" has the meaning given the term in section 1508.1 of title 40, Code of Federal Regulations (or successor regulations).

(9) Environmental document

(A) In general

The term "environmental document" means an environmental assessment, finding of no significant impact, notice of intent, environmental impact statement, or record of decision.

(B) Inclusions

The term "environmental document" includes—

(i) any document that is a supplement to a document described in subparagraph (A); and

(ii) a document prepared pursuant to a court order.

(10) Environmental impact statement

The term "environmental impact statement" means the detailed written statement required under section 102(2)(C) of NEPA [42 U.S.C. 4332(2)(C)].

(11) Environmental review

The term "environmental review" means the agency procedures and processes for applying a categorical exclusion or for preparing an environmental assessment, an environmental impact statement, or other document required under NEPA.

(12) Executive Director

The term "Executive Director" means the Executive Director appointed by the President under section 4370m–1(b)(1)(A) of this title.

(13) Facilitating agency

The term "facilitating agency" means the agency that receives the initial notification from the project sponsor required under section 4370m–2(a) of this title.

(14) Inventory

The term "inventory" means the inventory of covered projects established by the Executive Director under section 4370m–1(c)(1)(A) of this title.

(15) Lead agency

The term "lead agency" means the agency with principal responsibility for an environmental review of a covered project under NEPA and parts 1500 through 1508 of title 40, Code of Federal Regulations (or successor regulations).

(16) NEPA

The term "NEPA" means the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(17) Participating agency

The term "participating agency" means an agency participating in an environmental review or authorization for a covered project in accordance with section 4370m–2 of this title.

(18) Project sponsor

The term "project sponsor" means an entity, including any private, public, or public-private entity, seeking an authorization for a covered project.

(Pub. L. 114–94, div. D, title XLI, §41001, Dec. 4, 2015, 129 Stat. 1741; Pub. L. 116–260, div. S, §102(d)(1), Dec. 27, 2020, 134 Stat. 2250; Pub. L. 117–58, div. G, title VIII, §70801(a), Nov. 15, 2021, 135 Stat. 1287; Pub. L. 117–173, §1, Aug. 16, 2022, 136 Stat. 2103; Pub. L. 118–5, div. C, title III, §323, June 3, 2023, 137 Stat. 46.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969 or NEPA, referred to in pars. (6)(A), (11), and (15) and defined in (16), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

CODIFICATION

Section was enacted as part of the Fixing America's Surface Transportation Act, also known as the FAST Act, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

AMENDMENTS

2023—Par. (6)(A). Pub. L. 118–5 inserted "energy storage," before "or any other sector".

2022—Par. (6)(A). Pub. L. 117–173 inserted "semiconductors, artificial intelligence and machine learning,

high-performance computing and advanced computer hardware and software, quantum information science and technology, data storage and data management, cybersecurity," after "manufacturing," in introductory provisions.

2021—Par. (3). Pub. L. 117–58, §70801(a)(1), inserted "and any interagency consultation" after "issued by an agency".

Par. (4). Pub. L. 117–58, §70801(a)(2), substituted "has the meaning given the term in section 1508.1 of title 40, Code of Federal Regulations (or successor regulations)." for "means any agency with—" and struck out subpars. (A) and (B) which read as follows:

"(A) jurisdiction under Federal law; or

"(B) special expertise as described in section 1501.6 of title 40, Code of Federal Regulations (as in effect on December 4, 2015)."

Par. (5). Pub. L. 117–58, §70801(a)(3), substituted "Federal Permitting Improvement Steering Council" for "Federal Infrastructure Permitting Improvement Steering Council".

Par. (6)(A)(iii), (iv). Pub. L. 117–58, §70801(a)(4), added cl. (iii) and redesignated former cl. (iii) as (iv).

Par. (8). Pub. L. 117–58, §70801(a)(5), substituted "has the meaning given the term in section 1508.1 of title 40, Code of Federal Regulations (or successor regulations)." for "means a concise public document for which a Federal agency is responsible under section 1508.9 of title 40, Code of Federal Regulations (or successor regulations)."

2020—Par. (6)(A). Pub. L. 116–260, §102(d)(1)(A)(i), inserted "carbon capture," after "manufacturing," in introductory provisions.

Par. (6)(A)(ii), (iii). Pub. L. 116–260, §102(d)(1)(A)(ii)–(iv), added cl. (ii) and redesignated former cl. (ii) as (iii).

Par. (6)(C). Pub. L. 116–260, §102(d)(1)(B), added subpar. (C).

STATUTORY NOTES AND RELATED SUBSIDIARIES

SAVINGS CLAUSE

Pub. L. 114–94, div. A, title XI, §11503(b), Dec. 4, 2015, 129 Stat. 1692, provided that: "Except as expressly provided in section 41003(f) [42 U.S.C. 4370m–2(f)] and subsection (o) of section 139 of title 23, United States Code, the requirements and other provisions of title 41 of this Act [probably means title XLI of div. D of Pub. L. 114–94, 42 U.S.C. 4370m et seq.] shall not apply to—

"(1) programs administered now and in the future by the Department of Transportation or its operating administrations under title 23, 46, or 49, United States Code, including direct loan and loan guarantee programs, or other Federal statutes or programs or projects administered by an agency pursuant to their authority under title 49, United States Code; or

"(2) any project subject to section 2045 of the Water Resources Development Act of 2007 (33 U.S.C. 2348)."

DEVELOPMENT OF CARBON CAPTURE, UTILIZATION, AND SEQUESTRATION REPORT, PERMITTING GUIDANCE, AND REGIONAL PERMITTING TASK FORCE

Pub. L. 116–260, div. S, §102(d)(2), Dec. 27, 2020, 134 Stat. 2250, provided that:

"(A) DEFINITIONS.—In this paragraph:

"(i) CARBON CAPTURE, UTILIZATION, AND SEQUESTRATION PROJECTS.—The term 'carbon capture, utilization, and sequestration projects' includes projects for direct air capture (as defined in paragraph (6)(B)(i) of section 103(g) of the Clean Air Act (42 U.S.C. 7403(g))).

"(ii) EFFICIENT, ORDERLY, AND RESPONSIBLE.—The term 'efficient, orderly, and responsible' means, with respect to development or the permitting process for carbon capture, utilization, and sequestration projects and carbon dioxide pipelines, a process that promotes environmental, health, and safety protections while maintaining a process that is completed in an expeditious manner.

"(B) REPORT.—

"(i) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Dec. 27, 2020], the Chair of the Council on Environmental Quality (referred to in this section as the 'Chair'), in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of the Interior, the Secretary of Transportation, the Executive Director of the Federal Permitting Improvement Council, and the head of any other relevant Federal agency (as determined by the President), shall prepare a report that—

"(I) compiles all existing relevant Federal permitting and review information and resources for project applicants, agencies, and other stakeholders interested in the deployment and impact of carbon

capture, utilization, and sequestration projects and carbon dioxide pipelines, including—

"(aa) the appropriate points of interaction with Federal agencies;

"(bb) clarification of the permitting responsibilities and authorities among Federal agencies; and

"(cc) best practices and templates for permitting in an efficient, orderly, and responsible manner, including through improved staff capacity and training at Federal permitting agencies;

"(II) inventories current or emerging activities that transform captured carbon dioxide into a product of commercial value, or as an input to products of commercial value;

"(III) inventories existing initiatives and recent publications that analyze or identify priority carbon dioxide pipelines needed to enable efficient, orderly, and responsible development of carbon capture, utilization, and sequestration projects at increased scale;

"(IV) identifies gaps in the current Federal regulatory framework for the deployment of carbon capture, utilization, and sequestration projects and carbon dioxide pipelines;

"(V) identifies Federal financing mechanisms available to project developers; and

"(VI) identifies public engagement opportunities through existing laws, including under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(ii) SUBMISSION; PUBLICATION.—The Chair shall—

"(I) submit the report under clause (i) to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce, the Committee on Natural Resources, and the Committee on Transportation and Infrastructure of the House of Representatives; and

"(II) as soon as practicable, make the report publicly available.

"(C) GUIDANCE.—

"(i) IN GENERAL.—After submission of the report under subparagraph (B)(ii), but not later than 1 year after the date of enactment of this Act [Dec. 27, 2020], the Chair shall submit guidance consistent with that report to all relevant Federal agencies that—

"(I) facilitates reviews associated with the deployment of carbon capture, utilization, and sequestration projects and carbon dioxide pipelines; and

"(II) supports the efficient, orderly, and responsible development of carbon capture, utilization, and sequestration projects and carbon dioxide pipelines.

"(ii) REQUIREMENTS.—

"(I) IN GENERAL.—The guidance under clause (i) shall address applicable requirements under—

"(aa) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

"(bb) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

"(cc) the Clean Air Act (42 U.S.C. 7401 et seq.);

"(dd) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

"(ee) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

"(ff) division A of subtitle III of title 54, United States Code (formerly known as the 'National Historic Preservation Act');

"(gg) the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.);

"(hh) the Act of June 8, 1940 (16 U.S.C. 668 et seq.) (commonly known as the 'Bald and Golden Eagle Protection Act');

"(ii) chapter 601 of title 49, United States Code (including those provisions formerly cited as the Natural Gas Pipeline Safety Act of 1968 (Public Law 90–481; 82 Stat. 720) and the Hazardous Liquid Pipeline Safety Act of 1979 (Public Law 96–129; 93 Stat. 1003)); and

"(jj) any other Federal law that the Chair determines to be appropriate.

"(II) ENVIRONMENTAL REVIEWS.—The guidance under clause (i) shall include direction to States and other interested parties for the development of programmatic environmental reviews under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for carbon capture, utilization, and sequestration projects and carbon dioxide pipelines.

"(III) PUBLIC INVOLVEMENT.—The guidance under clause (i) shall be subject to the public notice, comment, and solicitation of information procedures under section 1506.6 of title 40, Code of Federal Regulations (or a successor regulation).

"(iii) SUBMISSION; PUBLICATION.—The Chair shall—

"(I) submit the guidance under clause (i) to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce, the Committee on Natural Resources, and the Committee on Transportation and Infrastructure of the House of Representatives; and

"(II) as soon as practicable, make the guidance publicly available.

"(iv) EVALUATION.—The Chair shall—

"(I) periodically evaluate the reports of the task forces under subparagraph (D)(v) and, as necessary, revise the guidance under clause (i); and

"(II) each year, submit to the Committee on Environment and Public Works of the Senate, the Committee on Energy and Commerce, the Committee on Natural Resources, and the Committee on Transportation and Infrastructure of the House of Representatives, and relevant Federal agencies a report that describes any recommendations for rules, revisions to rules, or other policies that would address the issues identified by the task forces under subparagraph (D)(v).

"(D) TASK FORCES.—

"(i) ESTABLISHMENT.—Not later than 18 months after the date of enactment of this Act [Dec. 27, 2020], the Chair shall establish not less than 2 task forces, which shall each cover a different geographical area with differing demographic, land use, or geological issues—

"(I) to identify permitting and other challenges and successes that permitting authorities and project developers and operators face in permitting projects in an efficient, orderly, and responsible manner; and

"(II) to improve the performance of the permitting process and regional coordination for the purpose of promoting the efficient, orderly, and responsible development of carbon capture, utilization, and sequestration projects and carbon dioxide pipelines.

"(ii) MEMBERS AND SELECTION.—

"(I) IN GENERAL.—The Chair shall—

"(aa) develop criteria for the selection of members to each task force; and

"(bb) select members for each task force in accordance with item (aa) and subclause (II).

"(II) MEMBERS.—Each task force—

"(aa) shall include not less than 1 representative of each of—

"(AA) the Environmental Protection Agency;

"(BB) the Department of Energy;

"(CC) the Department of the Interior;

"(DD) the Pipeline and Hazardous Materials Safety Administration;

"(EE) any other Federal agency the Chair determines to be appropriate;

"(FF) any State that requests participation in the geographical area covered by the task force;

"(GG) developers or operators of carbon capture, utilization, and sequestration projects or carbon dioxide pipelines; and

"(HH) nongovernmental membership organizations, the primary mission of which concerns protection of the environment;

"(bb) at the request of a Tribal or local government, may include a representative of—

"(AA) not less than 1 local government in the geographical area covered by the task force; and

"(BB) not less than 1 Tribal government in the geographical area covered by the task force; and

"(cc) shall include 1 expert in each of the following fields—

"(AA) health and environmental effects, including exposure evaluation; and

"(BB) pipeline safety.

"(iii) MEETINGS.—

"(I) IN GENERAL.—Each task force shall meet not less than twice each year.

"(II) JOINT MEETING.—To the maximum extent practicable, the task forces shall meet collectively not less than once each year.

"(iv) DUTIES.—Each task force shall—

"(I) inventory existing or potential Federal and State approaches to facilitate reviews associated with the deployment of carbon capture, utilization, and sequestration projects and carbon dioxide pipelines, including best practices that—

"(aa) avoid duplicative reviews to the extent permitted by law;

"(bb) engage stakeholders early in the permitting process; and

"(cc) make the permitting process efficient, orderly, and responsible;

"(II) develop common models for State-level carbon dioxide pipeline regulation and oversight guidelines that can be shared with States in the geographical area covered by the task force;

"(III) provide technical assistance to States in the geographical area covered by the task force in implementing regulatory requirements and any models developed under subclause (II);

"(IV) inventory current or emerging activities that transform captured carbon dioxide into a product of commercial value, or as an input to products of commercial value;

"(V) identify any priority carbon dioxide pipelines needed to enable efficient, orderly, and

responsible development of carbon capture, utilization, and sequestration projects at increased scale;

"(VI) identify gaps in the current Federal and State regulatory framework and in existing data for the deployment of carbon capture, utilization, and sequestration projects and carbon dioxide pipelines;

"(VII) identify Federal and State financing mechanisms available to project developers; and

"(VIII) develop recommendations for relevant Federal agencies on how to develop and research technologies that—

"(aa) can capture carbon dioxide; and

"(bb) would be able to be deployed within the region covered by the task force, including any projects that have received technical or financial assistance for research under paragraph (6) of section 103(g) of the Clean Air Act (42 U.S.C. 7403(g)).

"(v) REPORT.—Each year, each task force shall prepare and submit to the Chair and to the other task forces a report that includes—

"(I) any recommendations for improvements in efficient, orderly, and responsible issuance or administration of Federal permits and other Federal authorizations required under a law described in subparagraph (C)(ii)(I); and

"(II) any other nationally relevant information that the task force has collected in carrying out the duties under clause (iv).

"(vi) EVALUATION.—Not later than 5 years after the date of enactment of this Act [Dec. 27, 2020], the Chair shall—

"(I) reevaluate the need for the task forces; and

"(II) submit to Congress a recommendation as to whether the task forces should continue."

PLACEMENT IN UNITED STATES CODE

Pub. L. 114–94, div. D, title XLI, §41014, Dec. 4, 2015, 129 Stat. 1762, provided that: "The Office of the Law Revision Counsel is directed to place sections 41001 through 41013 of this title in chapter 55 of title 42, United States Code, as subchapter IV."

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 13766

Ex. Ord. No. 13766, Jan. 24, 2017, 82 F.R. 8657, which related to expediting environmental reviews and approvals for high priority infrastructure projects, was revoked by Ex. Ord. No. 13990, §7(a), Jan. 20, 2021, 86 F.R. 7041, set out in a note under section 4321 of this title.

EXECUTIVE ORDER NO. 13807

Ex. Ord. No. 13807, Aug. 15, 2017, 82 F.R. 40463, which related to environmental review and permitting process for infrastructure projects, was revoked by Ex. Ord. No. 13990, §7(b), Jan. 20, 2021, 86 F.R. 7042, set out in a note under section 4321 of this title.

§4370m–1. Federal Permitting Improvement Steering Council

(a) Establishment

There is established the Federal Permitting Improvement Steering Council.

(b) Composition

(1) Chair

The Executive Director shall—

(A) be appointed by the President; and

(B) serve as Chair of the Council.

(2) Council members

(A) In general

(i) Designation by head of agency

(I) In general

Each individual listed in subparagraph (B) shall designate a member of the agency in which the individual serves to serve on the Council.

(II) Redesignation

If an individual listed in subparagraph (B) designates a different member to serve on the Council than the member designated under subclause (I), the individual shall notify the Executive Director of the designation by not later than 30 days after the date on which the designation is made.

(ii) Qualifications

A councilmember described in clause (i) shall hold a position in the agency of deputy secretary (or the equivalent) or higher.

(iii) Support

(I) In general

Consistent with guidance provided by the Director of the Office of Management and Budget, each individual listed in subparagraph (B) shall designate 1 or more appropriate members of the agency in which the individual serves to serve as an agency CERPO.

(II) Reporting

In carrying out the duties of the agency CERPO under this subchapter, an agency CERPO shall report directly to the applicable agency councilmember.

(B) Heads of agencies

The individuals that shall each designate a councilmember under this subparagraph are as follows:

(i) The Secretary of Agriculture.
(ii) The Secretary of the Army.
(iii) The Secretary of Commerce.
(iv) The Secretary of the Interior.
(v) The Secretary of Energy.
(vi) The Secretary of Transportation.
(vii) The Secretary of Defense.
(viii) The Administrator of the Environmental Protection Agency.
(ix) The Chairman of the Federal Energy Regulatory Commission.
(x) The Chairman of the Nuclear Regulatory Commission.
(xi) The Secretary of Homeland Security.
(xii) The Secretary of Housing and Urban Development.
(xiii) The Chairman of the Advisory Council on Historic Preservation.
(xiv) Any other head of a Federal agency that the Executive Director may invite to participate as a member of the Council.

(3) Additional members

In addition to the members listed in paragraphs (1) and (2), the Chairman of the Council on Environmental Quality and the Director of the Office of Management and Budget shall also be members of the Council.

(c) Duties

(1) Executive Director

(A) Inventory development

The Executive Director, in consultation with the Council, shall—

(i) not later than 180 days after December 4, 2015, establish an inventory of covered projects that are pending the environmental review or authorization of the head of any Federal agency;

(ii)(I) categorize the projects in the inventory as appropriate, based on sector and project

type; and

(II) for each category, identify the types of environmental reviews and authorizations most commonly involved; and

(iii) add a covered project to the inventory after receiving a notice described in section 4370m–2(a)(1) of this title.

(B) Facilitating agency designation

The Executive Director, in consultation with the Council, shall—

(i) designate a facilitating agency for each category of covered projects described in subparagraph (A)(ii); and

(ii) publish the list of designated facilitating agencies for each category of projects in the inventory on the Dashboard in an easily accessible format.

(C) Performance schedules

(i) In general

Not later than 1 year after December 4, 2015, the Executive Director, in consultation with the Council, shall develop recommended performance schedules, including intermediate and final completion dates, for environmental reviews and authorizations most commonly required for each category of covered projects described in subparagraph (A)(ii).

(ii) Requirements

(I) In general

The performance schedules shall reflect employment of the most sound and efficient applicable processes, including the alignment of Federal reviews of projects, reduction of permitting and project delivery time, and consideration of the best practices for public participation.

(II) Goal

(aa) In general

To the maximum extent practicable, and consistent with applicable Federal law, the Executive Director, in consultation with the Council, shall aim to develop recommended performance schedules under clause (i) of not more than 2 years.

(bb) Exception

If a recommended performance schedule developed under clause (i) exceeds 2 years, the relevant agencies, in consultation with the Executive Director and the Council, shall explain in that recommended performance schedule the factors that cause the environmental reviews and authorizations in that category of covered projects to take longer than 2 years.

(III) Limit

(aa) In general

The final completion dates in any performance schedule for the completion of an environmental review or authorization under clause (i) shall not exceed the average time to complete an environmental review or authorization for a project within that category.

(bb) Calculation of average time

The average time referred to in item (aa) shall be calculated based on relevant historical data, as determined by the Executive Director, and shall run from the period beginning on the date on which the Executive Director must make a specific entry for the project on the Dashboard under section 4370m–2(b)(2) of this title (except that, for projects initiated before that duty takes effect, the period beginning on the date of filing of a completed application), and ending on the date of the issuance of a record of decision or other final agency action on the review or authorization.

(cc) Completion date

Each performance schedule shall specify that any decision by an agency on an environmental review or authorization must be issued not later than 180 days after the date on which all information needed to complete the review or authorization (including any hearing that an agency holds on the matter) is in the possession of the agency.

(iii) Review and revision

Not later than 2 years after the date on which the performance schedules are established under this subparagraph, and not less frequently than once every 2 years thereafter, the Executive Director, in consultation with the Council, shall review and revise the performance schedules.

(D) Guidance

The Executive Director, in consultation with the Council, may recommend to the Director of the Office of Management and Budget or to the Council on Environmental Quality, as appropriate, that guidance be issued as necessary for agencies—

(i) to carry out responsibilities under this subchapter; and

(ii) to effectuate the adoption by agencies of the best practices and recommendations of the Council described in paragraph (2).

(E) Personnel

The Executive Director of the Council may appoint and fix the compensation of such employees as the Executive Director considers necessary to carry out the roles and responsibilities of the Executive Director.

(2) Council

(A) Recommendations

(i) In general

The Council shall make recommendations to the Executive Director with respect to the designations under paragraph (1)(B) and the performance schedules under paragraph (1)(C).

(ii) Update

The Council may update the recommendations described in clause (i).

(B) Best practices

Not less frequently than annually, the Council shall issue recommendations on the best practices for improving the Federal permitting process for covered projects, which may include—

(i) enhancing early stakeholder engagement, including—

(I) engaging with Native American stakeholders to ensure that project sponsors and agencies identify potential natural, archeological, and cultural resources and locations of historic and religious significance in the area of a covered project; and

(II) fully considering and, as appropriate, incorporating recommendations provided in public comments on any proposed covered project;

(ii) ensuring timely decisions regarding environmental reviews and authorizations, including through the development of performance metrics;

(iii) improving coordination between Federal and non-Federal governmental entities, including through the development of common data standards and terminology across agencies;

(iv) increasing transparency;

(v) reducing information collection requirements and other administrative burdens on agencies, project sponsors, and other interested parties;

(vi) developing and making available to applicants appropriate geographic information systems and other tools;

(vii) creating and distributing training materials useful to Federal, State, tribal, and local permitting officials;

(viii) in coordination with the Executive Director, improving preliminary engagement with project sponsors in developing coordinated project plans;

(ix) using programmatic assessments, templates, and other tools based on the best available science and data; and

(x) addressing other aspects of infrastructure permitting, as determined by the Council.

(C) Meetings

The Council shall meet not less frequently than annually with groups or individuals representing State, tribal, and local governments that are engaged in the infrastructure permitting process.

(3) Agency CERPOs

An agency CERPO shall—

(A) advise the respective agency councilmember on matters related to environmental reviews and authorizations, including agency compliance with intermediate and final completion dates described in coordinated project plans;

(B) provide technical support, when requested to facilitate efficient and timely processes for environmental reviews and authorizations for covered projects under the jurisdictional responsibility of the agency, including supporting timely identification and resolution of potential disputes within the agency or between the agency and other Federal agencies;

(C) analyze agency environmental review and authorization processes, policies, and authorities and make recommendations to the respective agency councilmember for ways to standardize, simplify, and improve the efficiency of the processes, policies, and authorities, including by implementing guidance issued under paragraph (1)(D) and other best practices, including the use of information technology and geographic information system tools within the agency and across agencies, to the extent consistent with existing law; and

(D) review and develop training programs for agency staff that support and conduct environmental reviews or authorizations.

(Pub. L. 114–94, div. D, title XLI, §41002, Dec. 4, 2015, 129 Stat. 1743; Pub. L. 117–58, div. G, title VIII, §70801(b), (i), Nov. 15, 2021, 135 Stat. 1288, 1294; Pub. L. 117–328, div. E, title VI, §635(a), Dec. 29, 2022, 136 Stat. 4703.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Fixing America's Surface Transportation Act, also known as the FAST Act, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

AMENDMENTS

2022—Subsec. (c)(1)(E). Pub. L. 117–328 added subpar. (E).

2021—Pub. L. 117–58, §70801(b)(1), substituted "Federal Permitting Improvement Steering Council" for "Federal Permitting Improvement Council" in section catchline.

Subsec. (b)(2)(A)(i). Pub. L. 117–58, §70801(b)(2)(A), designated existing provisions as subcl. (I), inserted subcl. heading, and added subcl. (II).

Subsec. (b)(2)(A)(ii). Pub. L. 117–58, §70801(i), substituted "councilmember" for "councilmem-ber".

Subsec. (b)(2)(A)(iii)(II). Pub. L. 117–58, §70801(b)(2)(B), substituted "the applicable agency councilmember" for "a deputy secretary (or the equivalent) or higher".

Subsec. (c)(1)(C)(ii)(I). Pub. L. 117–58, §70801(b)(3)(A)(i), added subcl. (I) and struck out former subcl. (I). Prior to amendment, text read as follows: "The performance schedules shall reflect employment of the use of the most efficient applicable processes, including the alignment of Federal reviews of projects and reduction of permitting and project delivery time."

Subsec. (c)(1)(C)(ii)(II), (III). Pub. L. 117–58, §70801(b)(3)(A)(ii), (iii), added subcl. (II) and redesignated former subcl. (II) as (III).

Subsec. (c)(1)(C)(ii)(III)(bb). Pub. L. 117–58, §70801(b)(3)(A)(iv), substituted "based on relevant historical data, as determined by the Executive Director," for "on the basis of data from the preceding 2 calendar years".

Subsec. (c)(2)(B). Pub. L. 117–58, §70801(b)(3)(B)(i), substituted "less frequently than annually, the Council shall issue recommendations on the best practices for improving the Federal permitting process for covered projects, which may include" for "later than 1 year after December 4, 2015, and not less frequently than annually thereafter, the Council shall issue recommendations on the best practices for" in introductory provisions.

Subsec. (c)(2)(B)(i). Pub. L. 117–58, §70801(b)(3)(B)(ii), substituted "stakeholder engagement, including—" for "stakeholder engagement, including", added subcl. (I), and inserted designation for subcl. (II) before "fully considering".

Subsec. (c)(2)(B)(viii) to (x). Pub. L. 117–58, §70801(b)(3)(B)(iii)–(v), added cls. (viii) and (ix) and redesignated former cl. (viii) as (x).

Subsec. (c)(3)(A). Pub. L. 117–58, §70801(b)(3)(C), inserted ", including agency compliance with intermediate and final completion dates described in coordinated project plans" after "authorizations".

Subsec. (d). Pub. L. 117–58, §70801(b)(4), struck out subsec. (d). Prior to amendment, text read as follows: "The Director of the Office of Management and Budget shall designate a Federal agency, other than an agency that carries out or provides support only for projects that are not covered projects, to provide administrative support for the Executive Director, and the designated agency shall, as reasonably necessary, provide support and staff to enable the Executive Director to fulfill the duties of the Executive Director under this subchapter."

§4370m–2. Permitting process improvement

(a) Project initiation and designation of participating agencies

(1) Notice

(A) In general

A project sponsor of a covered project shall submit to the Executive Director and the facilitating agency notice of the initiation of a proposed covered project.

(B) Default designation

If, at the time of submission of the notice under subparagraph (A), the Executive Director has not designated a facilitating agency under section 4370m–1(c)(1)(B) of this title for the categories of projects noticed, the agency that receives the notice under subparagraph (A) shall be designated as the facilitating agency.

(C) Contents

Each notice described in subparagraph (A) shall include—

(i) a statement of the purposes and objectives of the proposed project;

(ii) a concise description, including the general location of the proposed project and a summary of geospatial information, if available, illustrating the project area and the locations, if any, of environmental, cultural, and historic resources;

(iii) a statement regarding the technical and financial ability of the project sponsor to construct the proposed project;

(iv) a statement of any Federal financing, environmental reviews, and authorizations anticipated to be required to complete the proposed project; and

(v) an assessment that the proposed project meets the definition of a covered project under section 4370m of this title and a statement of reasons supporting the assessment.

(D) Confidentiality

Any information relating to Native American natural, cultural, and historical resources submitted in a notice by a project sponsor under subparagraph (A) shall be—

(i) kept confidential; and

(ii) exempt from the disclosure requirements under section 552 of title 5 (commonly known as the "Freedom of Information Act") and the Federal Advisory Committee Act (5 U.S.C. App.).[1]

(2) Invitation

(A) In general

Not later than 21 calendar days after the date on which the Executive Director must make a specific entry for the project on the Dashboard under subsection (b)(2)(A), the facilitating agency or lead agency, as applicable, shall—

(i) identify all Federal and non-Federal agencies and governmental entities likely to have financing, environmental review, authorization, or other responsibilities with respect to the proposed project; and

(ii) invite all Federal agencies identified under clause (i) to become a participating agency or a cooperating agency, as appropriate, in the environmental review and authorization management process described in section 4370m–4 of this title.

(B) Deadlines

Each invitation made under subparagraph (A) shall include a 14 calendar day deadline for a response to be submitted to the facilitating or lead agency, as applicable.

(3) Participating and cooperating agencies

(A) In general

An agency invited under paragraph (2) shall be designated as a participating or cooperating agency for a covered project, unless the agency informs the facilitating or lead agency, as applicable, and the Executive Director in writing before the deadline under paragraph (2)(B) that the agency—

(i) has no jurisdiction or authority with respect to the proposed project; or

(ii) does not intend to exercise authority related to, or submit comments on, the proposed project.

(B) Changed circumstances

On request and a showing of changed circumstances, the Executive Director may designate an agency that has opted out under subparagraph (A)(ii) to be a participating or cooperating agency, as appropriate.

(4) Effect of designation

The designation described in paragraph (3) shall not—

(A) give the participating agency authority or jurisdiction over the covered project; or

(B) expand any jurisdiction or authority a cooperating agency may have over the proposed project.

(5) Lead agency designation

(A) In general

On establishment of the lead agency, the lead agency shall assume the responsibilities of the facilitating agency under this subchapter.

(B) Redesignation of facilitating agency

If the lead agency assumes the responsibilities of the facilitating agency under subparagraph (A), the facilitating agency may be designated as a cooperative or participating agency.

(6) Change of facilitating or lead agency

(A) In general

On the request of a participating agency or project sponsor, the Executive Director may designate a different agency as the facilitating or lead agency, as applicable, for a covered project, if the facilitating or lead agency or the Executive Director receives new information regarding the scope or nature of a covered project that indicates that the project should be placed in a different category under section 4370m–1(c)(1)(B) of this title.

(B) Resolution of dispute

The Chairman of the Council on Environmental Quality shall resolve any dispute over designation of a facilitating or lead agency for a particular covered project.

(b) Permitting dashboard

(1) Requirement to maintain

(A) In general

The Executive Director, in coordination with the Administrator of General Services, shall maintain an online database to be known as the "Permitting Dashboard" to track the status of Federal environmental reviews and authorizations for any covered project in the inventory described in section 4370m–1(c)(1)(A) of this title.

(B) Specific and searchable entry

The Dashboard shall include a specific and searchable entry for each covered project.

(2) Additions

(A) In general

(i) Existing projects

Not later than 14 days after the date on which the Executive Director adds a project to the inventory under section 4370m–1(c)(1)(A) of this title, the Executive Director shall create a specific entry on the Dashboard for the covered project.

(ii) New projects

Not later than 14 days after the date on which the Executive Director receives a notice under subsection (a)(1), the Executive Director shall create a specific entry on the Dashboard for the covered project, unless the Executive Director, facilitating agency, or lead agency, as applicable, determines that the project is not a covered project.

(iii) Projects other than covered projects

(I) In general

The Executive Director may direct a lead agency to create a specific entry on the Dashboard for a project that is not a covered project and is under review by the lead agency if the Executive Director determines that a Dashboard entry for that project is in the interest of transparency.

(II) Requirements

Not later than 14 days after the date on which the Executive Director directs the lead agency to create a specific entry on the Dashboard for a project described in subclause (I), the lead agency shall create and maintain a specific entry on the Dashboard for the project that contains—

(aa) a comprehensive permitting timetable, as described in subsection (c)(2)(A);

(bb) the status of the compliance of each lead agency, cooperating agency, and participating agency with the permitting timetable required under item (aa);

(cc) any modifications of the permitting timetable required under item (aa), including an explanation as to why the permitting timetable was modified; and

(dd) information about project-related public meetings, public hearings, and public comment periods, which shall be presented in English and the predominant language of the community or communities most affected by the project, as that information becomes available.

(B) Explanation

If the facilitating agency or lead agency, as applicable, determines that the project is not a covered project, the project sponsor may submit a further explanation as to why the project is a covered project not later than 14 days after the date of the determination under subparagraph (A).

(C) Final determination

Not later than 14 days after receiving an explanation described in subparagraph (B), the Executive Director shall—

(i) make a final and conclusive determination as to whether the project is a covered project; and

(ii) if the Executive Director determines that the project is a covered project, create a specific entry on the Dashboard for the covered project.

(3) Postings by agencies

(A) In general

For each covered project added to the Dashboard under paragraph (2), the facilitating or lead agency, as applicable, and each cooperating and participating agency shall post to the Dashboard—

(i) a hyperlink that directs to a website that contains, to the extent consistent with applicable law—

(I) the notification submitted under subsection (a)(1);

(II)(aa) where practicable, the application and supporting documents, if applicable, that have been submitted by a project sponsor for any required environmental review or authorization; or

(bb) a notice explaining how the public may obtain access to such documents;

(III) a description of any Federal agency action taken or decision made that materially affects the status of a covered project;

(IV) any significant document that supports the action or decision described in subclause (III);

(V) information on the status of mitigation measures that were agreed to as part of the environmental review and permitting process, including whether and when the mitigation measures have been fully implemented; and

(VI) a description of the status of any litigation to which the agency is a party that is directly related to the project, including, if practicable, any judicial document made available on an electronic docket maintained by a Federal, State, or local court;

(ii) any document described in clause (i) that is not available by hyperlink on another website; and

(iii) information about project-related public meetings, public hearings, and public comment periods, which shall be presented in English and the predominant language of the community or communities most affected by the project, as that information becomes available.

(B) Deadline

The information described in subparagraph (A) shall be posted to the website made available by hyperlink on the Dashboard not later than 5 business days after the date on which the Federal agency receives the information.

(4) Postings by the Executive Director

The Executive Director shall publish to the Dashboard—

(A) the permitting timetable established under subparagraph (A) or (C) of subsection (c)(2);

(B) the status of the compliance of each agency with the permitting timetable;

(C) any modifications of the permitting timetable;

(D) an explanation of each modification described in subparagraph (C); and

(E) any memorandum of understanding established under subsection (c)(3)(B).

(c) Coordination and timetables

(1) Coordinated project plan

(A) In general

Not later than 60 days after the date on which the Executive Director must make a specific entry for the project on the Dashboard under subsection (b)(2)(A), the facilitating or lead agency, as applicable, in consultation with each coordinating and participating agency, shall establish a concise plan for coordinating public and agency participation in, and completion of, any required Federal environmental review and authorization for the project.

(B) Required information

The Coordinated Project Plan shall include the following information and be updated by the facilitating or lead agency, as applicable, at least once per quarter:

(i) A list of, and roles and responsibilities for, all entities with environmental review or authorization responsibility for the project.

(ii) A permitting timetable, as described in paragraph (2), setting forth a comprehensive schedule of dates by which all environmental reviews and authorizations, and to the maximum extent practicable, State permits, reviews and approvals must be made.

(iii) A discussion of potential avoidance, minimization, and mitigation strategies, if required by applicable law and known.

(iv) Plans and a schedule for public and tribal outreach and coordination, to the extent required by applicable law.

(C) Memorandum of understanding

The coordinated project plan described in subparagraph (A) may be incorporated into a memorandum of understanding.

(2) Permitting timetable

(A) Establishment

As part of the coordinated project plan under paragraph (1), the facilitating or lead agency, as applicable, in consultation with each cooperating and participating agency, the project sponsor, and any State in which the project is located, and, subject to subparagraph (C), with the concurrence of each cooperating agency, shall establish a permitting timetable that includes intermediate and final completion dates for action by each participating agency on any Federal environmental review or authorization required for the project.

(B) Factors for consideration

In establishing the permitting timetable under subparagraph (A), the facilitating or lead agency shall follow the performance schedules established under section 4370m–1(c)(1)(C) of this title, but may vary the timetable based on relevant factors, including—

(i) the size and complexity of the covered project;

(ii) the resources available to each participating agency;

(iii) the regional or national economic significance of the project;

(iv) the sensitivity of the natural or historic resources that may be affected by the project;

(v) the financing plan for the project; and

(vi) the extent to which similar projects in geographic proximity to the project were recently subject to environmental review or similar procedures under State law.

(C) Dispute resolution

(i) In general

The Executive Director, in consultation with appropriate agency CERPOs and the project sponsor, shall, as necessary, mediate any disputes regarding the permitting timetable referred to under subparagraph (A).

(ii) Disputes

If a dispute remains unresolved 30 days after the date on which the dispute was submitted to the Executive Director, the Director of the Office of Management and Budget, in consultation with the Chairman of the Council on Environmental Quality, shall facilitate a resolution of the dispute and direct the agencies party to the dispute to resolve the dispute by

the end of the 60-day period beginning on the date of submission of the dispute to the Executive Director.

(iii) Final resolution

Any action taken by the Director of the Office of Management and Budget in the resolution of a dispute under clause (ii) shall—

(I) be final and conclusive; and

(II) not be subject to judicial review.

(D) Modification after approval

(i) In general

The facilitating or lead agency, as applicable, may modify a permitting timetable established under subparagraph (A) only if—

(I) the facilitating or lead agency, as applicable, consults with the Executive Director regarding the potential modification not less than 15 days before engaging in the consultation under subclause (II);

(II) the facilitating or lead agency, as applicable, and the affected cooperating agencies, after consultation with the participating agencies, the Executive Director, and the project sponsor, agree to a different completion date;

(III) the facilitating agency or lead agency, as applicable, or the affected cooperating agency provides a written justification for the modification; and

(IV) in the case of a modification that would necessitate an extension of a final completion date under a permitting timetable established under subparagraph (A) to a date more than 30 days after the final completion date originally established under subparagraph (A), the facilitating or lead agency submits a request to modify the permitting timetable to the Executive Director, who shall consult with the project sponsor and make a determination on the record, based on consideration of the relevant factors described under subparagraph (B), whether to grant the facilitating or lead agency, as applicable, authority to make such modification.

(ii) Completion date

A completion date in the permitting timetable may not be modified within 30 days of the completion date.

(iii) Limitation on length of modifications

(I) In general

Except as provided in subclause (II), the total length of all modifications to a permitting timetable authorized or made under this subparagraph, other than for reasons outside the control of Federal, State, local, or tribal governments, may not extend the permitting timetable for a period of time greater than half of the amount of time from the establishment of the permitting timetable under subparagraph (A) to the last final completion date originally established under subparagraph (A).

(II) Additional extensions

The Director of the Office of Management and Budget, after consultation with the project sponsor, may permit the Executive Director to authorize additional extensions of a permitting timetable beyond the limit prescribed by subclause (I). In such a case, the Director of the Office of Management and Budget shall transmit, not later than 5 days after making a determination to permit an authorization of extension under this subclause, a report to Congress explaining why such modification is required. Such report shall explain to Congress with specificity why the original permitting timetable and the modifications authorized by the Executive Director failed to be adequate. The lead or facilitating agency, as applicable, shall transmit to Congress, the Director of the Office of Management and Budget, and the Executive Director a supplemental report on progress toward the final

completion date each year thereafter, until the permit review is completed or the project sponsor withdraws its notice or application or other request to which this subchapter applies under section 4370m–9 of this title.

(iv) Limitation on judicial review

The following shall not be subject to judicial review:

(I) A determination by the Executive Director under clause (i)(III).

(II) A determination under clause (iii)(II) by the Director of the Office of Management and Budget to permit the Executive Director to authorize extensions of a permitting timetable.

(E) Consistency with other time periods

A permitting timetable established under subparagraph (A) shall be consistent with any other relevant time periods established under Federal law and shall not prevent any cooperating or participating agency from discharging any obligation under Federal law in connection with the project.

(F) Conforming to permitting timetables

(i) In general

Each Federal agency shall conform to the intermediate and final completion dates set forth in the permitting timetable established under subparagraph (A), or with any intermediate or final completion date modified under subparagraph (D).

(ii) Failure to conform

If a Federal agency fails to conform with an intermediate or final completion date for agency action on a covered project or reasonably believes the agency will fail to conform with a completion date 30 days before such a completion date, the agency shall—

(I) promptly submit to the Executive Director for publication on the Dashboard an explanation of the specific reasons for failing or reasonably believing the agency will fail to conform to the completion date and a proposal for an alternative completion date;

(II) in consultation with the facilitating or lead agency, as applicable, establish an alternative completion date; and

(III) each month thereafter until the agency has taken final action on the delayed authorization or review, submit to the Executive Director for posting on the Dashboard a status report describing any agency activity related to the project.

(G) Abandonment of covered project

(i) In general

If the facilitating or lead agency, as applicable, has a reasonable basis to doubt the continuing technical or financial ability of the project sponsor to construct the covered project, the facilitating or lead agency may request the project sponsor provide an updated statement regarding the ability of the project sponsor to complete the project.

(ii) Failure to respond

If the project sponsor fails to respond to a request described in clause (i) by the date that is 30 days after receiving the request, the lead or facilitating agency, as applicable, shall notify the Executive Director, who shall publish an appropriate notice on the Dashboard.

(iii) Publication to Dashboard

On publication of a notice under clause (ii), the completion dates in the permitting timetable shall be tolled and agencies shall be relieved of the obligation to comply with subparagraph (F) until such time as the project sponsor submits to the facilitating or lead agency, as applicable, an updated statement regarding the technical and financial ability of the project sponsor to construct the project.

(3) Cooperating State, local, or tribal governments

(A) State authority

If the Federal environmental review is being implemented within the boundaries of a State, the State, consistent with State law, may choose to participate in the environmental review and authorization process under this subsection and to make subject to the process all State agencies that—

(i) have jurisdiction over the covered project;

(ii) are required to conduct or issue a review, analysis, opinion, or statement for the covered project; or

(iii) are required to make a determination on issuing a permit, license, or other approval or decision for the covered project.

(B) Coordination

To the maximum extent practicable under applicable law, the facilitating or lead agency, as applicable, shall coordinate the Federal environmental review and authorization processes under this subsection with any State, local, or tribal agency responsible for conducting any separate review or authorization of the covered project to ensure timely and efficient completion of environmental reviews and authorizations.

(C) Memorandum of understanding

(i) In general

Any coordination plan between the facilitating or lead agency, as applicable, and any State, local, or tribal agency shall, to the maximum extent practicable, be included in a memorandum of understanding.

(ii) Submission to Executive Director

The facilitating or lead agency, as applicable, shall submit to the Executive Director each memorandum of understanding described in clause (i).

(D) Applicability

The requirements under this subchapter shall only apply to a State or an authorization issued by a State if the State has chosen to participate in the environmental review and authorization process pursuant to this paragraph.

(d) Early consultation

The facilitating or lead agency, as applicable, shall provide an expeditious process for project sponsors to confer with each cooperating and participating agency involved and, not later than 60 days after the date on which the project sponsor submits a request under this subsection, to have each such agency provide to the project sponsor information concerning—

(1) the availability of information and tools, including pre-application toolkits, to facilitate early planning efforts;

(2) key issues of concern to each agency and to the public; and

(3) issues that must be addressed before an environmental review or authorization can be completed.

(e) Cooperating agency

(1) In general

A lead agency may designate a participating agency as a cooperating agency in accordance with part 1501 of title 40, Code of Federal Regulations (or successor regulations).

(2) Effect on other designation

The designation described in paragraph (1) shall not affect any designation under subsection (a)(3).

(3) Limitation on designation

Any agency not designated as a participating agency under subsection (a)(3) shall not be

designated as a cooperating agency under paragraph (1).

(f) Reporting status of other projects on Dashboard

(1) In general

On request of the Executive Director, the Secretary and the Secretary of the Army shall use best efforts to provide information for inclusion on the Dashboard on projects subject to section 139 of title 23 and section 2348 of title 33 likely to require—

(A) a total investment of more than $200,000,000; and

(B) an environmental impact statement under NEPA.

(2) Effect of inclusion on Dashboard

Inclusion on the Dashboard of information regarding projects subject to section 139 of title 23 or section 2348 of title 33 shall not subject those projects to any requirements of this subchapter.

(Pub. L. 114–94, div. D, title XLI, §41003, Dec. 4, 2015, 129 Stat. 1747; Pub. L. 117–58, div. G, title VIII, §70801(c), Nov. 15, 2021, 135 Stat. 1289.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (a)(1)(D)(ii), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, which was set out in the Appendix to Title 5, Government Organization and Employees, and was substantially repealed and restated in chapter 10 (§1001 et seq.) of Title 5 by Pub. L. 117–286, §§3(a), 7, Dec. 27, 2022, 136 Stat. 4197, 4361. For disposition of sections of the Act into chapter 10 of Title 5, see Disposition Table preceding section 101 of Title 5.

NEPA, referred to in subsec. (f)(1)(B), means the National Environmental Policy Act of 1969, Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to this chapter. See section 4370m(16) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

CODIFICATION

Section was enacted as part of the Fixing America's Surface Transportation Act, also known as the FAST Act, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

AMENDMENTS

2021—Subsec. (a)(1)(D). Pub. L. 117–58, §70801(c)(1)(A), added subpar. (D).

Subsec. (a)(2)(A). Pub. L. 117–58, §70801(c)(1)(B)(i), substituted "21 calendar days" for "45 days" in introductory provisions.

Subsec. (a)(2)(B). Pub. L. 117–58, §70801(c)(1)(B)(ii), inserted "14 calendar day" before "deadline".

Subsec. (a)(3)(A). Pub. L. 117–58, §70801(c)(1)(C), inserted "and the Executive Director" after "as applicable," in introductory provisions.

Subsec. (b)(2)(A)(iii). Pub. L. 117–58, §70801(c)(2)(A), added cl. (iii).

Subsec. (b)(3)(A)(i)(V), (VI). Pub. L. 117–58, §70801(c)(2)(B)(i), added subcl. (V), redesignated former subcl. (V) as (VI), and struck out "and" at end of subcl. (VI).

Subsec. (b)(3)(A)(iii). Pub. L. 117–58, §70801(c)(2)(B)(ii), (iii), added cl. (iii).

Subsec. (c)(2)(A). Pub. L. 117–58, §70801(c)(3)(A), substituted "coordinated" for "coordination".

Subsec. (c)(2)(D)(i). Pub. L. 117–58, §70801(c)(3)(B)(i), (ii), added subcl. (I) and redesignated former subcls. (I) to (III) as (II) to (IV), respectively.

Subsec. (c)(2)(D)(i)(II). Pub. L. 117–58, §70801(c)(3)(B)(iii), inserted ", the Executive Director," after "participating agencies".

Subsec. (c)(2)(F)(i). Pub. L. 117–58, §70801(c)(3)(C)(i), inserted "intermediate and final" before "completion dates" and "intermediate or final" before "completion date".

Subsec. (c)(2)(F)(ii). Pub. L. 117–58, §70801(c)(3)(C)(ii)(I), substituted "an intermediate or final completion date for agency action on a covered project or reasonably believes the agency will fail to conform with a completion date 30 days before" for "a completion date for agency action on a covered project or is at significant risk of failing to conform with" in introductory provisions.

Subsec. (c)(2)(F)(ii)(I). Pub. L. 117–58, §70801(c)(3)(C)(ii)(II), substituted "reasonably believing the agency will fail to conform" for "significantly risking failing to conform".

[1] *See References in Text note below.*

§4370m–3. Interstate compacts

(a) In general

The consent of Congress is given for 3 or more contiguous States to enter into an interstate compact establishing regional infrastructure development agencies to facilitate authorization and review of covered projects, under State law or in the exercise of delegated permitting authority described under section 4370m–5 of this title, that will advance infrastructure development, production, and generation within the States that are parties to the compact.

(b) Regional infrastructure

For the purpose of this subchapter, a regional infrastructure development agency referred to in subsection (a) shall have the same authorities and responsibilities of a State agency.

(Pub. L. 114–94, div. D, title XLI, §41004, Dec. 4, 2015, 129 Stat. 1755.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Fixing America's Surface Transportation Act, also known as the FAST Act, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

§4370m–4. Coordination of required reviews

(a) Concurrent reviews

To integrate environmental reviews and authorizations, each agency shall, to the maximum extent practicable—

(1) carry out the obligations of the agency with respect to a covered project under any other applicable law concurrently, and in conjunction with, other environmental reviews and authorizations being conducted by other cooperating or participating agencies, including environmental reviews and authorizations required under NEPA, unless the agency determines that doing so would impair the ability of the agency to carry out the statutory obligations of the agency;

(2) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner; and

(3) where an environmental impact statement is required for a project, prepare a single, joint interagency environmental impact statement for the project unless the lead agency provides justification in the coordinated project plan that multiple environmental documents are more efficient for project review and authorization.

(b) Adoption, incorporation by reference, and use of documents

(1) Use of existing documents

(A) In general

On the request of a project sponsor, a lead agency shall consider and, as appropriate, adopt or incorporate by reference, the analysis and documentation that has been prepared for a covered project under the laws and procedures of a State or Indian Tribe (as defined in section 5130 of title 25) as the documentation, or part of the documentation, required to complete an environmental review for the covered project, if the analysis and documentation were, as determined by the lead agency in consultation with the Council on Environmental Quality,

developed pursuant to laws and procedures of that State or Indian Tribe (as so defined) that are of equal or greater rigor to each applicable Federal law and procedure, and prepared under circumstances that allowed for opportunities for public participation and consideration of alternatives, environmental consequences, and other required analyses that are substantially equivalent to what would have been available had the documents and analysis been prepared by a Federal agency pursuant to NEPA.

(B) Guidance by CEQ

The Council on Environmental Quality may issue guidance to carry out this subsection.

(2) NEPA obligations

An environmental document adopted under paragraph (1) or a document that includes documentation incorporated under paragraph (1) may serve as the documentation required for an environmental review or a supplemental environmental review required to be prepared by a lead agency under NEPA.

(3) Supplementation of State documents

If the lead agency adopts or incorporates analysis and documentation described in paragraph (1), the lead agency shall prepare and publish a supplemental document if the lead agency determines that during the period after preparation of the analysis and documentation and before the adoption or incorporation—

(A) a significant change has been made to the covered project that is relevant for purposes of environmental review of the project; or

(B) there has been a significant circumstance or new information has emerged that is relevant to the environmental review for the covered project.

(4) Comments

If a lead agency prepares and publishes a supplemental document under paragraph (3), the lead agency shall solicit comments from other agencies and the public on the supplemental document for a period of not more than 45 days, beginning on the date on which the supplemental document is published, unless—

(A) the lead agency, the project sponsor, and any cooperating agency agree to a longer deadline; or

(B) the lead agency extends the deadline for good cause.

(5) Notice of outcome of environmental review

A lead agency shall issue a record of decision or finding of no significant impact, as appropriate, based on the document adopted under paragraph (1) and any supplemental document prepared under paragraph (3).

(c) Alternatives analysis

(1) Participation

(A) In general

As early as practicable during the environmental review, but not later than the commencement of scoping for a project requiring the preparation of an environmental impact statement, the lead agency shall engage the cooperating agencies and the public to determine the range of reasonable alternatives to be considered for a covered project.

(B) Determination

The determination under subparagraph (A) shall be completed not later than the completion of scoping.

(2) Range of alternatives

(A) In general

Following participation under paragraph (1) and subject to subparagraph (B), the lead agency

shall determine the range of reasonable alternatives for consideration in any document that the lead agency is responsible for preparing for the covered project.

(B) Alternatives required by law

In determining the range of alternatives under subparagraph (A), the lead agency shall include all alternatives required to be considered by law.

(3) Methodologies

(A) In general

The lead agency shall determine, in collaboration with each cooperating agency at appropriate times during the environmental review, the methodologies to be used and the level of detail required in the analysis of each alternative for a covered project.

(B) Environmental review

A cooperating agency shall use the methodologies referred to in subparagraph (A) when conducting any required environmental review, to the extent consistent with existing law.

(4) Preferred alternative

With the concurrence of the cooperating agencies with jurisdiction under Federal law and at the discretion of the lead agency, the preferred alternative for a project, after being identified, may be developed to a higher level of detail than other alternatives to facilitate the development of mitigation measures or concurrent compliance with other applicable laws if the lead agency determines that—

(A) the development of the higher level of detail will not prevent the lead agency from making an impartial decision as to whether to accept another alternative that is being considered in the environmental review; and

(B) the preferred and other alternatives are developed in sufficient detail to enable the public to comment on the alternatives.

(d) Environmental review comments

(1) Comments on draft environmental impact statement

For comments by an agency or the public on a draft environmental impact statement, the lead agency shall establish a comment period of not less than 45 days and not more than 60 days after the date on which a notice announcing availability of the environmental impact statement is published in the Federal Register, unless—

(A) the lead agency, the project sponsor, and any cooperating agency agree to a longer deadline; or

(B) the lead agency, in consultation with each cooperating agency, extends the deadline for good cause.

(2) Other review and comment periods

For all other review or comment periods in the environmental review process described in parts 1500 through 1508 of title 40, Code of Federal Regulations (or successor regulations), the lead agency shall establish a comment period of not more than 45 days after the date on which the materials on which comment is requested are made available, unless—

(A) the lead agency, the project sponsor, and any cooperating agency agree to a longer deadline; or

(B) the lead agency extends the deadline for good cause.

(e) Issue identification and resolution

(1) Cooperation

The lead agency and each cooperating and participating agency shall work cooperatively in accordance with this section to identify and resolve issues that could delay completion of an environmental review or an authorization required for the project under applicable law or result in the denial of any approval under applicable law.

(2) Lead agency responsibilities

(A) In general

The lead agency shall make information available to each cooperating and participating agency and project sponsor as early as practicable in the environmental review regarding the environmental, historic, and socioeconomic resources located within the project area and the general locations of the alternatives under consideration.

(B) Sources of information

The information described in subparagraph (A) may be based on existing data sources, including geographic information systems mapping.

(3) Cooperating and participating agency responsibilities

Each cooperating and participating agency shall—

(A) identify, as early as practicable, any issues of concern regarding any potential environmental impacts of the covered project, including any issues that could substantially delay or prevent an agency from completing any environmental review or authorization required for the project; and

(B) communicate any issues described in subparagraph (A) to the project sponsor.

(f) Record of decision

When an environmental impact statement is prepared, Federal agencies must, to the maximum extent practicable, issue a record of decision not later than 90 days after the date on which the final environmental impact statement is issued.

(g) Categories of projects

The authorities granted under this section may be exercised for an individual covered project or a category of covered projects.

(Pub. L. 114–94, div. D, title XLI, §41005, Dec. 4, 2015, 129 Stat. 1755; Pub. L. 117–58, div. G, title VIII, §70801(d), Nov. 15, 2021, 135 Stat. 1291.)

EDITORIAL NOTES

REFERENCES IN TEXT

NEPA, referred to in subsecs. (a)(1) and (b)(1)(A), (2), means the National Environmental Policy Act of 1969, Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to this chapter. See section 4370m(16) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

CODIFICATION

Section was enacted as part of the Fixing America's Surface Transportation Act, also known as the FAST Act, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

AMENDMENTS

2021—Subsec. (a)(3). Pub. L. 117–58, §70801(d)(1), added par. (3).

Subsec. (b). Pub. L. 117–58, §70801(d)(2)(A), (B), struck out par. (1) designation and heading and redesignated subpars. (A) to (E) as pars. (1) to (5), respectively.

Subsec. (b)(1). Pub. L. 117–58, §70801(d)(2)(C)(i), redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively, and realigned margins.

Subsec. (b)(1)(A). Pub. L. 117–58, §70801(d)(2)(C)(ii), substituted "the laws and procedures of a State or Indian Tribe (as defined in section 5130 of title 25)" for "State laws and procedures" and inserted "developed pursuant to laws and procedures of that State or Indian Tribe (as so defined) that are of equal or greater rigor to each applicable Federal law and procedure, and" after "Council on Environmental Quality,".

Subsec. (b)(2). Pub. L. 117–58, §70801(d)(2)(D), substituted "paragraph (1)" for "subparagraph (A)" in two places.

Subsec. (b)(3). Pub. L. 117–58, §70801(d)(2)(E), substituted "paragraph (1)" for "subparagraph (A)" in introductory provisions and redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively, and realigned

margins.

Subsec. (b)(4). Pub. L. 117–58, §70801(d)(2)(F), substituted "paragraph (3)" for "subparagraph (C)" in introductory provisions and redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively, and realigned margins.

Subsec. (b)(5). Pub. L. 117–58, §70801(d)(2)(G), substituted "paragraph (1)" for "subparagraph (A)" and "paragraph (3)" for "subparagraph (C)".

Subsec. (c)(4). Pub. L. 117–58, §70801(d)(3)(A), substituted "determines that—" for "determines that the development of the higher level of detail will not prevent—" in introductory provisions.

Subsec. (c)(4)(A). Pub. L. 117–58, §70801(d)(3)(B), inserted "the development of the higher level of detail will not prevent" before "the lead agency".

Subsec. (c)(4)(B). Pub. L. 117–58, §70801(d)(3)(C), added subpar. (B) and struck out former subpar. (B) which read as follows: "the public from commenting on the preferred and other alternatives."

Subsecs. (f), (g). Pub. L. 117–58, §70801(d)(4), (5), added subsec. (f) and redesignated former subsec. (f) as (g).

STATUTORY NOTES AND RELATED SUBSIDIARIES

ENVIRONMENTAL REVIEW, APPROVAL, OR PERMIT FOR RECIPIENTS OF FUNDS UNDER COMMUNITY DEVELOPMENT FUND

Pub. L. 118–158, div. B, title XII, Dec. 21, 2024, 138 Stat. 1759, provided in part: "That recipients of funds made available in this, prior, or future disaster Acts that use such funds to supplement other Federal assistance may adopt, without review or public comment, any environmental review, approval, or permit performed by a Federal agency, and such adoption shall satisfy the responsibilities of the recipient with respect to such environmental review, approval or permit, so long as the actions covered by the existing environmental review, approval, or permit and the actions proposed for these supplemental funds are substantially the same: *Provided further*, That the Secretary or a State may, upon receipt of a request for release of funds and certification, immediately approve the release of funds for any activity or project if the recipient has adopted an environmental review, approval or permit under the previous proviso or if the activity or project is categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), notwithstanding section 104(g)(2) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(g)(2))".

§4370m–5. Delegated State permitting programs

(a) In general

If a Federal statute permits a Federal agency to delegate to or otherwise authorize a State to issue or otherwise administer a permit program in lieu of the Federal agency, the Federal agency with authority to carry out the statute shall—

(1) on publication by the Council of best practices under section 4370m–1(c)(2)(B) of this title, initiate a national process, with public participation, to determine whether and the extent to which any of the best practices are generally applicable on a delegation- or authorization-wide basis to permitting under the statute; and

(2) not later than 2 years after December 4, 2015, make model recommendations for State modifications of the applicable permit program to reflect the best practices described in section 4370m–1(c)(2)(B) of this title, as appropriate.

(b) Best practices

Lead and cooperating agencies may share with State, tribal, and local authorities best practices involved in review of covered projects and invite input from State, tribal, and local authorities regarding best practices.

(Pub. L. 114–94, div. D, title XLI, §41006, Dec. 4, 2015, 129 Stat. 1758.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Fixing America's Surface Transportation Act, also known as the FAST Act, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

§4370m–6. Litigation, judicial review, and savings provision

(a) Limitations on claims

(1) In general

Notwithstanding any other provision of law, a claim arising under Federal law seeking judicial review of any authorization issued by a Federal agency for a covered project shall be barred unless—

(A) the claim is filed not later than 2 years after the date of publication in the Federal Register of notice of final agency action on the authorization, unless a shorter time is specified in the Federal law under which judicial review is allowed; and

(B) in the case of an action pertaining to an environmental review conducted under NEPA—

(i) the claim is filed by a party that submitted a comment during the environmental review; and

(ii) any commenter filed a sufficiently detailed comment so as to put the lead agency on notice of the issue on which the party seeks judicial review, or the lead agency did not provide a reasonable opportunity for such a comment on that issue.

(2) New information

(A) In general

The head of a lead agency or participating agency shall consider new information received after the close of a comment period if the information satisfies the requirements under regulations implementing NEPA.

(B) Separate action

If Federal law requires the preparation of a supplemental environmental impact statement or other supplemental environmental document, the preparation of such document shall be considered a separate final agency action and the deadline for filing a claim for judicial review of the agency action shall be 2 years after the date on which a notice announcing the final agency action is published in the Federal Register, unless a shorter time is specified in the Federal law under which judicial review is allowed.

(3) Rule of construction

Nothing in this subsection creates a right to judicial review or places any limit on filing a claim that a person has violated the terms of an authorization.

(b) Preliminary injunctive relief

In addition to considering any other applicable equitable factors, in any action seeking a temporary restraining order or preliminary injunction against an agency or a project sponsor in connection with review or authorization of a covered project, the court shall—

(1) consider the potential effects on public health, safety, and the environment, and the potential for significant negative effects on jobs resulting from an order or injunction; and

(2) not presume that the harms described in paragraph (1) are reparable.

(c) Judicial review

Except as provided in subsection (a), nothing in this subchapter affects the reviewability of any final Federal agency action in a court of competent jurisdiction.

(d) Savings clause

Nothing in this subchapter—

(1) supersedes, amends, or modifies any Federal statute or affects the responsibility of any Federal officer to comply with or enforce any statute; or

(2) creates a presumption that a covered project will be approved or favorably reviewed by any agency.

(e) Limitations

Nothing in this subchapter preempts, limits, or interferes with—

(1) any practice of seeking, considering, or responding to public comment; or

(2) any power, jurisdiction, responsibility, or authority that a Federal, State, or local governmental agency, metropolitan planning organization, Indian tribe, or project sponsor has with respect to carrying out a project or any other provisions of law applicable to any project, plan, or program.

(Pub. L. 114–94, div. D, title XLI, §41007, Dec. 4, 2015, 129 Stat. 1758; Pub. L. 117–58, div. G, title VIII, §70801(e), Nov. 15, 2021, 135 Stat. 1293.)

EDITORIAL NOTES

REFERENCES IN TEXT

NEPA, referred to in subsec. (a)(1)(B), (2)(A), means the National Environmental Policy Act of 1969, Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to this chapter. See section 4370m(16) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

CODIFICATION

Section was enacted as part of the Fixing America's Surface Transportation Act, also known as the FAST Act, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

AMENDMENTS

2021—Subsec. (a)(1)(A). Pub. L. 117–58, §70801(e)(1)(A), substituted "the claim" for "the action" and "of notice of final agency action on the authorization" for "of the final record of decision or approval or denial of a permit".

Subsec. (a)(1)(B)(i). Pub. L. 117–58, §70801(e)(1)(B), substituted "the claim" for "the action".

Subsec. (e). Pub. L. 117–58, §70801(e)(2), substituted "this subchapter" for "this section" in introductory provisions.

§4370m–7. Reports

(a) Reports to Congress

(1) Executive Director annual report

(A) In general

Not later than April 15 of each year for 10 years beginning on November 15, 2021, the Executive Director shall submit to Congress a report detailing the progress accomplished under this subchapter during the previous fiscal year.

(B) Opportunity to include comments

Each councilmember, with input from the respective agency CERPO, shall have the opportunity to include comments concerning the performance of the agency in the report described in subparagraph (A).

(2) Quarterly agency performance report

The Executive Director shall submit to Congress a quarterly report evaluating agency compliance with the provisions of this subchapter, which shall include a description of the implementation and adherence of each agency to the coordinated project plan and permitting timetable requirements under section 4370m–2(c) of this title.

(3) Agency best practices report

Not later than April 15 of each year, each participating agency and lead agency shall submit to Congress and the Director of the Office of Management and Budget a report assessing the performance of the agency in implementing the best practices described in section 4370m–1(c)(2)(B) of this title.

(b) Comptroller general report

Not later than 3 years after December 4, 2015, the Comptroller General of the United States shall submit to Congress a report that describes—

(1) agency progress in making improvements consistent with the best practices issued under section 4370m–1(c)(2)(B) of this title; and

(2) agency compliance with the performance schedules established under section 4370m–1(c)(1)(C) of this title.

(Pub. L. 114–94, div. D, title XLI, §41008, Dec. 4, 2015, 129 Stat. 1760; Pub. L. 117–58, div. G, title VIII, §70801(f), Nov. 15, 2021, 135 Stat. 1293.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Fixing America's Surface Transportation Act, also known as the FAST Act, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

AMENDMENTS

2021—Subsec. (a). Pub. L. 117–58 added subsec. (a) and struck out former subsec. (a) which required, for a period of 10 years beginning on Dec. 4, 2015, Executive Director to submit annual reports to Congress on progress accomplished under this subchapter during previous fiscal year.

§4370m–8. Funding for governance, oversight, and processing of environmental reviews and permits

(a) In general

For the purpose of carrying out this subchapter, the Executive Director, in consultation with the heads of the agencies listed in section 4370m–1(b)(2)(B) of this title and with the guidance of the Director of the Office of Management and Budget, may, after public notice and opportunity for comment, issue regulations establishing a fee structure for sponsors of covered projects to reimburse the United States for reasonable costs incurred in conducting environmental reviews and authorizations for covered projects.

(b) Reasonable costs

As used in this section, the term "reasonable costs" shall include costs to implement the requirements and authorities required under sections 4370m–1 through 4370m–7 of this title, including the costs to agencies and the costs of operating the Council.

(c) Fee structure

The fee structure established under subsection (a) shall—

(1) be developed in consultation with affected project proponents, industries, and other stakeholders;

(2) exclude parties for which the fee would impose an undue financial burden or is otherwise determined to be inappropriate; and

(3) be established in a manner that ensures that the aggregate amount of fees collected for a fiscal year is estimated not to exceed 20 percent of the total estimated costs for the fiscal year for the resources allocated for the conduct of the environmental reviews and authorizations covered by this subchapter, as determined by the Director of the Office of Management and Budget.

(d) Environmental Review Improvement Fund

(1) In general

All amounts collected pursuant to this section shall be deposited into a separate fund in the Treasury of the United States to be known as the "Environmental Review Improvement Fund" (referred to in this section as the "Fund").

(2) Availability

Amounts in the Fund shall be available to the Executive Director, without fiscal year limitation, solely for the purposes of administering, implementing, and enforcing this subchapter, including the expenses of the Council, appointing and fixing the compensation of such employees as the Executive Director considers necessary to carry out the roles and responsibilities of the Executive Director, and support of the role of the Council as a Federal center for permitting excellence, which may include supporting interagency detailee and rotation opportunities, advanced training, enhanced support for agency project managers, and fora for sharing information and lessons learned.

(3) Transfer

For the purpose of carrying out this subchapter, the Executive Director, with the approval of the Director of the Office of Management and Budget, may transfer amounts in the Fund to other Federal agencies and State, Tribal, and local governments to facilitate timely and efficient environmental reviews and authorizations for covered projects and other projects under this subchapter, including direct reimbursement agreements with agency CERPOs, reimbursable agreements, and approval and consultation processes and staff for covered projects.

(e) Effect on permitting

The regulations adopted pursuant to subsection (a) shall ensure that the use of funds accepted under subsection (d) will not impact impartial decision-making with respect to environmental reviews or authorizations, either substantively or procedurally.

(f) Transfer of appropriated funds

(1) In general

The heads of agencies listed in section 4370m–1(b)(2)(B) of this title shall have the authority to transfer, in accordance with section 1535 of title 31, funds appropriated to those agencies and not otherwise obligated to other affected Federal agencies for the purpose of implementing the provisions of this subchapter.

(2) Limitation

Appropriations under title 23 and appropriations for the civil works program of the Army Corps of Engineers shall not be available for transfer under paragraph (1).

(Pub. L. 114–94, div. D, title XLI, §41009, Dec. 4, 2015, 129 Stat. 1760; Pub. L. 117–58, div. G, title VIII, §70801(g), Nov. 15, 2021, 135 Stat. 1293; Pub. L. 117–328, div. E, title VI, §635(b), Dec. 29, 2022, 136 Stat. 4704.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Fixing America's Surface Transportation Act, also known as the FAST Act, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

AMENDMENTS

2022—Subsec. (d)(2). Pub. L. 117–328 substituted "appointing and fixing the compensation of such employees as the Executive Director considers necessary to carry out the roles and responsibilities of the Executive Director" for "staffing of the Office of the Executive Director".

2021—Subsec. (a). Pub. L. 117–58, §70801(g)(1), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: "The heads of agencies listed in section 4370m–1(b)(2)(B) of this title, with the guidance of the Director of the Office of Management and Budget and in consultation with the

Executive Director, may, after public notice and opportunity for comment, issue regulations establishing a fee structure for project proponents to reimburse the United States for reasonable costs incurred in conducting environmental reviews and authorizations for covered projects."

Subsec. (b). Pub. L. 117–58, §70801(g)(2), substituted "through 4370m–7" for "and 4370m–2".

Subsec. (d). Pub. L. 117–58, §70801(g)(3)(A), struck out "and Permitting" after "Review" in heading.

Subsec. (d)(2), (3). Pub. L. 117–58, §70801(g)(3)(B), added pars. (2) and (3) and struck out former pars. (2) and (3) which read as follows:

"(2) AVAILABILITY.—Amounts in the Fund shall be available to the Executive Director, without appropriation or fiscal year limitation, solely for the purposes of administering, implementing, and enforcing this subchapter, including the expenses of the Council.

"(3) TRANSFER.—The Executive Director, with the approval of the Director of the Office of Management and Budget, may transfer amounts in the Fund to other agencies to facilitate timely and efficient environmental reviews and authorizations for proposed covered projects."

§4370m–9. Application

This subchapter applies to any covered project for which—

(1) a notice is filed under section 4370m–2(a)(1) of this title; or

(2) an application or other request for a Federal authorization is pending before a Federal agency 90 days after December 4, 2015.

(Pub. L. 114–94, div. D, title XLI, §41010, Dec. 4, 2015, 129 Stat. 1761.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Fixing America's Surface Transportation Act, also known as the FAST Act, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

§4370m–10. GAO report

Not later than 3 years after December 4, 2015, the Comptroller General of the United States shall submit to Congress a report that includes an analysis of whether the provisions of this subchapter could be adapted to streamline the Federal permitting process for smaller projects that are not covered projects.

(Pub. L. 114–94, div. D, title XLI, §41011, Dec. 4, 2015, 129 Stat. 1761.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Fixing America's Surface Transportation Act, also known as the FAST Act, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

§4370m–11. Savings provision

Nothing in this subchapter amends the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(Pub. L. 114–94, div. D, title XLI, §41012, Dec. 4, 2015, 129 Stat. 1761.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in text, is Pub. L. 91–190, Jan. 1, 1970, 83 Stat.

852, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

CODIFICATION

Section was enacted as part of the Fixing America's Surface Transportation Act, also known as the FAST Act, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

§4370m–12. Repealed. Pub. L. 117–58, div. G, title VIII, §70801(h), Nov. 15, 2021, 135 Stat. 1294

Section, Pub. L. 114–94, div. D, title XLI, §41013, Dec. 4, 2015, 129 Stat. 1761, provided that this subchapter shall terminate 7 years after Dec. 4, 2015.

CHAPTER 56—ENVIRONMENTAL QUALITY IMPROVEMENT

Sec.

4371. Congressional findings, declarations, and purposes.
4372. Office of Environmental Quality.
4373. Referral of Environmental Quality Reports to standing committees having jurisdiction.
4374. Authorization of appropriations.
4375. Office of Environmental Quality Management Fund.

§4371. Congressional findings, declarations, and purposes

(a) The Congress finds—

(1) that man has caused changes in the environment;

(2) that many of these changes may affect the relationship between man and his environment; and

(3) that population increases and urban concentration contribute directly to pollution and the degradation of our environment.

(b)(1) The Congress declares that there is a national policy for the environment which provides for the enhancement of environmental quality. This policy is evidenced by statutes heretofore enacted relating to the prevention, abatement, and control of environmental pollution, water and land resources, transportation, and economic and regional development.

(2) The primary responsibility for implementing this policy rests with State and local government.

(3) The Federal Government encourages and supports implementation of this policy through appropriate regional organizations established under existing law.

(c) The purposes of this chapter are—

(1) to assure that each Federal department and agency conducting or supporting public works activities which affect the environment shall implement the policies established under existing law; and

(2) to authorize an Office of Environmental Quality, which, notwithstanding any other provision of law, shall provide the professional and administrative staff for the Council on Environmental Quality established by Public Law 91–190.

(Pub. L. 91–224, title II, §202, Apr. 3, 1970, 84 Stat. 114.)

EDITORIAL NOTES

REFERENCES IN TEXT

Public Law 91–190, referred to in subsec. (c)(2), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, known as the National Environmental Policy Act of 1969, which is classified generally to chapter 55 (§4321 et seq.) of this

title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 91–224, title II, §201, Apr. 3, 1970, 84 Stat. 114, provided that: "This title [enacting this chapter] may be cited as the 'Environmental Quality Improvement Act of 1970'."

§4372. Office of Environmental Quality

(a) Establishment; Director; Deputy Director

There is established in the Executive Office of the President an office to be known as the Office of Environmental Quality (hereafter in this chapter referred to as the "Office"). The Chairman of the Council on Environmental Quality established by Public Law 91–190 shall be the Director of the Office. There shall be in the Office a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Compensation of Deputy Director

The compensation of the Deputy Director shall be fixed by the President at a rate not in excess of the annual rate of compensation payable to the Deputy Director of the Office of Management and Budget.

(c) Employment of personnel, experts, and consultants; compensation

The Director is authorized to employ such officers and employees (including experts and consultants) as may be necessary to enable the Office to carry out its functions under this chapter and Public Law 91–190, except that he may employ no more than ten specialists and other experts without regard to the provisions of title 5, governing appointments in the competitive service, and pay such specialists and experts without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no such specialist or expert shall be paid at a rate in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of title 5.

(d) Duties and functions of Director

In carrying out his functions the Director shall assist and advise the President on policies and programs of the Federal Government affecting environmental quality by—

(1) providing the professional and administrative staff and support for the Council on Environmental Quality established by Public Law 91–190;

(2) assisting the Federal agencies and departments in appraising the effectiveness of existing and proposed facilities, programs, policies, and activities of the Federal Government, and those specific major projects designated by the President which do not require individual project authorization by Congress, which affect environmental quality;

(3) reviewing the adequacy of existing systems for monitoring and predicting environmental changes in order to achieve effective coverage and efficient use of research facilities and other resources;

(4) promoting the advancement of scientific knowledge of the effects of actions and technology on the environment and encourage [1] the development of the means to prevent or reduce adverse effects that endanger the health and well-being of man;

(5) assisting in coordinating among the Federal departments and agencies those programs and activities which affect, protect, and improve environmental quality;

(6) assisting the Federal departments and agencies in the development and interrelationship of environmental quality criteria and standards established through the Federal Government;

(7) collecting, collating, analyzing, and interpreting data and information on environmental quality, ecological research, and evaluation.

(e) Authority of Director to contract

The Director is authorized to contract with public or private agencies, institutions, and organizations and with individuals without regard to section 3324(a) and (b) of title 31 and section 6101 of title 41 in carrying out his functions.

(Pub. L. 91–224, title II, §203, Apr. 3, 1970, 84 Stat. 114; 1970 Reorg. Plan No. 2, §102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085.)

EDITORIAL NOTES

REFERENCES IN TEXT

Public Law 91–190, referred to in subsecs. (a), (c), and (d), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, known as the National Environmental Policy Act of 1969, which is classified generally to chapter 55 (§4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

The General Schedule, referred to in subsec. (c), is set out under section 5332 of Title 5.

CODIFICATION

In subsec. (e), "section 3324(a) and (b) of title 31 and section 6101 of title 41" substituted for "sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5)" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, which Act enacted Title 31, Money and Finance, and Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

STATUTORY NOTES AND RELATED SUBSIDIARIES

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions vested by law (including reorganization plan) in Bureau of the Budget or Director of Bureau of the Budget transferred to President by section 101 of Reorg. Plan No. 2 of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, set out in the Appendix to Title 5, Government Organization and Employees. Section 102 of Reorg. Plan No. 2 of 1970, redesignated Bureau of the Budget as Office of Management and Budget.

[1] *So in original. Probably should be "encouraging".*

§4373. Referral of Environmental Quality Reports to standing committees having jurisdiction

Each Environmental Quality Report required by Public Law 91–190 shall, upon transmittal to Congress, be referred to each standing committee having jurisdiction over any part of the subject matter of the Report.

(Pub. L. 91–224, title II, §204, Apr. 3, 1970, 84 Stat. 115.)

EDITORIAL NOTES

REFERENCES IN TEXT

Public Law 91–190, referred to in text, is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, known as the National

Environmental Policy Act of 1969, which is classified generally to chapter 55 (§4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

§4374. Authorization of appropriations

There are hereby authorized to be appropriated for the operations of the Office of Environmental Quality and the Council on Environmental Quality not to exceed the following sums for the following fiscal years which sums are in addition to those contained in Public Law 91–190:

(a) $2,126,000 for the fiscal year ending September 30, 1979.

(b) $3,000,000 for each of the fiscal years ending September 30, 1980, and September 30, 1981.

(c) $44,000 for the fiscal years ending September 30, 1982, 1983, and 1984.

(d) $480,000 for each of the fiscal years ending September 30, 1985 and September 30, 1986.

(Pub. L. 91–224, title II, §205, Apr. 3, 1970, 84 Stat. 115; Pub. L. 93–36, May 18, 1973, 87 Stat. 72; Pub. L. 94–52, §1, July 3, 1975, 89 Stat. 258; Pub. L. 94–298, May 29, 1976, 90 Stat. 587; Pub. L. 95–300, June 26, 1978, 92 Stat. 342; Pub. L. 97–350, §1, Oct. 18, 1982, 96 Stat. 1661; Pub. L. 98–581, §1, Oct. 30, 1984, 98 Stat. 3093.)

EDITORIAL NOTES

REFERENCES IN TEXT

Public Law 91–190, referred to in text, is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, known as the National Environmental Policy Act of 1969, which is classified generally to chapter 55 (§4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

AMENDMENTS

1984—Cl. (d). Pub. L. 98–581 added cl. (d).

1982—Cl. (c). Pub. L. 97–350 added cl. (c).

1978—Pub. L. 95–300 added cls. (a) and (b). Former cls. (a) to (d), which authorized appropriations of $2,000,000 for fiscal year ending June 30, 1976, $500,000 for transition period of July 1, 1976 to Sept. 30, 1976, $3,000,000 for fiscal year ending Sept. 30, 1977, and $3,000,000 for fiscal year ending Sept. 30, 1978, respectively, were struck out.

1976—Pub. L. 94–298 made changes in structure by designating existing provisions as cls. (a) and (b) and adding cls. (c) and (d).

1975—Pub. L. 94–52 substituted "$2,000,000 for the fiscal year ending June 30, 1976, and not to exceed $500,000 for the transition period (July 1, 1976 to September 30, 1976)" for "$1,500,000 for the fiscal year ending June 30, 1974, and $2,000,000 for the fiscal year ending June 30, 1975".

1973—Pub. L. 93–36 substituted provisions authorizing to be appropriated for operations of the Office of Environmental Quality and the Council on Environmental Quality $1,500,000 for fiscal year ending June 30, 1974, and $2,000,000 for fiscal year ending June 30, 1975, for provisions authorizing to be appropriated not to exceed $500,000 for fiscal year ending June 30, 1970, not to exceed $750,000 for fiscal year ending June 30, 1971, not to exceed $1,250,000 for fiscal year ending June 30, 1972, and not to exceed $1,500,000 for fiscal year ending June 30, 1973.

§4375. Office of Environmental Quality Management Fund

(a) Establishment; financing of study contracts and Federal interagency environmental projects

There is established an Office of Environmental Quality Management Fund (hereinafter referred to as the "Fund") to receive advance payments from other agencies or accounts that may be used solely to finance—

(1) study contracts that are jointly sponsored by the Office and one or more other Federal

agencies; and

(2) Federal interagency environmental projects (including task forces) in which the Office participates.

(b) Study contract or project initiative

Any study contract or project that is to be financed under subsection (a) may be initiated only with the approval of the Director.

(c) Regulations

The Director shall promulgate regulations setting forth policies and procedures for operation of the Fund.

(Pub. L. 91–224, title II, §206, as added Pub. L. 98–581, §2, Oct. 30, 1984, 98 Stat. 3093.)

CHAPTER 57—ENVIRONMENTAL POLLUTION STUDY

Sec.

4391. Congressional statement of findings.
4392. Presidential study.
4393. Report to Congress by President.
4394. Omitted.
4395. Authorization of appropriations.

§4391. Congressional statement of findings

The Congress finds that there is general agreement that air, water, and other common environmental pollution may be hazardous to the health of individuals resident in the United States, but that despite the existence of various research papers and other technical reports on the health hazards of such pollution, there is no authoritative source of information about (1) the nature and gravity of these hazards, (2) the availability of medical and other assistance to persons affected by such pollution, especially when such pollution reaches emergency levels, and (3) the measures, other than those relating solely to abatement of the pollution, that may be taken to avoid or reduce the effects of such pollution on the health of individuals.

(Pub. L. 91–515, title V, §501(a), Oct. 30, 1970, 84 Stat. 1309.)

§4392. Presidential study

The President shall immediately commence (1) a study of the nature and gravity of the hazards to human health and safety created by air, water, and other common environmental pollution, (2) a survey of the medical and other assistance available to persons affected by such pollution, especially when such pollution reaches emergency levels, and (3) a survey of the measures, other than those relating solely to abatement of the pollution, that may be taken to avoid or reduce the effects of such pollution on the health of individuals.

(Pub. L. 91–515, title V, §501(b), Oct. 30, 1970, 84 Stat. 1310.)

§4393. Report to Congress by President

The President shall, within nine months of October 30, 1970, transmit to the Congress a report of the study and surveys required by section 4392 of this title, including (1) his conclusions regarding the nature and gravity of the hazards to human health and safety created by environmental pollution, (2) his evaluation of the medical and other assistance available to persons affected by such pollution, especially when such pollution reaches emergency levels, (3) his assessment of the measures, other

than those relating solely to abatement of the pollution, that may be taken to avoid or reduce the effects of such pollution on the health of individuals, and (4) such legislative or other recommendations as he may deem appropriate.

(Pub. L. 91–515, title V, §501(c), Oct. 30, 1970, 84 Stat. 1310.)

§4394. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 91–515, title V, §501(d), Oct. 30, 1970, 84 Stat. 1310, which required the President, within one year of his transmittal to Congress of the report required by section 4393 of this title, and annually thereafter, to supplement that report with such new data, evaluations, or recommendations as he may deem appropriate, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, item 6 on page 20 of House Document No. 103–7.

§4395. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this chapter.

(Pub. L. 91–515, title V, §501(e), Oct. 30, 1970, 84 Stat. 1310.)

CHAPTER 58—DISASTER RELIEF

SUBCHAPTER I—GENERALLY

§§4401, 4402. Repealed. Pub. L. 93–288, title VII, §703, formerly title VI, §603, May 22, 1974, 88 Stat. 164; renumbered title VII, §703, Pub. L. 103–337, div. C, title XXXIV, §3411(a)(1), (2), Oct. 5, 1994, 108 Stat. 3100

Section 4401, Pub. L. 91–606, title I, §101, Dec. 31, 1970, 84 Stat. 1744, related to Congressional findings and declarations.

Section 4402, Pub. L. 91–606, title I, §102, Dec. 31, 1970, 84 Stat. 1745, related to definitions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal of sections 4401 and 4402 effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, formerly set out as an Effective Date note under section 5121 of this title.

SHORT TITLE

Pub. L. 91–606, §1, Dec. 31, 1970, 84 Stat. 1744, provided that Pub. L. 91–606 which enacted this chapter, amended section 1926 of Title 7, Agriculture, sections 1706c, 1709, and 1715l of Title 12, Banks and Banking, sections 241–1, 646, and 758 of Title 20, Education, sections 165, 5064, and 5708 of Title 26, Internal Revenue Code, section 1820 [now 3720] of Title 38, Veterans' Benefits, and section 461 of former Title 40, Public Buildings, Property, and Works, repealed sections 1855 to 1855g, 1855aa, 1855aa note,

1855bb to 1855ii, 1855aaa, 1855aaa note, 1855bbb to 1855nnn of this title, and enacted provisions set out as notes under sections 4401 and 4434 of this title, and amended provisions set out as a note under section 1681 of Title 48, Territories and Insular Possessions, may be cited as the "Disaster Relief Act of 1970".

SAVINGS PROVISION

Section 703, formerly section 603, of Pub. L. 93–288, as renumbered by Pub. L. 103–337, div. C, title XXXIV, §3411(a)(1), (2), Oct. 5, 1994, 108 Stat. 3100, provided in part that notwithstanding repeal of the provisions of Disaster Relief Act of 1970, such provisions should continue in effect with respect to any major disaster declared prior to May 22, 1974.

REFERENCES TO DISASTER RELIEF ACT OF 1970

Pub. L. 93–288, title VII, §702(m), formerly title VI, §602(m), May 22, 1974, 88 Stat. 164, as renumbered by Pub. L. 103–337, div. C, title XXXIV, §3411(a)(1), (2), Oct. 5, 1994, 108 Stat. 3100, provided that: "Whenever reference is made in any provision of law (other than this Act [the Disaster Relief Act of 1974, see Short Title note set out under section 5121 of this title]), regulation rule, record, or documents of the United States to provisions of the Disaster Relief Act of 1970 (84 Stat. 1744) [see Short Title note above], repealed by this Act such reference shall be deemed to be a reference to the appropriate provision of this Act."

REFERENCES TO ACT OF SEPTEMBER 30, 1950

Pub. L. 91–606, title III, §301(l), Dec. 31, 1970, 84 Stat. 1758, provided that whenever reference is made in any provision of law (other than this chapter), regulation, rule, record, or document of the United States to the Act of Sept. 30, 1950, ch. 1125, 64 Stat. 1109, (classified to sections 1855 to 1855g of this title), or to any provision of such Act, such reference shall be deemed to be a reference to the Disaster Relief Act of 1970 or to the appropriate provision of the Disaster Relief Act of 1970 unless no such provision was included therein, prior to repeal by Pub. L. 93–288, title VII, §703, formerly title VI, §603, May 22, 1974, 88 Stat. 164, renumbered title VII, §703, Pub. L. 103–337, div. C, title XXXIV, §3411(a)(1), (2), Oct. 5, 1994, 108 Stat. 3100.

AVAILABILITY OF FUNDS APPROPRIATED UNDER THIS CHAPTER FOR USE UNDER CHAPTER 68

Pub. L. 93–288, title VII, §704, formerly title VI, §604, May 22, 1974, 88 Stat. 164, as renumbered by Pub. L. 103–337, div. C, title XXXIV, §3411(a)(1), (2), Oct. 5, 1994, 108 Stat. 3100, provided that: "Funds heretofore appropriated and available under Public Laws 91–606, as amended [this chapter], and 92–385 [amending section 4451 of this title and sections 633 and 636 of Title 15, Commerce and Trade, repealing section 1969 of Title 7, Agriculture, enacting provisions set out as notes under section 4401 of this title and section 636 of Title 15] shall continue to be available for the purpose of providing assistance under those Acts as well as for the purposes of this Act [see Short Title note set out under section 5121 of this title]."

USE OF FUNDS ALLOCATED BEFORE DECEMBER 31, 1970

Pub. L. 91–606, title III, §303, Dec. 31, 1970, 84 Stat. 1759, provided that funds allocated before Dec. 31, 1970, under a Federal-State Disaster Agreement for the relief of a major disaster and not expended on Dec. 31, 1970, may be used by the state to make payments to any person for reimbursement of expenses actually incurred by such person in the removal of debris from community areas, but not to exceed the amount that such expenses exceed the salvage value of such debris, or in otherwise carrying out the act of Sept. 30, 1950, or this chapter.

REPORT TO CONGRESS; PROPOSALS FOR LEGISLATION

Pub. L. 92–385, §3, Aug. 16, 1972, 86 Stat. 556, required President to conduct a thorough review of existing disaster relief legislation and to submit a report to Congress not later than Jan. 1, 1973.

EXECUTIVE DOCUMENTS

DELEGATION OF FUNCTIONS

Functions of President under the Disaster Relief Acts of 1970 and 1974 delegated, with certain exceptions, to Secretary of Homeland Security, see sections 4–201 and 4–203 of Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, as amended, set out as a note under section 5195 of this title.

EXECUTIVE ORDER NO. 11526

Ex. Ord. No. 11526, eff. Apr. 22, 1970, 35 F.R. 6569, which provided for establishment of National

Council on Federal Disaster Assistance, was superseded by Ex. Ord. No. 11749, formerly set out below.

EXECUTIVE ORDER NO. 11575

Ex. Ord. No. 11575, eff. Dec. 31, 1970, 36 F.R. 37, which related to administration of this chapter, was superseded by Ex. Ord. No. 11749, formerly set out below.

EXECUTIVE ORDER NO. 11749

Ex. Ord. No. 11749, Dec. 10, 1973, 38 F.R. 34177, which related to consolidation of functions assigned to Secretary of Housing and Urban Development, was revoked by Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, set out as a note under section 5195 of this title. See Delegation of Functions note above.

SUBCHAPTER II—ADMINISTRATION OF DISASTER ASSISTANCE

§§4411 to 4413. Repealed. Pub. L. 93–288, title VII, §703, formerly title VI, §603, May 22, 1974, 88 Stat. 164; renumbered title VII, §703, Pub. L. 103–337, div. C, title XXXIV, §3411(a)(1), (2), Oct. 5, 1994, 108 Stat. 3100

Section 4411, Pub. L. 91–606, title II, §201, Dec. 31, 1970, 84 Stat. 1746, related to cooperation of Federal agencies of a Federal coordinating officer.

Section 4412, Pub. L. 91–606, title II, §202, Dec. 31, 1970, 84 Stat. 1746, related to formation of emergency support teams of Federal personnel.

Section 4413, Pub. L. 91–606, title II, §203, Dec. 31, 1970, 84 Stat. 1747, related to cooperation of Federal agencies in rendering emergency assistance, the scope of services, non-liability of the Federal government, employment of temporary personnel, rules and regulations, review of programs, and reports to Congress.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, formerly set out as an Effective Date note under section 5121 of this title.

§4413a. Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 92–383, title IV, §406, Aug. 14, 1972, 86 Stat. 553, which related to Housing and Urban Development Disaster Assistance Fund, and which was enacted as part of the Department of Housing and Urban Development; Space, Science, Veterans' and Certain Other Independent Agencies Appropriation Act, 1973, and not as part of the Disaster Relief Act of 1970, was transferred to section 3539 of this title.

§§4414 to 4420. Repealed. Pub. L. 93–288, title VII, §703, formerly title VI, §603, May 22, 1974, 88 Stat. 164; renumbered title VII, §703, Pub. L. 103–337, div. C, title XXXIV, §3411(a)(1), (2), Oct. 5, 1994, 108 Stat. 3100

Section 4414, Pub. L. 91–606, title II, §204, Dec. 31, 1970, 84 Stat. 1748, related to use of local firms and individuals.

Section 4415, Pub. L. 91–606, title II, §205, Dec. 31, 1970, 84 Stat. 1748, related to Federal grant-in-aid programs.

Section 4416, Pub. L. 91–606, title II, §206, Dec. 31, 1970, 84 Stat. 1749, related to State disaster plans.

Section 4417, Pub. L. 91–606, title II, §207, Dec. 31, 1970, 84 Stat. 1749, related to use and coordination of relief organizations.

Section 4418, Pub. L. 91–606, title II, §208, Dec. 31, 1970, 84 Stat. 1750, related to restriction on duplication of benefits.

Section 4419, Pub. L. 91–606, title II, §209, Dec. 31, 1970, 84 Stat. 1750, related to nondiscrimination restrictions in disaster assistance.

Section 4420, Pub. L. 91–606, title II, §210, Dec. 31, 1970, 84 Stat. 1750, related to disaster warnings.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, formerly set out as an Effective Date note under section 5121 of this title.

§§4431 to 4436. Repealed. Pub. L. 93–288, title VII, §703, formerly title VI, §603, May 22, 1974, 88 Stat. 164; renumbered title VII, §703, Pub. L. 103–337, div. C, title XXXIV, §3411(a)(1), (2), Oct. 5, 1994, 108 Stat. 3100

Section 4431, Pub. L. 91–606, title II, §221, Dec. 31, 1970, 84 Stat. 1751, related to predisaster assistance.

Section 4432, Pub. L. 91–606, title II, §222, Dec. 31, 1970, 84 Stat. 1751, related to emergency communications.

Section 4433, Pub. L. 91–606, title II, §223, Dec. 31, 1970, 84 Stat. 1751, related to emergency transportation.

Section 4434, Pub. L. 91–606, title II, §224, Dec. 31, 1970, 84 Stat. 1751, related to removal of debris.

Section 4435, Pub. L. 91–606, title II, §225, Dec. 31, 1970, 84 Stat. 1751, related to fire suppression.

Section 4436, Pub. L. 91–606, title II, §226, Dec. 31, 1970, 84 Stat. 1751, related to temporary housing assistance.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, formerly set out as an Effective Date note under section 5121 of this title.

§4451. Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 91–606, title II, §231, Dec. 31, 1970, 84 Stat. 1752; Pub. L. 92–385, §6, Aug. 16, 1972, 86 Stat. 559, which related to small business disaster loans, was transferred to section 636a of Title 15, Commerce and Trade, and subsequently repealed.

§4452. Repealed. Pub. L. 93–24, §7, Apr. 20, 1973, 87 Stat. 25

Section, Pub. L. 91–606, title II, §232, Dec. 31, 1970, 84 Stat. 1753, provided for emergency farm loans. See section 1961 of Title 7, Agriculture.

§§4453 to 4456. Transferred

EDITORIAL NOTES

CODIFICATION

Section 4453, Pub. L. 91–606, title II, §234, Dec. 31, 1970, 84 Stat. 1754, which related to disaster loan interest rates, was transferred to section 636b of Title 15, Commerce and Trade.

Section 4454, Pub. L. 91–606, title II, §235, Dec. 31, 1970, 84 Stat. 1754, which related to prohibition on consideration of age of applicant for disaster loans, was transferred to section 636c of Title 15.

Section 4455(a), Pub. L. 91–606, title II, §236(a), Dec. 31, 1970, 84 Stat. 1754, which related to authority of the Secretary of Agriculture to reschedule and refinance Federal loans under the Rural Electrification Administration, was transferred to section 912a of Title 7, Agriculture.

Section 4455(b), Pub. L. 91–606, title II, §236(b), Dec. 31, 1970, 84 Stat. 1754, which related to authority of the Secretary of Housing and Urban Development to reschedule and refinance Federal loans, was transferred to section 3538 of this title.

Section 4456, Pub. L. 91–606, title II, §237, Dec. 31, 1970, 84 Stat. 1754, which related to disaster aid to major sources of employment, was transferred to section 636d of Title 15, Commerce and Trade.

§§4457 to 4462. Repealed. Pub. L. 93–288, title VII, §703, formerly title VI, §603, May 22, 1974, 88 Stat. 164; renumbered title VII, §703, Pub. L. 103–337, div. C, title XXXIV, §3411(a)(1), (2), Oct. 5, 1994, 108 Stat. 3100

Section 4457, Pub. L. 91–606, title II, §238, Dec. 31, 1970, 84 Stat. 1755, related to food stamp and surplus commodities programs.

Section 4458, Pub. L. 91–606, title II, §239, Dec. 31, 1970, 84 Stat. 1755, related to legal services.

Section 4459, Pub. L. 91–606, title II, §240, Dec. 31, 1970, 84 Stat. 1755, related to unemployment assistance.

Section 4460, Pub. L. 91–606, title II, §241, Dec. 31, 1970, 84 Stat. 1756, related to community disaster grants to local governments.

Section 4461, Pub. L. 91–606, title II, §242, Dec. 31, 1970, 84 Stat. 1756, related to timber sale contracts.

Section 4462, Pub. L. 91–606, title II, §243, Dec. 31, 1970, 84 Stat. 1757, related to standards for residential structure restoration.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, formerly set out as an Effective Date note under section 5121 of this title.

§§4481 to 4485. Repealed. Pub. L. 93–288, title VII, §703, formerly title VI, §603, May 22, 1974, 88 Stat. 164; renumbered title VII, §703, Pub. L. 103–337, div. C, title XXXIV, §3411(a)(1), (2), Oct. 5, 1994, 108 Stat. 3100

Section 4481, Pub. L. 91–606, title II, §251, Dec. 31, 1970, 84 Stat. 1757, related to repair and restoration of damaged United States facilities.

Section 4482, Pub. L. 91–606, title II, §252, Dec. 31, 1970, 84 Stat. 1757; Pub. L. 93–251 title I, §45(a), Mar. 7, 1974, 88 Stat. 24, related to restoration of State and local public facilities.

Section 4483, Pub. L. 91–606, title II, §253, Dec. 31, 1970, 84 Stat. 1758, related to priority to applications for public facility and public housing assistance in major disaster areas.

Section 4484, Pub. L. 91–606, title II, §254, Dec. 31, 1970, 84 Stat. 1758, related to relocation assistance.

Section 4485, Pub. L. 91–606, title II, §255, as added Pub. L. 92–209, §1, Dec. 18, 1971, 85 Stat. 742, related to private medical care facilities grants for repair, reconstruction, or replacement of damaged or destroyed facilities.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, formerly set out as an Effective Date note under section 5121 of this title.

CHAPTER 59—NATIONAL URBAN POLICY AND NEW COMMUNITY DEVELOPMENT

Sec.

4501. Congressional statement of purpose.

PART A—DEVELOPMENT OF A NATIONAL URBAN POLICY

4502. Congressional findings and declaration of policy.
4503. National Urban Policy Report.

PART B—DEVELOPMENT OF NEW COMMUNITIES

4511 to 4524. Repealed.
4525. Real property taxation.
4526. Audit by Government Accountability Office.
4527. General powers of Secretary.
4528 to 4532. Repealed.

§4501. Congressional statement of purpose

It is the policy of the Congress and the purpose of this chapter to provide for the development of a national urban policy and to encourage the rational, orderly, efficient, and economic growth, development, and redevelopment of our States, metropolitan areas, cities, counties, towns, and communities in predominantly rural areas which demonstrate a special potential for accelerated growth; to encourage the prudent use and conservation of energy and our natural resources; and to encourage and support development which will assure our communities and their residents of adequate tax bases, community services, job opportunities, and good housing in well-balanced neighborhoods in socially, economically, and physically attractive living environments.

(Pub. L. 91–609, title VII, §701(b), Dec. 31, 1970, 84 Stat. 1791; Pub. L. 95–128, title VI, §601(a)(2)–(5), Oct. 12, 1977, 91 Stat. 1143.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title VII of Pub. L. 91–609, Dec. 31, 1970, 84 Stat. 1791, known as the Urban Growth and New Community Development Act of 1970, which enacted this chapter, amended sections 1453, 1460, and 1492 of this title, sections 371 and 1464 of Title 12, Banks and Banking, and section 461 of former Title 40, Public Buildings, Property, and Works, and enacted provisions set out as notes under sections 1453 and 4501 of this title. For complete classification of title VII to the Code, see Short Title note set out below and Tables.

AMENDMENTS

1977—Pub. L. 95–128 substituted "national urban policy" for "national urban growth policy", encouraged prudent use and conservation of energy, and provided for the assurance of the residents of the communities, and of good housing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Section 701(a) of title VII of Pub. L. 91–609, as amended by Pub. L. 95–128, title VI, §601(a)(1), Oct. 12, 1977, 91 Stat. 1142, provided that: "This title [enacting this chapter, amending sections 1453, 1460, and 1492, of this title, sections 371 and 1464 of Title 12, Banks and Banking, and section 461 of former Title 40, Public

Buildings, Property, and Works, and enacting provisions set out as notes under section 1453 of this title] may be cited as the 'National Urban Policy and New Community Development Act of 1970'."

PART A—DEVELOPMENT OF A NATIONAL URBAN POLICY

§4502. Congressional findings and declaration of policy

(a) The Congress finds that rapid changes in patterns of urban settlement, including change in population distribution and economic bases of urban areas, have created an imbalance between the Nation's needs and resources and seriously threaten our physical and social environment, and the financial viability of our cities, and that the economic and social development of the Nation, the proper conservation of our energy and other natural resources, and the achievement of satisfactory living standards depend upon the sound, orderly, and more balanced development of all areas of the Nation.

(b) The Congress further finds that Federal programs affect the location of population, economic growth, and the character of urban development; that such programs frequently conflict and result in undesirable and costly patterns of urban development and redevelopment which adversely affect the environment and wastefully use energy and other natural resources; and that existing and future programs must be interrelated and coordinated within a system of orderly development and established priorities consistent with a national urban policy.

(c) To promote the general welfare and properly apply the resources of the Federal Government in strengthening the economic and social health of all areas of the Nation and more adequately protect the physical environment and conserve energy and other natural resources, the Congress declares that the Federal Government, consistent with the responsibilities of State and local government and the private sector, must assume responsibility for the development of a national urban policy which shall incorporate social, economic, and other appropriate factors. Such policy shall serve as a guide in making specific decisions at the national level which affect the pattern of urban development and redevelopment and shall provide a framework for development of interstate, State, and local urban policy.

(d) The Congress further declares that the national urban policy should—

(1) favor patterns of urbanization and economic development and stabilization which offer a range of alternative locations and encourage the wise and balanced use of physical and human resources in metropolitan and urban regions as well as in smaller urban places which have a potential for accelerated growth;

(2) foster the continued economic strength of all parts of the United States, including central cities, suburbs, smaller communities, local neighborhoods, and rural areas;

(3) encourage patterns of development and redevelopment which minimize disparities among States, regions, and cities;

(4) treat comprehensively the problems of poverty and employment (including the erosion of tax bases, and the need for better community services and job opportunities) which are associated with disorderly urbanization and rural decline;

(5) develop means to encourage good housing for all Americans without regard to race or creed;

(6) refine the role of the Federal Government in revitalizing existing communities and encouraging planned, large-scale urban and new community development;

(7) strengthen the capacity of general governmental institutions to contribute to balanced urban growth and stabilization; and

(8) increase coordination among Federal programs that seek to promote job opportunities and skills, decent and affordable housing, public safety, access to health care, educational opportunities, and fiscal soundness for urban communities and their residents.

(Pub. L. 91–609, title VII, §702, Dec. 31, 1970, 84 Stat. 1791; Pub. L. 95–128, title VI, §601(b), Oct. 12, 1977, 91 Stat. 1143; Pub. L. 98–479, title II, §204(i), Oct. 17, 1984, 98 Stat. 2233; Pub. L.

102–550, title IX, §921(1), Oct. 28, 1992, 106 Stat. 3883.)

EDITORIAL NOTES

AMENDMENTS

1992—Subsec. (d)(8). Pub. L. 102–550 added par. (8) and struck out former par. (8) which read as follows: "facilitate increased coordination in the administration of Federal programs so as to encourage desirable patterns of urban development and redevelopment, encourage the prudent use of energy and other natural resources, and protect the physical environment."

1984—Subsec. (d)(8). Pub. L. 98–479 struck out "of" before "the physical environment".

1977—Subsec. (a). Pub. L. 95–128, §601(b)(1), substituted "rapid changes in patterns of urban settlement, including change in population distribution and economic bases of urban areas, have created" for "the rapid growth of urban population and uneven expansion of urban development in the United States, together with a decline in farm population, slower growth in rural areas, and migration to the cities, has created" and included the threat to "social" environment and the financial viability of our cities, and conservation of "energy".

Subsec. (b). Pub. L. 95–128, §601(b)(2), included findings respecting costly urban redevelopment and wasteful use of energy and struck out "growth" after "national urban".

Subsec. (c). Pub. L. 95–128, §601(b)(3), included conservation of "energy", struck out "growth" after "nation urban" in first sentence and substituted in second sentence "urban development and redevelopment" for "urban growth" and "urban policy" for "growth and stabilization policy".

Subsec. (d). Pub. L. 95–128, §601(b)(4)–(6), struck out "growth" before "policy" in introductory text; substituted in par. (3) "encourage patterns of development and redevelopment which minimize" for "help reverse trends of migration and physical growth which reinforce"; and in par. (8) substituted "urban development and redevelopment" for "urban growth and stabilization" and "protect" for "the protection" and required the national urban policy to "encourage" prudent use of resources, including "energy".

§4503. National Urban Policy Report

(a) Transmittal to Congress; contents

The President shall transmit to the Congress, not later than June 1, 1993, and not later than the first day of June of every odd-numbered year thereafter, a Report on National Urban Policy which shall contribute to the formulation of such a policy, and in addition shall include—

(1) information, statistics, and significant trends relating to the pattern of urban development for the preceding two years;

(2) a summary of significant problems facing the United States as a result of urban trends and developments affecting the well-being of urban areas;

(3) an examination of the housing and related community development problems experienced by cities undergoing a growth rate which equals or exceeds the national average;

(4) an evaluation of the progress and effectiveness of Federal efforts designed to meet such problems and to carry out the national urban policy;

(5) an assessment of the policies and structure of existing and proposed interstate planning and developments affecting such policy;

(6) a review of State, local, and private policies, plans, and programs relevant to such policy;

(7) current and foreseeable needs in the areas served by policies, plans, and programs designed to carry out such policy, and the steps being taken to meet such needs; and

(8) recommendations for programs and policies for carrying out such policy, including legislative or administrative proposals—

(A) to promote coordination among Federal programs to assist urban areas;

(B) to enhance the fiscal capacity of fiscally distressed urban areas;

(C) to promote job opportunities in economically distressed urban areas and to enhance the job skills of residents of such areas;

(D) to generate decent and affordable housing;

(E) to reduce racial tensions and to combat racial and ethnic violence in urban areas;

(F) to combat urban drug abuse and drug-related crime and violence;

(G) to promote the delivery of health care to low-income communities in urban areas;
(H) to expand educational opportunities in urban areas; and
(I) to achieve the goals of the national urban policy.

(b) Supplementary reports

The President may transmit from time to time to the Congress supplementary reports on urban policy which shall include such supplementary and revised recommendations as may be appropriate.

(c) Advisory board

To assist in the preparation of the National Urban Policy Report and any supplementary reports, the President may establish an advisory board, or seek the advice from time to time of temporary advisory boards, the members of whom shall be drawn from among private citizens familiar with the problems of urban areas and from among Federal officials, Governors of States, mayors, county officials, members of State and local legislative bodies, and others qualified to assist in the preparation of such reports.

(d) Referral

The National Urban Policy Report shall, when transmitted to Congress, be referred in the Senate to the Committee on Banking, Housing, and Urban Affairs, and in the House of Representatives to the Committee on Banking, Finance and Urban Affairs.

(Pub. L. 91–609, title VII, §703, Dec. 31, 1970, 84 Stat. 1792; Pub. L. 95–128, title VI, §601(c), Oct. 12, 1977, 91 Stat. 1143; Pub. L. 102–550, title IX, §921(2), (3), Oct. 28, 1992, 106 Stat. 3883, 3884.)

EDITORIAL NOTES

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–550, §921(2)(A), substituted ", not later than June 1, 1993, and not later than the first day of June of every odd-numbered year thereafter," for "during February 1978, and during February of every even-numbered year thereafter," in introductory provisions.

Subsec. (a)(8). Pub. L. 102–550, §921(2)(B), which directed the substitution of "legislative or administrative proposals—" and subpars. (A) to (I) for " 'such' and all that follows through the end of the sentence", was executed by making the substitution for "such legislation and administrative actions as may be deemed necessary and desirable." which followed "such" the second place it appeared to reflect the probable intent of Congress.

Subsec. (d). Pub. L. 102–550, §921(3), added subsec. (d).

1977—Subsec. (a). Pub. L. 95–128, §601(c)(1), inserted provisions in introductory text respecting transmittal of a Report on National Urban Policy to the Congress and struck out prior similar provisions which required the President to utilize the capacity of his office, adequately organized and staffed for the purpose, through an identified unit of the Domestic Council, and of the departments and agencies within the executive branch to collect, analyze, and evaluate such statistics, data, and other information (including demographic, economic, social, land use, environmental, and governmental information) as would enable the President to transmit to the Congress during the month of February 1972 and every other year thereafter a Report on Urban Growth for the preceding two calendar years.

Subsec. (a)(1) to (8). Pub. L. 95–128, §601(c)(2)–(6), in amending paragraphs, provided as follows:

par. (1), substituted ", statistics, and significant trends relating to the pattern of urban development for the preceding two years" for "and statistics, describing characteristics of urban growth and stabilization and identifying significant trends and developments";

par. (2), struck out "growth" after "urban" and inserted end text "affecting the well-being of urban areas";

par. (3), inserted provisions respecting problems experienced by cities with a growth rate equalling or exceeding the national average and redesignated former par. (3) as (4);

par. (4), redesignated former par. (3) as (4), and as so redesignated struck out "growth" before "policy", and redesignated former par. (4) as (5); and

pars. (5) to (8), redesignated former pars. (4) to (7) as (5) to (8), respectively.

Subsec. (b). Pub. L. 95–128, §601(c)(7), substituted "urban policy" for "urban growth".

Subsec. (c). Pub. L. 95–128, §601(c)(8), substituted "National Urban Policy Report" and "urban areas" for "Report on Urban Growth" and "urban growth", respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of reporting provisions in subsec. (a) of this section, 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 item 1 on page 40 of House Document No. 103–7.

PART B—DEVELOPMENT OF NEW COMMUNITIES

§§4511 to 4524. Repealed. Pub. L. 98–181, title I [title IV, §474(e)], Nov. 30, 1983, 97 Stat. 1239

The new communities program was liquidated and its assets and liabilities transferred pursuant to sections 1701g–5a and 1701g–5b of Title 12, Banks and Banking.

Section 4511, Pub. L. 91–609, title VII, §710, Dec. 31, 1970, 84 Stat. 1793, set out Congressional findings and purpose in setting up program for development of new communities.

Section 4512, Pub. L. 91–609, title VII, §711, Dec. 31, 1970, 84 Stat. 1795; Pub. L. 93–383, title VIII, §803(a)(1), (e), Aug. 22, 1974, 88 Stat. 725, defined terms used in this part.

Section 4513, Pub. L. 91–609, title VII, §712, Dec. 31, 1970, 84 Stat. 1796, set out conditions under which a new community development program qualified for assistance under this part.

Section 4514, Pub. L. 91–609, title VII, §713, Dec. 31, 1970, 84 Stat. 1796; Pub. L. 93–117, §12, Oct. 2, 1973, 87 Stat. 423; Pub. L. 93–383, title VIII, §803(a)(1), (c), Aug. 22, 1974, 88 Stat. 725, authorized guarantee of bonds, notes, debentures, and other obligations in connection with approved new community developments.

Section 4515, Pub. L. 91–609, title VII, §714, Dec. 31, 1970, 84 Stat. 1797; Pub. L. 93–383, title VIII, §803(a)(1), Aug. 22, 1974, 88 Stat. 725, authorized making of loans by Secretary in connection with new community developments.

Section 4516, Pub. L. 91–609, title VII, §715, Dec. 31, 1970, 84 Stat. 1798; Pub. L. 93–383, title VIII, §803(a)(1), Aug. 22, 1974, 88 Stat. 725, provided for public service grants and authorized appropriations therefor.

Section 4517, Pub. L. 91–609, title VII, §716, Dec. 31, 1970, 84 Stat. 1798, set limitations on guarantees and loans.

Section 4518, Pub. L. 91–609, title VII, §717, Dec. 31, 1970, 84 Stat. 1798; Pub. L. 97–35, title III, §339F, Aug. 13, 1981, 95 Stat. 418, created a revolving fund for use in connection with the new communities development program.

Section 4519, Pub. L. 91–609, title VII, §718, Dec. 31, 1970, 84 Stat. 1799; Pub. L. 92–213, §7, Dec. 22, 1971, 85 Stat. 776; Pub. L. 93–383, title VIII, §803(d), Aug. 22, 1974, 88 Stat. 725, provided for supplementary grants for carrying out new community assistance projects.

Section 4520, Pub. L. 91–609, title VII, §719, Dec. 31, 1970, 84 Stat. 1800, authorized Secretary to provide technical assistance to private and public bodies in carrying out new community development programs.

Section 4521, Pub. L. 91–609, title VII, §720, Dec. 31, 1970, 84 Stat. 1800; Pub. L. 94–375, §19, Aug. 3, 1976, 90 Stat. 1077; Pub. L. 95–128, title II, §208, Oct. 12, 1977, 91 Stat. 1130; Pub. L. 95–406, §4, Sept. 30, 1978, 92 Stat. 880; Pub. L. 95–557, title III, §306, Oct. 31, 1978, 92 Stat. 2097, provided for financial assistance for planning new community development programs.

Section 4522, Pub. L. 91–609, title VII, §721, Dec. 31, 1970, 84 Stat. 1801, authorized establishment and collection of fees and charges for the guarantees and other assistance provided in the new communities development program.

Section 4523, Pub. L. 91–609, title VII, §722, Dec. 31, 1970, 84 Stat. 1801, directed Secretary to develop methods of encouraging involvement of small builders in new communities development program.

Section 4524, Pub. L. 91–609, title VII, §723, Dec. 31, 1970, 84 Stat. 1801, provided authority for new communities demonstration projects.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SAVINGS PROVISION

Pub. L. 98–181, title I [title IV, §474(e)], Nov. 30, 1983, 97 Stat. 1239, provided in part that: "Section 717 of title VII [42 U.S.C. 4518] shall remain in effect until completion of the transfer required in title I of the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1984 [12 U.S.C. 1701g–5a]."

Any actions taken, prior to repeal, under the authority of sections 4511 to 4524 and 4528 to 4532 of this title to continue to be valid, with nothing in the repeal impairing the validity of any guarantees which have been made pursuant to this chapter and with such guarantees continuing to be governed by the provisions of this chapter, as it existed immediately before Nov. 30, 1983, see section 474(e) of Pub. L. 98–181, set out in part as a note under section 3901 of this title.

§4525. Real property taxation

Nothing in this part shall be construed to exempt any real property that may be acquired and held by the Secretary as a result of the exercise of lien or subrogation rights from real property taxation to the same extent, according to its value, as other real property is taxed.

(Pub. L. 91–609, title VII, §724, Dec. 31, 1970, 84 Stat. 1801.)

§4526. Audit by Government Accountability Office

Insofar as they relate to any guarantees, loans, or grants made pursuant to this part, the financial transactions of recipients of Federal assistance may be audited by the Government Accountability Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the Government Accountability Office shall have access to all books, accounts, records, reports, files and all other papers, things, or property belonging to or in use by such recipients pertaining to such financial transactions and necessary to facilitate the audit.

(Pub. L. 91–609, title VII, §725, Dec. 31, 1970, 84 Stat. 1801; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

EDITORIAL NOTES

AMENDMENTS

2004—Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office" in section catchline and two places in text.

§4527. General powers of Secretary

In the performance of, and with respect to, the functions, powers, and duties vested in him by this part, the Secretary, in addition to any authority otherwise vested in him, shall—

(1) have the functions, powers, and duties (including the authority to issue rules and regulations) set forth in section 1749a,[1] except subsections (c)(2), (c)(4), (d), and (f), of title 12: *Provided*, That subsection (a)(1) of section 1749a [1] of title 12 shall not apply with respect to

functions, powers, and duties under section 4520 [1] of this title;

(2) have the power, notwithstanding any other provision of law, in connection with any assistance under this part, whether before or after any default, to provide by contract for the extinguishment upon default of any redemption, equitable, legal, or other right, title, or interest of the private new community developer or State land development agency in any mortgage, deed, trust, or other instrument held by or on behalf of the Secretary for the protection of the security interests of the United States; and

(3) have the power to foreclose on any property or commence any action to protect or enforce any right conferred upon him by law, contract, or other agreement, and bid for and purchase at any foreclosure or other sale any property in connection with which he has provided assistance pursuant to this part. In the event of any such acquisition, the Secretary may, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property. Notwithstanding any other provision of law, the Secretary shall also have power to pursue to final collection by way of compromise or otherwise all claims acquired by him in connection with any security, subrogation, or other rights obtained by him in administering this part.

(Pub. L. 91–609, title VII, §726, Dec. 31, 1970, 84 Stat. 1801.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1749a of title 12, referred to in par. (1), was repealed by Pub. L. 99–498, title VII, §702, Oct. 17, 1986, 100 Stat. 1545.

Section 4520 of this title, referred to in par. (1), was repealed by Pub. L. 98–181, title I [title IV, §474(e)], Nov. 30, 1983, 97 Stat. 1239.

[1] *See References in Text note below.*

§§4528 to 4532. Repealed. Pub. L. 98–181, title I [title IV, §474(e)], Nov. 30, 1983, 97 Stat. 1239

Section 4528, Pub. L. 91–609, title VII, §727(a), Dec. 31, 1970, 84 Stat. 1802, provided for termination of new community development projects under chapter 48 (§3901 et seq.) of this title and transition provisions for projects under this part.

Section 4529, Pub. L. 91–609, title VII, §727(f), Dec. 31, 1970, 84 Stat. 1803, provided for application of Federal labor standards for laborers and mechanics employed by contractors and subcontractors in new communities development program.

Section 4530, Pub. L. 91–609, title VII, §727(g), Dec. 31, 1970, 84 Stat. 1803, directed that the interest paid on obligations issued by State land development agencies be included as gross income for purposes of chapter 1 of title 26.

Section 4531, Pub. L. 91–609, title VII, §728, Dec. 31, 1970, 84 Stat. 1803, authorized use of funds under the new communities development program jointly with funds available under other Federal assistance programs.

Section 4532, Pub. L. 91–609, title VII, §729, Dec. 31, 1970, 84 Stat. 1804; Pub. L. 93–383, title VIII, §803(a), (b), Aug. 22, 1974, 88 Stat. 725, provided for establishment and operation of New Community Development Corporation within Department of Housing and Urban Development.

CHAPTER 60—COMPREHENSIVE ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION PROGRAM

Sec.

4541. Congressional findings and declaration of purpose.
4542. Congressional declaration for utilization of programs under other Federal laws in fields of health and social services.

SUBCHAPTER I—NATIONAL INSTITUTE ON, AND INTERAGENCY COMMITTEE ON FEDERAL ACTIVITIES FOR, ALCOHOL ABUSE AND ALCOHOLISM; REPORTS AND RECOMMENDATIONS

4551 to 4553. Repealed or Transferred.

SUBCHAPTER II—ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION PROGRAMS FOR GOVERNMENT AND OTHER EMPLOYEES

4561. Transferred.

SUBCHAPTER III—TECHNICAL ASSISTANCE AND FEDERAL GRANTS AND CONTRACTS

PART A—TECHNICAL ASSISTANCE

4571 to 4574. Repealed or Transferred.

PART B—IMPLEMENTATION AND PROJECT GRANTS AND CONTRACTS

4576. Repealed.
4577. Grants and contracts for demonstration of new and more effective drug and alcohol abuse prevention, treatment, and rehabilitation programs.
4578. Authorizations of appropriations.

PART C—ADMISSION TO HOSPITALS AND OUTPATIENT FACILITIES; CONFIDENTIALITY OF RECORDS

4581,
4582.
Transferred.

SUBCHAPTER IV—RESEARCH

4585 to 4588. Repealed or Transferred.

SUBCHAPTER V—GENERAL PROVISIONS

4591. Separability.
4592. Recordkeeping for audit.
4593. Payments.
4594. Contract authority in appropriation Acts.

§4541. Congressional findings and declaration of purpose

(a) The Congress finds that—

(1) alcohol is one of the most dangerous drugs and the drug most frequently abused in the United States;

(2) approximately ten million, or 7 percent, of the adults in the United States are alcoholics or problem drinkers;

(3) it is estimated that alcoholism and other alcohol related problems cost the United States over $43,000,000,000 annually in lost production, medical and public assistance expenditures, police and court costs, and motor vehicle and other accidents;

(4) alcohol abuse is found with increasing frequency among persons who are multiple-drug abusers and among former heroin users who are being treated in methadone maintenance programs;

(5) alcohol abuse is being discovered among growning numbers of youth;

(6) alcohol abuse and alcoholism have a substantial impact on the families of alcohol abusers and alcoholics and contributes to domestic violence;

(7) alcohol abuse and alcoholism, together with abuse of other legal and illegal drugs, present a

need for prevention and intervention programs designed to reach the general population and members of high risk populations such as youth, women, the elderly, and families of alcohol abusers and alcoholics; and

(8) alcoholism is an illness requiring treatment and rehabilitation through the assistance of a broad range of community health and social services and with the cooperation of law enforcement agencies, employers, employee associations, and associations of concerned individuals.

(b) It is the policy of the United States and the purpose of this chapter to approach alcohol abuse and alcoholism from a comprehensive community care standpoint, and to meet the problems of alcohol abuse and alcoholism through—

(1) comprehensive Federal, State, and local planning for, and effective use of, Federal assistance to States, and direct Federal assistance to community-based programs to meet the urgent needs of special populations, in coordination with all other governmental and nongovernmental sources of assistance;

(2) the development of methods for diverting problem drinkers from criminal justice systems into prevention and treatment programs;

(3) the development and encouragement of prevention programs designed to combat the spread of alcoholism, alcohol abuse, and abuse of other legal and illegal drugs;

(4) the development and encouragement of effective occupational prevention and treatment programs within government and in cooperation with the private sector; and

(5) increased Federal commitment to research into the behavioral and biomedical etiology of, the treatment of, and the mental and physical health and social and economic consequences of, alcohol abuse and alcoholism.

(Pub. L. 91–616, §2, as added Pub. L. 93–282, title I, §102(a), May 14, 1974, 88 Stat. 126; amended Pub. L. 94–371, §2, July 26, 1976, 90 Stat. 1035; Pub. L. 95–622, title II, §268(a), Nov. 9, 1978, 92 Stat. 3437; Pub. L. 96–180, §2, Jan. 2, 1980, 93 Stat. 1301.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 91–616, Dec. 31, 1970, 84 Stat. 1848, known as the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970. For complete classification of this Act to the Code, see Short Title note below and Tables.

AMENDMENTS

1980—Subsec. (a)(2). Pub. L. 96–180, §2(a), substituted current findings of number of alcoholics or problem drinkers in the country (approximately ten million or 7 percent of the adults) for 1974 findings of number of alcohol abusers and alcoholics of estimated number of ninety-five million drinkers in the Nation (minimum of nine million or 7 per centum of the adults).

Subsec. (a)(3). Pub. L. 96–180, §2(a), substituted current findings respecting annual cost of over $43,000,000,000 to the United States for alcoholism and other related problems in lost production, motor vehicle and other accidents, and other items, for 1974 findings respecting minimum annual problem drinking costs of $15,000,000 to the national economy in lost working time and identical other items.

Subsec. (a)(6). Pub. L. 96–180, §2(b)(1), inserted congressional finding respecting contribution of alcohol abuse and alcoholism to domestic violence.

Subsec. (a)(7). Pub. L. 96–180, §2(b)(3), added par. (7). Former par. (7) redesignated (8).

Subsec. (a)(8). Pub. L. 96–180, §2(b)(2), redesignated former par. (7) as (8) and enlisted cooperation of employers, employee associations, and associations of concerned individuals in treatment and rehabilitation of alcoholics.

Subsec. (b)(2). Pub. L. 96–180, §2(c)(1), struck out "and" at end.

Subsec. (b)(3) to (5). Pub. L. 96–180, §2(c)(3), added pars. (3) and (4) and redesignated former par. (3) as (5).

1978—Subsec. (a)(6), (7). Pub. L. 95–622 added par. (6) and redesignated former par. (6) as (7).

1976—Subsec. (b). Pub. L. 94–371 restructured provisions and inserted authorization for increased Federal

commitment to research into the behavioral and biomedical etiology of alcohol abuse and alcoholism and the treatment and consequences of alcohol abuse and alcoholism.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 1980 AMENDMENT

Pub. L. 96–180, §1(a), Jan. 2, 1980, 93 Stat. 1301, provided that: "This Act [enacting section 4594, amending this section and sections 4551 to 4553, 4561, 4571 to 4573, 4576 to 4578, 4585, 4587, and 4588 of this title, and enacting provisions set out as notes under this section and section 4552 of this title] may be cited as the 'Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1979'."

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94–371, §1, July 26, 1976, 90 Stat. 1035, provided: "That this Act [enacting sections 4578 and 4585 to 4588 of this title, amending this section, sections 218, 3511, 4571 to 4573, 4576, 4577, and 4581 of this title, and sections 1176 and 1177 of Title 21, Food and Drugs, and enacting provisions set out as notes under sections 4573 and 4577 of this title, and sections 1176 and 1177 of Title 21] may be cited as the 'Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1976'."

SHORT TITLE OF 1974 AMENDMENT

Pub. L. 93–282, title I, §101, May 14, 1974, 88 Stat. 126, provided that: "This title [enacting this section and sections 4542, 4553, 4576, and 4577 of this title, amending sections 242a, 4571, 4572, 4573, 4581, and 4582 of this title, and enacting provisions set out as notes under sections 4581 and 4582 of this title] may be cited as the 'Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1974'."

SHORT TITLE

Pub. L. 91–616, §1, Dec. 31, 1970, 84 Stat. 1848, provided that: "This Act [enacting this chapter and section 2688j–2 of this title and amending sections 218, 246, 2688h and 2688t of this title] may be cited as the 'Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970'."

NATIONAL COMMISSION ON ALCOHOLISM AND OTHER ALCOHOL-RELATED PROBLEMS; ESTABLISHMENT; EXECUTIVE SECRETARY; INTERIM AND FINAL REPORTS OF STUDY; TERMINATION; AUTHORIZATION OF APPROPRIATIONS

Pub. L. 96–180, §18, Jan. 2, 1980, 93 Stat. 1306, as amended by Pub. L. 96–88, title V, §509(b), Oct. 17, 1979; Pub. L. 98–24, §5(a)(2), Apr. 26, 1983, 97 Stat. 183, 93 Stat. 695, provided that:

"(a)(1) There is established a Commission to be known as the National Commission on Alcoholism and Other Alcohol-Related Problems (hereinafter in this section referred to as the 'Commission'). The Commission shall be composed of—

"(A) four Members of the Senate appointed by the President of the Senate upon the recommendation of the majority and minority leaders;

"(B) four Members of the House of Representatives appointed by the Speaker of the House of Representatives upon the recommendation of the majority and minority leaders;

"(C) nine public members appointed by the President; and

"(D) not more than four nonvoting members appointed by the President from individuals employed in the administration of programs of the Federal Government which affect the prevention and treatment of alcoholism and the rehabilitation of alcoholics and alcohol abusers.

At no time shall more than two members appointed under subparagraph (A), more that two of the members appointed under subparagraph (B), or more than five of the members appointed under subparagraph (C) be members of the same political party.

"(2)(A) The President shall designate one of the members of the Commission as Chairman, and one as Vice Chairman. Nine members of the Commission shall constitute a quorum, but a lesser number may conduct hearings. Members appointed under paragraph (1)(D) shall not be considered in determining a quorum of the Commission.

"(B) Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of the duties vested in the Commission.

"(C) The Commission shall meet at the call of the Chairman or at the call of the majority of the members

thereof.

"(3)(A) The Commission may appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, an executive secretary to assist the Commission in carrying out its functions.

"(B) The Secretary shall provide the Commission with such additional professional and clerical staff, such information, and the services of such consultants as the Secretary determines necessary for the Commission to carry out effectively its functions.

"(C) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission consistent with applicable laws and regulations with respect to the privacy of medical records.

"(b) The Commission shall conduct a study of alcoholism and alcohol-related problems and shall include in the study—

"(1) an assessment of unmet treatment and rehabilitation needs of alcoholics and their families;

"(2) an assessment of personnel needs in the fields of research, treatment, rehabilitation, and prevention;

"(3) an assessment of the integration and financing of alcoholism treatment and rehabilitation into health and social health care services within communities;

"(4) a study of the relationship of alcohol use to aggressive behavior and crime;

"(5) a study of the relationship of alcohol use to family violence;

"(6) a study of the relationship of alcoholism to illnesses, particularly those illnesses with a high stress component, among family members of alcoholics;

"(7) an evaluation of the effectiveness of prevention programs, including the relevance of alcohol control laws and regulations to alcoholism and alcohol-related problems;

"(8) a survey of the unmet research needs in the area of alcoholism and alcohol-related problems;

"(9) a survey of the prevalence of occupational alcoholism and alcohol abuse programs offered by Federal contractors; and

"(10) an evaluation of the needs of special and underserved population groups, including American Indians, Alaskan Natives, Native Hawaiians, Native American Pacific Islanders, youth, the elderly, women, and the handicapped and assess the adequacy of existing services to fulfill such needs.

"(c) The Commission shall submit to the President and the Congress such interim reports as it deems advisable and shall within two years after the date on which funds first become available to carry out this section submit to the President and the Congress a final report which shall contain a detailed statement of its findings and conclusions and also such recommendations for legislation and administrative actions as it deems appropriate. The Commission shall cease to exist sixty days after the final report is submitted under this subsection.

"(d) The Secretary of Health and Human Services shall be responsible for the coordination of the activities of the Commission.

"(e) There are authorized to be appropriated for the purposes of this section $1,000,000 to remain available until the expiration of the Commission."

§4542. Congressional declaration for utilization of programs under other Federal laws in fields of health and social services

The Congress declares that, in addition to the programs under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 [42 U.S.C. 4541 et seq.], programs under other Federal laws which provide Federal or federally assisted research, prevention, treatment, or rehabilitation in the fields of health and social services should be appropriately utilized to help eradicate alcohol abuse and alcoholism as a major problem.

(Pub. L. 93–282, title I, §102(b), May 14, 1974, 88 Stat. 126.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, referred to in text, is Pub. L. 91–616, Dec. 31, 1970, 84 Stat. 1848, which is classified principally to this

chapter (§4541 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 4541 of this title and Tables.

CODIFICATION

Section was not enacted as part of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 which comprises this chapter.

SUBCHAPTER I—NATIONAL INSTITUTE ON, AND INTERAGENCY COMMITTEE ON FEDERAL ACTIVITIES FOR, ALCOHOL ABUSE AND ALCOHOLISM; REPORTS AND RECOMMENDATIONS

§4551. Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 91–616, title I, §101, Dec. 31, 1970, 84 Stat. 1848; Pub. L. 93–282, title II, §203(a), May 14, 1974, 88 Stat. 135; Pub. L. 96–180, §3, Jan. 2, 1980, 93 Stat. 1302; Pub. L. 97–35, title IX, §966(a), Aug. 13, 1981, 95 Stat. 595, which established the National Institute on Alcohol Abuse and Alcoholism, was redesignated section 502 of the Public Health Service Act by Pub. L. 98–24, §2(b)(3), Apr. 26, 1983, 97 Stat. 177, and is classified to section 290aa–1 of this title.

§§4552, 4553. Repealed. Pub. L. 98–24, §2(c)(1), Apr. 26, 1983, 97 Stat. 182

Section 4552, Pub. L. 91–616, title I, §102, Dec. 31, 1970, 84 Stat. 1848; Pub. L. 93–282, title II, §203(b)(1), (2)(A), May 14, 1974, 88 Stat. 136; Pub. L. 96–180, §4, Jan. 2, 1980, 93 Stat. 1302; Pub. L. 97–35, title IX, §966(b), Aug. 13, 1981, 95 Stat. 595, required reports and recommendations by the Secretary to the Congress and to the President on programs of alcohol abuse and alcoholism. See section 290aa–4 of this title.

Section 4553, Pub. L. 91–616, title I, §103, as added Pub. L. 93–282, title I, §131, May 14, 1974, 88 Stat. 133; amended Pub. L. 96–180, §5, Jan. 2, 1980, 93 Stat. 1302; Pub. L. 97–35, title IX, §966(c), Aug. 13, 1981, 95 Stat. 595, established the Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism.

SUBCHAPTER II—ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION PROGRAMS FOR GOVERNMENT AND OTHER EMPLOYEES

§4561. Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 91–616, title II, §201, Dec. 31, 1970, 84 Stat. 1849; Pub. L. 96–180, §6(a), (b)(1), Jan. 2, 1980, 93 Stat. 1302; Pub. L. 97–35, title IX, §§961, 966(d), (e), Aug. 13, 1981, 95 Stat. 592, 595, which provided for programs of alcohol abuse and alcoholism prevention for government and other employees, was redesignated section 521 of the Public Health Service Act by Pub. L. 98–24, §2(b)(13), Apr. 26, 1983, 97 Stat. 181, and is classified to section 290dd–1 of this title.

SUBCHAPTER III—TECHNICAL ASSISTANCE AND FEDERAL GRANTS AND CONTRACTS

PART A—TECHNICAL ASSISTANCE

§4571. Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 91–616, title III, §301, Dec. 31, 1970, 84 Stat. 1849; Pub. L. 92–554, Oct. 25, 1972, 86 Stat. 1167; Pub. L. 93–282, title I, §105(a), May 14, 1974, 88 Stat. 127; Pub. L. 94–371, §3(a), July 26, 1976, 90 Stat. 1035; Pub. L. 96–180, §7, Jan. 2, 1980, 93 Stat. 1303; Pub. L. 97–35, title IX, §962(a), Aug. 13, 1981, 95 Stat. 592, which provided for a program of technical assistance to States, was redesignated section 520 of the Public Health Service Act by Pub. L. 98–24, §2(b)(13), Apr. 26, 1983, 97 Stat. 181, and is classified to section 290dd of this title.

§§4572, 4573. Repealed. Pub. L. 97–35, title IX, §962(b), Aug. 13, 1981, 95 Stat. 593

Section 4572, Pub. L. 91–616, title III, §302, Dec. 31, 1970, 84 Stat. 1849; Pub. L. 93–282, title I, §106(a), May 14, 1974, 88 Stat. 127; Pub. L. 94–371, §3(b), July 26, 1976, 90 Stat. 1035; Pub. L. 95–83, title III, §311(b), Aug. 1, 1977, 91 Stat. 397; Pub. L. 96–180, §8, Jan. 2, 1980, 93 Stat. 1303, related to amounts, criteria, etc., for State allotments.

Section 4573, Pub. L. 91–616, title III, §303, Dec. 31, 1970, 84 Stat. 1850; Pub. L. 93–282, title I, §106(b), May 14, 1974, 88 Stat. 127; Pub. L. 94–371, §5(a), (b)(1), (c), July 26, 1976, 90 Stat. 1036; Pub. L. 95–83, title III, §311(a)(1), (2), Aug. 1, 1977, 91 Stat. 397; Pub. L. 95–622, title II, §268(b), Nov. 9, 1978, 92 Stat. 3437; Pub. L. 96–79, title I, §115(j)(1), Oct. 4, 1979, 93 Stat. 610; Pub. L. 96–180, §9, Jan. 2, 1980, 93 Stat. 1303, related to submission, contents, etc., for State plans.

§4574. Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 91–616, title III, §304, as added Pub. L. 93–282, title I, §107, May 14, 1974, 88 Stat. 127, which related to special grants for implementation of the Uniform Alcoholism and Intoxication Treatment Act, was transferred to section 4576 of this title and subsequently repealed.

PART B—IMPLEMENTATION AND PROJECT GRANTS AND CONTRACTS

§4576. Repealed. Pub. L. 97–35, title IX, §962(b), Aug. 13, 1981, 95 Stat. 593

Section, Pub. L. 91–616, title III, §310, formerly §304, as added Pub. L. 93–282, title I, §107, May 14, 1974, 88 Stat. 127; amended Pub. L. 94–273, §2(26), Apr. 21, 1976, 90 Stat. 376; renumbered and amended Pub. L. 94–371, §4(a), (b), (c)(1), (2), (d), July 26, 1976, 90 Stat. 1035, 1036; Pub. L. 96–180, §10, Jan. 2, 1980, 93 Stat. 1304, related to special grants for implementation of Uniform Alcoholism and Intoxication Treatment Act.

§4577. Grants and contracts for demonstration of new and more effective drug and alcohol abuse prevention, treatment, and rehabilitation programs

(a) Projects and programs

The Secretary, acting through the Institute, may make grants to public and nonprofit private entities and may enter into contracts with public and private entities and with individuals—

(1) to conduct demonstration and evaluation projects, with a high priority on prevention and early intervention projects in occupational and educational settings and on modified community living and work-care arrangements such as halfway houses, recovery homes, and supervised home care, and with particular emphasis on developing new and more effective alcohol abuse and alcoholism prevention, treatment, and rehabilitation programs,

(2) to support projects of a demonstrable value in developing methods for the effective coordination of all alcoholism treatment, training, prevention, and research resources available within a health service area established under section 300l [1] of this title, and

(3) to provide education and training, which may include additional training to enable treatment personnel to meet certification requirements of public or private accreditation or licensure, or requirements of third-party payors,

for the prevention and treatment of alcohol abuse and alcoholism and for the rehabilitation of alcohol abusers and alcoholics.

(b) Community participation

Projects and programs for which grants and contracts are made under this section shall (1) be responsive to special requirements of handicapped individuals in receiving such services; (2) whenever possible, be community based, seek (in the case of prevention and treatment services) to insure care of good quality in general community care facilities and under health insurance plans, and be integrated with, and provide for the active participation of, a wide range of public and nongovernmental agencies, organizations, institutions, and individuals; (3) where a substantial number of the individuals in the population served by the project or program are of limited English-speaking ability, utilize the services of outreach workers fluent in the language spoken by a predominant number of such individuals and develop a plan and make arrangements responsive to the needs of such population for providing services to the extent practicable in the language and cultural context most appropriate to such individuals, and identify an individual employed by the project or program, or who is available to the project or program on a full-time basis, who is fluent both in that language and English and whose responsibilities shall include providing guidance to the individuals of limited English speaking ability and to appropriate staff members with respect to cultural sensitivities and bridging linguistic and cultural differences; and (4) where appropriate utilize existing community resources (including community mental health centers).

(c) Application, coordination of applications in State, evaluation of projects and programs; review and recommendation by Council; criteria for approval; special consideration for underserved populations; authorization from chief executive officer required; maximum amount and duration of grants; applicant to provide proposed performance standards; drug abuse programs included

(1) In administering this section, the Secretary shall require coordination of all applications for projects and programs in a State.

(2)(A) Each applicant from within a State, upon filing its application with the Secretary for a grant or contract under this section, shall submit a copy of its application for review by the State agency responsible for the administration of alcohol abuse and alcoholism prevention, treatment, and rehabilitation activities. Such State agency shall be given not more than thirty days from the date of receipt of the application to submit to the Secretary, in writing, an evaluation of the project or program set forth in the application. Such evaluation shall include comments on the relationship of the project to other projects and programs pending and approved and to any State comprehensive plan for treatment and prevention of alcohol abuse and alcoholism. The State shall furnish the applicant a copy of any such evaluation.

(B)(i) Except as provided in clause (ii), each application for a grant under this section shall be submitted by the Secretary to the National Advisory Council on Alcohol Abuse and Alcoholism for its review. The Secretary may approve an application for a grant under this section only if it is recommended for approval by such Council.

(ii) Clause (i) shall not apply to an application for a grant under this section for a project or program for any period of 12 consecutive months for which period payments under such grant will be less than $250,000, if an application for a grant under this section for such project or program and for a period of time which includes such 12-month period has been submitted to, and approved by, the Secretary.

(3) Approval of any application for a grant or contract by the Secretary, including the earmarking of financial assistance for a program or project, may be granted only if the application substantially meets a set of criteria established by the Secretary that—

(A) provides that the projects and programs for which assistance under this section is sought will be substantially administered by or under the supervision of the applicant;

(B) provides for such methods of administration as are necessary for the proper and efficient operation of such programs and projects; and

(C) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant.

(4) The Secretary shall encourage the submission of and give special consideration to applications under this section for programs and projects aimed at underserved populations such as racial and ethnic minorities, Native Americans (including Native Hawaiians and Native American Pacific Islanders), youth, the elderly, women, handicapped individuals, public inebriates, and families of alcoholics.

(5)(A) No grant may be made under this section to a State or to any entity within the government of a State unless the grant application has been duly authorized by the chief executive officer of such State.

(B) No grant or contract may be made under this section for a period in excess of five years.

(C)(i) The amount of any grant or contract under this section may not exceed 100 per centum of the cost of carrying out the grant or contract in the first fiscal year for which the grant or contract is made under this section, 80 per centum of such cost in the second fiscal year for which the grant or contract is made under this section, 70 per centum of such cost in the third fiscal year for which the grant or contract is made under this section, and 60 per centum of such cost in each of the fourth and fifth fiscal years for which the grant or contract is made under this section.

(ii) For purposes of this subparagraph, no grant or contract shall be considered to have been made under this section for a fiscal year ending before September 30, 1981.

(6) Each applicant, upon filing its application with the Secretary for a grant or contract to provide prevention or treatment services, shall provide a proposed performance standard or standards to measure, or research protocol to determine, the effectiveness of such services.

(7) Nothing shall prevent the use of funds provided under this section for programs and projects aimed at the prevention, treatment, or rehabilitation of drug abuse as well as alcohol abuse and alcoholism.

(Pub. L. 91–616, title III, §311, as added Pub. L. 93–282, title I, §111, May 14, 1974, 88 Stat. 129; amended Pub. L. 94–371, §§4(c)(1), 6, 12(a), July 26, 1976, 90 Stat. 1035, 1037, 1041; Pub. L.

94–573, §19(a), Oct. 21, 1976, 90 Stat. 2720; Pub. L. 95–83, title III, §311(c), Aug. 1, 1977, 91 Stat. 398; Pub. L. 96–180, §11, Jan. 2, 1980, 93 Stat. 1304; Pub. L. 97–35, title IX, §963(b), (c), Aug. 13, 1981, 95 Stat. 593; Pub. L. 97–414, §9(d), Jan. 4, 1983, 96 Stat. 2064; Pub. L. 98–24, §5(a)(1), Apr. 26, 1983, 97 Stat. 183.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 300l of this title, referred to in subsec. (a)(2), was repealed effective Jan. 1, 1987, by Pub. L. 99–660, title VII, §701(a), Nov. 14, 1986, 100 Stat. 3799.

PRIOR PROVISIONS

A prior section 311 of Pub. L. 91–616, title III, Dec. 31, 1970, 84 Stat. 1851, amended former section 2688j–2 of this title, which was repealed by Pub. L. 93–282, §302, and is incorporated in this section.

Provisions similar to those comprising this section were contained in Pub. L. 88–164, title II, §247, formerly §246, as added Pub. L. 90–574, title III, §301, Oct. 15, 1968, 82 Stat. 1009; renumbered §247, Pub. L. 91–211, title III, §304, Mar. 13, 1970, 84 Stat. 59; amended Pub. L. 91–616, title III, §311, Dec. 31, 1970, 84 Stat. 1851; Pub. L. 93–45, title II, §204(b), June 18, 1973, 87 Stat. 94, which was classified to section 2688j–2 of this title prior to repeal by Pub. L. 93–282, §302.

AMENDMENTS

1983—Subsec. (a). Pub. L. 97–414, §9(d)(1), amended directory language of Pub. L. 97–35, §963(b)(4), to correct a typographical error, and did not involve any change in text. See 1981 Amendment note below.

Subsec. (a)(3). Pub. L. 97–414, §9(d)(2), substituted a comma for the period at end.

Subsec. (c)(4). Pub. L. 98–24 inserted parenthetical reference to Native Hawaiians and Native American Pacific Islanders.

1981—Subsec. (a). Pub. L. 97–35, §963(b), as amended by Pub. L. 97–414, §9(d)(1), restructured and revised provisions and in par. (1) inserted provisions respecting program emphasis, struck out pars. (3) and (5), relating to services for underserved populations and programs and services for law enforcement personnel, etc., respectively, and redesignated former par. (4) as (3).

Subsec. (c). Pub. L. 97–35, §963(c), revised and restructured provisions and, among changes, in pars. (2), (3), and (4) made changes in phraseology, added pars. (5) and (7), and redesignated former par. (5) as (6).

1980—Subsec. (a). Pub. L. 96–180, §11(a), added par. (1), redesignated as pars. (2) to (5) former pars. (1) to (4), and substituted in par. (2) "support projects of a demonstrable value in developing" for "conduct demonstration and evaluation projects, including projects designed to develop" and in par. (3) "the elderly, women, the handicapped, families of alcoholics, and victims of alcohol-related domestic violence" for "female alcoholics, and individuals in geographic areas where such services are not otherwise adequately available".

Subsec. (b). Pub. L. 96–180, §11(b), added cl. (1), redesignated as cls. (2) to (4) former cls. (1) to (3), and in cl. (2) inserted "(in the case of prevention and treatment services)" after "seek".

Subsec. (c)(4). Pub. L. 96–180, §11(c), required Secretary to encourage submission of applications, incorporated existing provisions in cls. (A) and (C), and inserted cl. (B).

1977—Subsec. (c)(2)(B)(i). Pub. L. 95–83 substituted "its" for "his".

1976—Subsec. (a). Pub. L. 94–371, §6(a), inserted provisions which authorized development of effective coordination of all alcoholism treatment resources available, emphasis in treatment projects of those of the population currently underserved, and, training of personnel to enable them to meet certification requirements of public and private accreditation.

Subsec. (b). Pub. L. 94–371, §6(b), added cl. (2). Former cl. (2) redesignated (3).

Subsec. (c)(2). Pub. L. 94–573 inserted provision that requirements for submission of applications to the Council for review and approval not apply to a grant application for a project or program for any period of 12 consecutive months for which period payments under such grant will be less than $250,000, if a grant application for a project or program and for a period of time which includes such 12 month period has been submitted to, and approved by, the Secretary.

Pub. L. 94–371, §12(a), inserted provision that each grant application be submitted by the Secretary to the Council for review and could not be approved by the Secretary unless recommended for approval by the Council.

Subsec. (c)(4), (5). Pub. L. 94–371, §6(c), added pars. (4) and (5).

Subsec. (d). Pub. L. 94–371, §4(c)(1), struck out subsec. (d) which related to authorization of appropriations

for fiscal year ending June 30, 1975 and fiscal year ending June 30, 1976. Provisions are now covered by section 4578 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1976 AMENDMENTS

Pub. L. 94–371, §4(c), July 26, 1976, 90 Stat. 1035, provided that the amendment made by section 4(c)(1) of Pub. L. 94–371 is effective July 1, 1976.

Pub. L. 94–371, §12(b), July 26, 1976, 90 Stat. 1041, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to applications for grants under section 311 of the Act [this section] after June 30, 1976."

Pub. L. 94–573, §19(b), Oct. 21, 1976, 90 Stat. 2720, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to applications for grants under section 311 of such Act [this section] after June 30, 1976."

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93–641, §6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

[1] *See References in Text note below.*

§4578. Authorizations of appropriations

For purposes of section 4577 of this title, there are authorized to be appropriated $85,000,000 for the fiscal year ending September 30, 1977, $91,000,000 for the fiscal year ending September 30, 1978, $102,500,000 for the fiscal year ending September 30, 1979, $102,500,000 for the fiscal year ending September 30, 1980, $115,000,000 for the fiscal year ending September 30, 1981, and $15,000,000 for the fiscal year ending September 30, 1982. Of the funds appropriated under this section for the fiscal year ending September 30, 1980, at least 8 percent of the funds shall be obligated for grants for projects, programs, and services to prevent (through outreach, intervention, and education) the occurrence of alcoholism and alcohol abuse; of the funds appropriated under this section for the next fiscal year at least 10 percent of the funds shall be obligated for such grants; and of the funds appropriated under this section for the fiscal year ending September 30, 1982, at least 25 per centum of the funds shall be obligated for such grants.

(Pub. L. 91–616, title III, §312, as added Pub. L. 94–371, §4(c)(3), July 26, 1976, 90 Stat. 1036; amended Pub. L. 96–180, §12, Jan. 2, 1980, 93 Stat. 1304; Pub. L. 97–35, title IX, §964, Aug. 13, 1981, 95 Stat. 594.)

EDITORIAL NOTES

AMENDMENTS

1981—Pub. L. 97–35 inserted provisions respecting authorization and obligation of funds for fiscal year ending Sept. 30, 1982, and struck out reference to section 4576 of this title.

1980—Pub. L. 96–180 authorized appropriation of $102,500,000 and $115,000,000 and prescribed minimum of 8 and 10 percent of the funds for preventative projects, programs, and services for fiscal years ending Sept. 30, 1980, and 1981.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 94–371, §4(c), July 26, 1976, 90 Stat. 1035, provided in part that this section is effective July 1, 1976.

PART C—ADMISSION TO HOSPITALS AND OUTPATIENT FACILITIES; CONFIDENTIALITY OF RECORDS

EDITORIAL NOTES

CODIFICATION

Part consists of part C and portions of part D of title III of Pub. L. 91–616. Part B of such title enacted section 2688j–2 of this title. Part D, in addition to enacting section 4582 of this title, amended sections 246 and 2688h of this title.

§§4581, 4582. Transferred

EDITORIAL NOTES

CODIFICATION

Section 4581, Pub. L. 91–616, title III, §321, Dec. 31, 1970, 84 Stat. 1852; Pub. L. 93–282, title I, §121(a), May 14, 1974, 88 Stat. 130; Pub. L. 94–371, §11(a), (b), July 26, 1976, 90 Stat. 1041; Pub. L. 94–581, title I, §111(c)(1), Oct. 21, 1976, 90 Stat. 2852, which provided for the admission of alcohol abusers and alcoholics to general hospitals and outpatient facilities, was redesignated section 522 of the Public Health Service Act by Pub. L. 98–24, §2(b)(13), Apr. 26, 1983, 97 Stat. 181, and is classified to section 290dd–2 of this title.

Section 4582, Pub. L. 91–616, title III, §333, Dec. 31, 1970, 84 Stat. 1853; Pub. L. 93–282, title I, §122(a), May 14, 1974, 88 Stat. 131; Pub. L. 94–581, title I, §111(c)(4), Oct. 21, 1976, 90 Stat. 2852, which provided for confidentiality of patient records, was redesignated section 523 of the Public Health Service Act by Pub. L. 98–24, §2(b)(13), Apr. 26, 1983, 97 Stat. 181, and is classified to section 290dd–3 of this title.

SUBCHAPTER IV—RESEARCH

§4585. Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 91–616, title V, §501, as added Pub. L. 94–371, §7, July 26, 1976, 90 Stat. 1038; amended Pub. L. 95–622, title II, §268(c), (d), Nov. 9, 1978, 92 Stat. 3437; Pub. L. 96–180, §14, Jan. 2, 1980, 93 Stat. 1305, which directed Secretary to take certain steps to encourage research, was redesignated section 510 of the Public Health Service Act by Pub. L. 98–24, §2(b)(9), Apr. 26, 1983, 97 Stat. 179, and is classified to section 290bb of this title.

A prior section 501 of Pub. L. 91–616, title V, Dec. 31, 1970, 84 Stat. 1854, was renumbered 601 by section 7 of Pub. L. 94–371, and is classified to section 4591 of this title.

§4586. Repealed. Pub. L. 98–24, §2(c)(1), Apr. 26, 1983, 97 Stat. 182

Section, Pub. L. 91–616, title V, §502, as added Pub. L. 94–371, §7, July 26, 1976, 90 Stat. 1039, provided for scientific peer review of grants and contracts. See section 290aa–5 of this title.

A prior section 502 of Pub. L. 91–616, title V, Dec. 31, 1970, 84 Stat. 1854, was renumbered 602 by section 7 of Pub. L. 94–371, and is classified to section 4592 of this title.

§§4587, 4588. Transferred

EDITORIAL NOTES

CODIFICATION

Section 4587, Pub. L. 91–616, title V, §503, formerly §504, as added Pub. L. 94–371, §7, July 26, 1976, 90 Stat. 1039; amended Pub. L. 95–622, title I, §110(d), Nov. 9, 1978, 92 Stat. 3420; Pub. L. 96–180, §16, Jan. 2, 1980, 93 Stat. 1305; renumbered and amended Pub. L. 97–35, title IX, §965(b), (c), Aug. 13, 1981, 95 Stat. 594, which provided for designation of National Alcohol Research Centers, was redesignated section 511 of the Public Health Service Act by Pub. L. 98–24, §2(b)(9), Apr. 26, 1983, 97 Stat. 179, and is classified to section 290bb–1 of this title.

A prior section 4587, Pub. L. 91–616, title V, §503, as added Pub. L. 94–371, §7, July 26, 1976, 90 Stat. 1039; amended Pub. L. 96–180, §15, Jan. 2, 1980, 93 Stat. 1305, which related to authorization of appropriations, was renumbered section 504 of Pub. L. 91–616 and classified to section 4588 of this title.

A prior section 503 of Pub. L. 91–616, title V, Dec. 31, 1970, 84 Stat. 1855, was renumbered 603 by section 7 of Pub. L. 94–371, and is classified to section 4593 of this title.

Section 4588, Pub. L. 91–616, title V, §504, formerly §503, as added Pub. L. 94–371, §7, July 26, 1976, 90 Stat. 1039; amended Pub. L. 96–180, §15, Jan. 2, 1980, 93 Stat. 1305; renumbered and amended Pub. L. 97–35, title IX, §965(a), (c), Aug. 13, 1981, 95 Stat. 594; Pub. L. 97–414, §9(e), Jan. 4, 1983, 96 Stat. 2064, which authorized appropriations for carrying out research on alcohol abuse and alcoholism, was redesignated section 512 of the Public Health Service Act by Pub. L. 98–24, §2(b)(9), Apr. 26, 1983, 97 Stat. 179, and is classified to section 290bb–2 of this title.

A prior section 4588, Pub. L. 91–616, title V, §504, as added Pub. L. 94–371, §7, July 26, 1976, 90 Stat. 1039; amended Pub. L. 95–622, title I, §110(d), Nov. 9, 1978, 92 Stat. 3420; Pub. L. 96–180, §16, Jan. 2, 1980, 93 Stat. 1305, relating to National Alcohol Research Centers, was renumbered section 503 of Pub. L. 91–616 and classified to section 4587 of this title.

SUBCHAPTER V—GENERAL PROVISIONS

§4591. Separability

If any section, provision, or term of this chapter is adjudged invalid for any reason, such judgment shall not affect, impair, or invalidate any other section, provision, or term of this chapter, and the remaining sections, provisions, and terms shall be and remain in full force and effect.

(Pub. L. 91–616, title VI, §601, formerly title V, §501, Dec. 31, 1970, 84 Stat. 1854, renumbered Pub. L. 94–371, §7, July 26, 1976, 90 Stat. 1038.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 91–616, Dec. 31, 1970, 84 Stat. 1848, known as the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970. For complete classification of this Act to the Code, see Short Title note set out under section 4541 of this title and Tables.

CODIFICATION

Pub. L. 94–371, §7, July 26, 1976, 90 Stat. 1038, redesignated title V of Pub. L. 91–616, which was classified to subchapter IV of this chapter, as title VI without renumbering the sections therein. Section 501 of Pub. L. 91–616 was renumbered 601, as the probable intent of Congress.

§4592. Recordkeeping for audit

(a) Each recipient of assistance under this chapter pursuant to grants or contracts entered into under other than competitive bidding procedures shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant or contract, the total cost of the project or undertaking in connection with which such grant or contract is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients that are pertinent to the grants or contracts entered into under the provisions of this chapter under other than competitive bidding procedures.

(Pub. L. 91–616, title VI, §602, formerly title V, §502, Dec. 31, 1970, 84 Stat. 1854, renumbered Pub. L. 94–371, §7, July 26, 1976, 90 Stat. 1038.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 91–616, Dec. 31, 1970, 84 Stat. 1848, known as the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970. For complete classification of this Act to the Code, see Short Title note set out under section 4541 of this title and Tables.

CODIFICATION

Pub. L. 94–371, §7, July 26, 1976, 90 Stat. 1038, redesignated title V of Pub. L. 91–616, which was classified to subchapter IV of this chapter, as title VI without renumbering the sections therein. Section 502 of Pub. L. 91–616 was renumbered 602, as the probable intent of Congress.

§4593. Payments

Payments under this chapter may be made in advance or by way of reimbursement and in such installments as the Secretary may determine.

(Pub. L. 91–616, title VI, §603, formerly title V, §503, Dec. 31, 1970, 84 Stat. 1855, renumbered Pub. L. 94–371, §7, July 26, 1976, 90 Stat. 1038.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 91–616, Dec. 31, 1970, 84 Stat. 1848, known as the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970. For complete classification of this Act to the Code, see Short Title note set out under section 4541 of this title and Tables.

CODIFICATION

Pub. L. 94–371, §7, July 26, 1976, 90 Stat. 1038, redesignated title V of Pub. L. 91–616, which was classified to subchapter IV of this chapter, as title VI without renumbering the sections therein. Section 503 of Pub. L. 91–616 was renumbered 603, as the probable intent of Congress.

§4594. Contract authority in appropriation Acts

The authority of the Secretary to enter into contracts under this chapter shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

(Pub. L. 91–616, title VI, §604, as added Pub. L. 96–180, §17, Jan. 2, 1980, 93 Stat. 1306.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 91–616, Dec. 31, 1970, 84 Stat. 1848, known as the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970. For complete classification of this Act to the Code, see Short Title note set out under section 4541 of this title and Tables.

CHAPTER 61—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS

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SUBCHAPTER III—UNIFORM REAL PROPERTY ACQUISITION POLICY

4651. Uniform policy on real property acquisition practices.
4652. Buildings, structures, and improvements.
4653. Expenses incidental to transfer of title to United States.
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4655. Requirements for uniform land acquisition policies; payments of expenses incidental to transfer of real property to State; payment of litigation expenses in certain cases.

SUBCHAPTER I—GENERAL PROVISIONS

§4601. Definitions

As used in this chapter—

(1) The term "Federal agency" means any department, agency, or instrumentality in the executive branch of the Government, any wholly owned Government corporation, the Architect of the Capitol, the Federal Reserve banks and branches thereof, and any person who has the authority to acquire property by eminent domain under Federal law.

(2) The term "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, the Trust Territory of the Pacific Islands, and any political subdivision thereof.

(3) The term "State agency" means any department, agency, or instrumentality of a State or of a political subdivision of a State, any department, agency, or instrumentality of 2 or more States or of 2 or more political subdivisions of a State or States, and any person who has the authority to acquire property by eminent domain under State law.

(4) The term "Federal financial assistance" means a grant, loan, or contribution provided by the United States, except any Federal guarantee or insurance, any interest reduction payment to an individual in connection with the purchase and occupancy of a residence by that individual, and any annual payment or capital loan to the District of Columbia.

(5) The term "person" means any individual, partnership, corporation, or association.

(6)(A) The term "displaced person" means, except as provided in subparagraph (B)—

(i) any person who moves from real property, or moves his personal property from real property—

(I) as a direct result of a written notice of intent to acquire or the acquisition of such real property in whole or in part for a program or project undertaken by a Federal agency or with Federal financial assistance; or

(II) on which such person is a residential tenant or conducts a small business, a farm operation, or a business defined in paragraph (7)(D), as a direct result of rehabilitation, demolition, or such other displacing activity as the lead agency may prescribe, under a program or project undertaken by a Federal agency or with Federal financial assistance in any case in which the head of the displacing agency determines that such displacement is permanent; and

(ii) solely for the purposes of sections 4622(a) and (b) and 4625 of this title, any person who moves from real property, or moves his personal property from real property—

(I) as a direct result of a written notice of intent to acquire or the acquisition of other real property, in whole or in part, on which such person conducts a business or farm operation, for a program or project undertaken by a Federal agency or with Federal financial assistance; or

(II) as a direct result of rehabilitation, demolition, or such other displacing activity as the lead agency may prescribe, of other real property on which such person conducts a business or a farm operation, under a program or project undertaken by a Federal agency or with Federal financial assistance where the head of the displacing agency determines that such displacement is permanent.

(B) The term "displaced person" does not include—

(i) a person who has been determined, according to criteria established by the head of the lead agency, to be either in unlawful occupancy of the displacement dwelling or to have occupied such dwelling for the purpose of obtaining assistance under this chapter;

(ii) in any case in which the displacing agency acquires property for a program or project, any person (other than a person who was an occupant of such property at the time it was acquired) who occupies such property on a rental basis for a short term or a period subject to termination when the property is needed for the program or project.

(7) The term "business" means any lawful activity, excepting a farm operation, conducted primarily—

(A) for the purchase, sale, lease and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

(B) for the sale of services to the public;

(C) by a nonprofit organization; or

(D) solely for the purposes of section 4622 of this title, for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

(8) The term "farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(9) The term "mortgage" means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of the State in which the real property is located, together with the credit instruments, if any, secured thereby.

(10) The term "comparable replacement dwelling" means any dwelling that is (A) decent, safe, and sanitary; (B) adequate in size to accommodate the occupants; (C) within the financial means of the displaced person; (D) functionally equivalent; (E) in an area not subject to unreasonable adverse environmental conditions; and (F) in a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities, facilities, services, and the displaced person's place of employment.

(11) The term "displacing agency" means any Federal agency carrying out a program or project, and any State, State agency, or person carrying out a program or project with Federal financial assistance, which causes a person to be a displaced person.

(12) The term "lead agency" means the Department of Transportation.

(13) The term "appraisal" means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

(Pub. L. 91–646, title I, §101, Jan. 2, 1971, 84 Stat. 1894; Pub. L. 100–17, title IV, §402, Apr. 2, 1987, 101 Stat. 246.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in introductory provision and par. (6)(B)(i), was in the original "this Act", meaning Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

AMENDMENTS

1987—Par. (1). Pub. L. 100–17, §402(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The term 'Federal agency' means any department, agency, or instrumentality in the executive branch of the Government (except the National Capital Housing Authority), any wholly owned Government corporation (except the District of Columbia Redevelopment Land Agency), and the Architect of the Capitol, the Federal Reserve banks and branches thereof."

Par. (3). Pub. L. 100–17, §402(b), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "The term 'State agency' means the National Capital Housing Authority, the District of Columbia Redevelopment Land Agency, and any department, agency, or instrumentality of a State or of a political subdivision of a State, or any department, agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States."

Par. (4). Pub. L. 100–17, §402(c), inserted ", any interest reduction payment to an individual in connection with the purchase and occupancy of a residence by that individual," after "insurance".

Par. (6). Pub. L. 100–17, §402(d), amended par. (6) generally. Prior to amendment, par. (6) read as follows: "The term 'displaced person' means any person who, on or after January 2, 1971, moves from real property, or

moves his personal property from real property, as a result of the acquisition of such real property, in whole or in part, or as the result of the written order of the acquiring agency to vacate real property, for a program or project undertaken by a Federal agency, or with Federal financial assistance; and solely for the purposes of sections 4622(a) and (b) and 4625 of this title, as a result of the acquisition of or as the result of the written order of the acquiring agency to vacate other real property, on which such person conducts a business or farm operation, for such program or project."

Par. (7)(D). Pub. L. 100–17, §402(f), substituted "section 4622" for "section 4622(a)".

Pars. (10) to (13). Pub. L. 100–17, §402(e), added pars. (10) to (13).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–17, title IV, §418, Apr. 2, 1987, 101 Stat. 256, provided that: "The amendment made by section 412 of this title [amending section 4633 of this title] (to the extent such amendment prescribes authority to develop, publish, and issue regulations) shall take effect on the date of the enactment of this title [Apr. 2, 1987]. This title and the amendments made by this title [enacting section 4604 of this title, amending this section and sections 4621 to 4626, 4630, 4631, 4633, 4636, 4638, 4651, and 4655 of this title, repealing sections 4634 and 4637 of this title, and enacting provisions set out as a note under this section] (other than the amendment made by section 412 to such extent) shall take effect on the effective date provided in such regulations but not later than 2 years after such date of enactment."

EFFECTIVE DATE

Pub. L. 91–646, title II, §221, Jan. 2, 1971, 84 Stat. 1904, provided that:

"(a) Except as provided in subsections (b) and (c) of this section, this Act and the amendments made by this Act [see Short Title note below] shall take effect on the date of its enactment [Jan. 2, 1971].

"(b) Until July 1, 1972, sections 210 and 305 [sections 4630 and 4655 of this title] shall be applicable to a State only to the extent that such State is able under its laws to comply with such sections. After July 1, 1972, such sections [sections 4630 and 4655 of this title] shall be completely applicable to all States.

"(c) The repeals made by paragraphs (4) [repealing section 1606(b) of former Title 49, Transportation], (5) [repealing section 1465 of this title], (6) [repealing section 1415(7)(b)(iii) and (8) second sentence of this title], (8) [repealing section 3074 of this title], (9) [repealing section 3307(b), (c) of this title], (10) [repealing chapter 5 (sections 501–511) of Title 23, Highways], (11) [repealing provisions set out as notes under sections 501 and 510 of Title 23], and (12) of section 220(a) of this title and section 306 of title III [repealing sections 3071 to 3073 of this title, section 141 of Title 23, and section 596 of Title 33, Navigation and Navigable Waters] shall not apply to any State so long as sections 210 and 305 [sections 4630 and 4655 of this title] are not applicable in such State."

SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100–17, title IV, §401, Apr. 2, 1987, 101 Stat. 246, provided that: "This title [enacting section 4604 of this title, amending this section and sections 4621 to 4626, 4630, 4631, 4633, 4636, 4638, 4651, and 4655 of this title, repealing sections 4634 and 4637 of this title, and enacting provisions set out as a note under this section] may be cited as the 'Uniform Relocation Act Amendments of 1987'."

SHORT TITLE

Pub. L. 91–646, §1, Jan. 2, 1971, 84 Stat. 1894, provided: "That this Act [enacting this chapter, amending sections 1415, 2473, and 3307 of this title and section 1606 of former Title 49, Transportation, repealing sections 1465 and 3071 to 3074 of this title, section 2680 of Title 10, Armed Forces, sections 141 and 501 to 512 of Title 23, Highways, section 596 of Title 33, Navigation and Navigable Waters, sections 1231 to 1234 of Title 43, Public Lands, and enacting provisions set out as notes under this section and sections 4621 and 4651 of this title, and repealing provisions set out as notes under sections 501 and 510 of Title 23] may be cited as the 'Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970'."

WILLING SELLERS CONSIDERED DISPLACED PERSONS

Pub. L. 111–8, div. E, title I, Mar. 11, 2009, 123 Stat. 710, provided that: "For fiscal year 2009 and hereafter, a willing seller from whom the Service acquires title to real property may be considered a 'displaced person' for purposes of the Uniform Relocation Assistance and Real Property Acquisition Policy Act

[probably means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 et seq.] and its implementing regulations, whether or not the Service has the authority to acquire such property by eminent domain."

TREATMENT OF REAL PROPERTY BUYOUT PROGRAMS

Pub. L. 103–181, §4, Dec. 3, 1993, 107 Stat. 2055, provided that:

"(a) INAPPLICABILITY OF URA.—The purchase of any real property under a qualified buyout program shall not constitute the making of Federal financial assistance available to pay all or part of the cost of a program or project resulting in the acquisition of real property or in any owner of real property being a displaced person (within the meaning of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 [42 U.S.C. 4601 et seq.]).

"(b) DEFINITION OF 'QUALIFIED BUYOUT PROGRAM'.—For purposes of this section, the term 'qualified buyout program' means any program that—

"(1) provides for the purchase of only property damaged by the major, widespread flooding in the Midwest during 1993;

"(2) provides for such purchase solely as a result of such flooding;

"(3) provides for such acquisition without the use of the power of eminent domain and notification to the seller that acquisition is without the use of such power;

"(4) is carried out by or through a State or unit of general local government; and

"(5) is being assisted with amounts made available for—

"(A) disaster relief by the Federal Emergency Management Agency; or

"(B) other Federal financial assistance programs."

[For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.]

[For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.]

EXECUTIVE DOCUMENTS

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§4602. Effect upon property acquisition

(a) The provisions of section 4651 of this title create no rights or liabilities and shall not affect the validity of any property acquisitions by purchase or condemnation.

(b) Nothing in this chapter shall be construed as creating in any condemnation proceedings brought under the power of eminent domain, any element of value or of damage not in existence immediately prior to January 2, 1971.

(Pub. L. 91–646, title I, §102, Jan. 2, 1971, 84 Stat. 1895.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables.

§4603. Additional appropriations for moving costs, relocation benefits and other expenses incurred in acquisition of lands for National Park System; waiver of benefits

(a) In all instances where authorizations of appropriations for the acquisition of lands for the National Park System enacted prior to January 9, 1971, do not include provisions therefor, there are authorized to be appropriated such additional sums as may be necessary to provide for moving costs, relocation benefits, and other expenses incurred pursuant to the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91–646; 84 Stat. 1894). There are also authorized to be appropriated not to exceed $8,400,000 in addition to those authorized in Public Law 92–272 (86 Stat. 120) to provide for such moving costs, relocation benefits, and other related expenses in connection with the acquisition of lands authorized by Public Law 92–272.

(b) Whenever an owner of property elects to retain a right of use and occupancy pursuant to any statute authorizing the acquisition of property for purposes of a unit of the National Park System, such owner shall be deemed to have waived any benefits under sections 4623, 4624, 4625, and 4626 of this title, and for the purposes of those sections such owner shall not be considered a displaced person as defined in section 4601(6) of this title.

(Pub. L. 93–477, title IV, §405, Oct. 26, 1974, 88 Stat. 1448.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, referred to in subsec. (a), is Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables.

Public Law 92–272, referred to in subsec. (a), is Pub. L. 92–272, Apr. 11, 1972, 86 Stat. 120, which to the extent classified to the Code, amended sections 284b, 428m, 459f–10, 460m–1, 460m–7 and 460t–4 of Title 16, Conservation, and amended a provision set out as a note under section 450ll of Title 16. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was not enacted as part of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 which comprises this chapter.

§4604. Certification

(a) Acceptance of State agency certification

Notwithstanding sections 4630 and 4655 of this title, the head of a Federal agency may discharge any of his responsibilities under this chapter by accepting a certification by a State agency that it will carry out such responsibility, if the head of the lead agency determines that such responsibility will be carried out in accordance with State laws which will accomplish the purpose and effect of this chapter.

(b) Promulgation of regulations; notice and comment; consultation with local governments

(1) The head of the lead agency shall issue regulations to carry out this section.

(2) Repealed. Pub. L. 104–66, title I, §1121(f), Dec. 21, 1995, 109 Stat. 724.

(3) Before making a determination regarding any State law under subsection (a) of this section, the head of the lead agency shall provide interested parties with an opportunity for public review and comment. In particular, the head of the lead agency shall consult with interested local general purpose governments within the State on the effects of such State law on the ability of local governments to carry out their responsibilities under this chapter.

(c) Effect of noncompliance with certification or with applicable law

(1) The head of a Federal agency may withhold his approval of any Federal financial assistance to or contract or cooperative agreement with any displacing agency found by the Federal agency to have failed to comply with the laws described in subsection (a) of this section.

(2) After consultation with the head of the lead agency, the head of a Federal agency may rescind his acceptance of any certification under this section, in whole or in part, if the State agency fails to comply with such certification or with State law.

(Pub. L. 91–646, title I, §103, as added Pub. L. 100–17, title IV, §403, Apr. 2, 1987, 101 Stat. 248; amended Pub. L. 104–66, title I, §1121(f), Dec. 21, 1995, 109 Stat. 724.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b)(3), was in the original "this Act", meaning Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables.

AMENDMENTS

1995—Subsec. (b)(2). Pub. L. 104–66 struck out par. (2) which read as follows: "The head of the lead agency shall, in coordination with other Federal agencies, monitor from time to time, and report biennially to the Congress on, State agency implementation of this section. A State agency shall make available any information required for such purpose."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on effective date provided in regulations promulgated under section 4633 of this title (as amended by section 412 of Pub. L. 100–17), but not later than 2 years after Apr. 2, 1987, see section 418 of Pub. L. 100–17, set out as an Effective Date of 1987 Amendment note under section 4601 of this title.

§4605. Displaced persons not eligible for assistance

(a) In general

Except as provided in subsection (c), a displaced person shall not be eligible to receive relocation payments or any other assistance under this chapter if the displaced person is an alien not lawfully present in the United States.

(b) Determinations of eligibility

(1) Promulgation of regulations

Not later than 1 year after November 21, 1997, after providing notice and an opportunity for public comment, the head of the lead agency shall promulgate regulations to carry out subsection (a).

(2) Contents of regulations

Regulations promulgated under paragraph (1) shall—

(A) prescribe the processes, procedures, and information that a displacing agency must use in determining whether a displaced person is an alien not lawfully present in the United States;

(B) prohibit a displacing agency from discriminating against any displaced person;

(C) ensure that each eligibility determination is fair and based on reliable information; and

(D) prescribe standards for a displacing agency to apply in making determinations relating to exceptional and extremely unusual hardship under subsection (c).

(c) Exceptional and extremely unusual hardship

If a displacing agency determines by clear and convincing evidence that a determination of the ineligibility of a displaced person under subsection (a) would result in exceptional and extremely unusual hardship to an individual who is the displaced person's spouse, parent, or child and who is a citizen of the United States or an alien lawfully admitted for permanent residence in the United States, the displacing agency shall provide relocation payments and other assistance to the displaced person under this chapter if the displaced person would be eligible for the assistance but for subsection (a).

(d) Limitation on statutory construction

Nothing in this section affects any right available to a displaced person under any other provision of Federal or State law.

(Pub. L. 91–646, title I, §104, as added Pub. L. 105–117, §1, Nov. 21, 1997, 111 Stat. 2384.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (c), was in the original "this Act", meaning Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables.

SUBCHAPTER II—UNIFORM RELOCATION ASSISTANCE

§4621. Declaration of findings and policy

(a) Findings

The Congress finds and declares that—

(1) displacement as a direct result of programs or projects undertaken by a Federal agency or with Federal financial assistance is caused by a number of activities, including rehabilitation, demolition, code enforcement, and acquisition;

(2) relocation assistance policies must provide for fair, uniform, and equitable treatment of all affected persons;

(3) the displacement of businesses often results in their closure;

(4) minimizing the adverse impact of displacement is essential to maintaining the economic and social well-being of communities; and

(5) implementation of this chapter has resulted in burdensome, inefficient, and inconsistent compliance requirements and procedures which will be improved by establishing a lead agency and allowing for State certification and implementation.

(b) Policy

This subchapter establishes a uniform policy for the fair and equitable treatment of persons displaced as a direct result of programs or projects undertaken by a Federal agency or with Federal financial assistance. The primary purpose of this subchapter is to ensure that such persons shall not suffer disproportionate injuries as a result of programs and projects designed for the benefit of the public as a whole and to minimize the hardship of displacement on such persons.

(c) Congressional intent

It is the intent of Congress that—

(1) Federal agencies shall carry out this subchapter in a manner which minimizes waste, fraud, and mismanagement and reduces unnecessary administrative costs borne by States and State agencies in providing relocation assistance;

(2) uniform procedures for the administration of relocation assistance shall, to the maximum extent feasible, assure that the unique circumstances of any displaced person are taken into account and that persons in essentially similar circumstances are accorded equal treatment under this chapter;

(3) the improvement of housing conditions of economically disadvantaged persons under this subchapter shall be undertaken, to the maximum extent feasible, in coordination with existing Federal, State, and local governmental programs for accomplishing such goals; and

(4) the policies and procedures of this chapter will be administered in a manner which is consistent with fair housing requirements and which assures all persons their rights under title VIII of the Act of April 11, 1968 (Public Law 90–284), commonly known as the Civil Rights Act of 1968 [42 U.S.C. 3601 et seq.], and title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.].

(Pub. L. 91–646, title II, §201, Jan. 2, 1971, 84 Stat. 1895; Pub. L. 100–17, title IV, §404, Apr. 2, 1987, 101 Stat. 248.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(5) and (c)(2), (4), was in the original "this Act", meaning Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables.

This subchapter, referred to in subsecs. (b) and (c)(1), (3), was in the original "this title", meaning title II of Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1895, which is classified principally to this subchapter. For complete classification of title II to the Code, see Tables.

Title VIII of the Act of April 11, 1968 (Public Law 90–284), commonly known as the Civil Rights Act of 1968, referred to in subsec. (c)(4), is title VIII of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 81, known as the Fair Housing Act, which is classified principally to subchapter I (§3601 et seq.) of chapter 45 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (c)(4), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. 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

1987—Pub. L. 100–17 substituted "Declaration of findings and policy" for "Declaration of policy" in section catchline and amended text generally. Prior to amendment, text read as follows: "The purpose of this subchapter is to establish a uniform policy for the fair and equitable treatment of persons displaced as a result of Federal and federally assisted programs in order that such persons shall not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–17 effective on effective date provided in regulations promulgated under section 4633 of this title (as amended by section 412 of Pub. L. 100–17), but not later than 2 years after Apr. 2, 1987, see section 418 of Pub. L. 100–17, set out as a note under section 4601 of this title.

SAVINGS PROVISION

Pub. L. 91–646, title II, §220(b), Jan. 2, 1971, 84 Stat. 1903, provided that: "Any rights or liabilities now existing under prior Acts or portions thereof shall not be affected by the repeal of such prior Acts or portions thereof under subsection (a) of this section [repealing sections 1415(7)(b)(iii), (8) second sentence, 1465, 2473(b)(14), 3074, and 3307(b), (c) of this title, section 2680 of Title 10, Armed Forces, sections 501 to 512 of Title 23, Highways, sections 1231 to 1234 of Title 43, Public Lands, and section 1606(b) of former Title 49, Transportation, and provisions set out as notes under sections 501 and 511 of Title 23]."

§4622. Moving and related expenses

(a) General provision

Whenever a program or project to be undertaken by a displacing agency will result in the displacement of any person, the head of the displacing agency shall provide for the payment to the displaced person of—

(1) actual reasonable expenses in moving himself, his family, business, farm operation, or other personal property;

(2) actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the head of the agency;

(3) actual reasonable expenses in searching for a replacement business or farm; and

(4) actual reasonable expenses necessary to reestablish a displaced farm, nonprofit organization, or small business at its new site, but not to exceed $25,000, as adjusted by regulation, in accordance with section 4633(d) of this title.

(b) Displacement from dwelling; election of payments: expense and dislocation allowance

Any displaced person eligible for payments under subsection (a) of this section who is displaced from a dwelling and who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection (a) of this section may receive an expense and dislocation allowance, which shall be determined according to a schedule established by the head of the lead agency.

(c) Displacement from business or farm operation; election of payments; minimum and maximum amounts; eligibility

Any displaced person eligible for payments under subsection (a) of this section who is displaced from the person's place of business or farm operation and who is eligible under criteria established by the head of the lead agency may elect to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (a) of this section. Such payment shall consist of a fixed payment in an amount to be determined according to criteria established by the head of the lead agency, except that such payment shall not be less than $1,000 nor more than $40,000, as adjusted by regulation, in accordance with section 4633(d) of this title. A person whose sole business at the displacement dwelling is the rental of such property to others shall not qualify for a payment under this subsection.

(d) Certain utility relocation expenses

(1) Except as otherwise provided by Federal law—

(A) if a program or project (i) which is undertaken by a displacing agency, and (ii) the purpose of which is not to relocate or reconstruct any utility facility, results in the relocation of a utility facility;

(B) if the owner of the utility facility which is being relocated under such program or project has entered into, with the State or local government on whose property, easement, or right-of-way such facility is located, a franchise or similar agreement with respect to the use of such property, easement, or right-of-way; and

(C) if the relocation of such facility results in such owner incurring an extraordinary cost in connection with such relocation;

the displacing agency may, in accordance with such regulations as the head of the lead agency may issue, provide to such owner a relocation payment which may not exceed the amount of such extraordinary cost (less any increase in the value of the new utility facility above the value of the old utility facility and less any salvage value derived from the old utility facility).

(2) For purposes of this subsection, the term—

(A) "extraordinary cost in connection with a relocation" means any cost incurred by the owner

of a utility facility in connection with relocation of such facility which is determined by the head of the displacing agency, under such regulations as the head of the lead agency shall issue—

(i) to be a non-routine relocation expense;

(ii) to be a cost such owner ordinarily does not include in its annual budget as an expense of operation; and

(iii) to meet such other requirements as the lead agency may prescribe in such regulations; and

(B) "utility facility" means—

(i) any electric, gas, water, steam power, or materials transmission or distribution system;

(ii) any transportation system;

(iii) any communications system (including cable television); and

(iv) any fixtures, equipment, or other property associated with the operation, maintenance, or repair of any such system;

located on property which is owned by a State or local government or over which a State or local government has an easement or right-of-way. A utility facility may be publicly, privately, or cooperatively owned.

(Pub. L. 91–646, title II, §202, Jan. 2, 1971, 84 Stat. 1895; Pub. L. 100–17, title IV, §405, Apr. 2, 1987, 101 Stat. 249; Pub. L. 112–141, div. A, title I, §1521(a), July 6, 2012, 126 Stat. 577.)

EDITORIAL NOTES

AMENDMENTS

2012—Subsec. (a)(4). Pub. L. 112–141, §1521(a)(1), substituted "$25,000, as adjusted by regulation, in accordance with section 4633(d) of this title" for "$10,000".

Subsec. (c). Pub. L. 112–141, §1521(a)(2), substituted "$40,000, as adjusted by regulation, in accordance with section 4633(d) of this title" for "$20,000" in second sentence.

1987—Subsec. (a). Pub. L. 100–17, §405(a)(1), inserted introductory provisions and struck out former introductory provisions which read as follows: "Whenever the acquisition of real property for a program or project undertaken by a Federal agency in any State will result in the displacement of any person on or after January 2, 1971, the head of such agency shall make a payment to any displaced person, upon proper application as approved by such agency head, for—".

Subsec. (a)(4). Pub. L. 100–17, §405(a)(2)–(4), added par. (4).

Subsec. (b). Pub. L. 100–17, §405(b), substituted "an expense and dislocation allowance, which shall be determined according to a schedule established by the head of the lead agency" for "a moving expense allowance, determined according to a schedule established by the head of the Federal agency, not to exceed $300; and a dislocation allowance of $200".

Subsec. (c). Pub. L. 100–17, §405(c), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "Any displaced person eligible for payments under subsection (a) of this section who is displaced from his place of business or from his farm operation and who elects to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (a) of this section, may receive a fixed payment in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall be not less than $2,500 nor more than $10,000. In the case of a business no payment shall be made under this subsection unless the head of the Federal agency is satisfied that the business (1) cannot be relocated without a substantial loss of its existing patronage, and (2) is not a part of a commercial enterprise having at least one other establishment not being acquired by the United States, which is engaged in the same or similar business. For purposes of this subsection, the term 'average annual net earnings' means one-half of any net earnings of the business or farm operation, before Federal, State, and local income taxes, during the two taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for such project, or during such other period as the head of such agency determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period."

Subsec. (d). Pub. L. 100–17, §405(d), added subsec. (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective 2 years after the date of enactment of Pub. L. 112–141, see section 1521(g) of Pub. L. 112–141, set out as a note under section 308 of Title 23, Highways.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–17 effective on effective date provided in regulations promulgated under section 4633 of this title (as amended by section 412 of Pub. L. 100–17), but not later than 2 years after Apr. 2, 1987, see section 418 of Pub. L. 100–17, set out as a note under section 4601 of this title.

§4623. Replacement housing for homeowner; mortgage insurance

(a)(1) In addition to payments otherwise authorized by this subchapter, the head of the displacing agency shall make an additional payment not in excess of $31,000, as adjusted by regulation, in accordance with 4633(d) [1] of this title, to any displaced person who is displaced from a dwelling actually owned and occupied by such displaced person for not less than 90 days before the initiation of negotiations for the acquisition of the property. Such additional payment shall include the following elements:

(A) The amount, if any, which when added to the acquisition cost of the dwelling acquired by the displacing agency, equals the reasonable cost of a comparable replacement dwelling.

(B) The amount, if any, which will compensate such displaced person for any increased interest costs and other debt service costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such amount shall be paid only if the dwelling acquired by the displacing agency was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than 180 days immediately prior to the initiation of negotiations for the acquisition of such dwelling.

(C) Reasonable expenses incurred by such displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

(2) The additional payment authorized by this section shall be made only to a displaced person who purchases and occupies a decent, safe, and sanitary replacement dwelling within 1 year after the date on which such person receives final payment from the displacing agency for the acquired dwelling or the date on which the displacing agency's obligation under section 4625(c)(3) of this title is met, whichever is later, except that the displacing agency may extend such period for good cause. If such period is extended, the payment under this section shall be based on the costs of relocating the person to a comparable replacement dwelling within 1 year of such date.

(b) The head of any Federal agency may, upon application by a mortgagee, insure any mortgage (including advances during construction) on a comparable replacement dwelling executed by a displaced person assisted under this section, which mortgage is eligible for insurance under any Federal law administered by such agency notwithstanding any requirements under such law relating to age, physical condition, or other personal characteristics of eligible mortgagors, and may make commitments for the insurance of such mortgage prior to the date of execution of the mortgage.

(Pub. L. 91–646, title II, §203, Jan. 2, 1971, 84 Stat. 1896; Pub. L. 100–17, title IV, §406, Apr. 2, 1987, 101 Stat. 251; Pub. L. 112–141, div. A, title I, §1521(b), July 6, 2012, 126 Stat. 578.)

EDITORIAL NOTES

AMENDMENTS

2012—Subsec. (a)(1). Pub. L. 112–141, in first sentence, substituted "$31,000, as adjusted by regulation, in accordance with 4633(d) of this title," for "$22,500" and "90 days before" for "one hundred and eighty days prior to".

1987—Subsec. (a)(1). Pub. L. 100–17, §406(1)–(3), substituted "displacing agency" for "Federal agency" and "$22,500" for "$15,000" in introductory provisions, and in subpar. (A) "acquired by the displacing

agency, equals the reasonable cost of a comparable replacement dwelling" for "acquired by the Federal agency, equals the reasonable cost of a comparable replacement dwelling which is a decent, safe, and sanitary dwelling adequate to accommodate such displaced person, reasonably accessible to public services and places of employment and available on the private market. All determinations required to carry out this subparagraph shall be made in accordance with standards established by the head of the Federal agency making the additional payment".

Subsec. (a)(1)(B). Pub. L. 100–17, §406(4), added subpar. (B) and struck out former subpar. (B) which read as follows: "The amount, if any, which will compensate such displaced person for any increased interest costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such amount shall be paid only if the dwelling acquired by the Federal agency was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than one hundred and eighty days prior to the initiation of negotiations for the acquisition of such dwelling. Such amount shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling, over the remainder term of the mortgage on the acquired dwelling, reduced to discounted present value. The discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located."

Subsec. (a)(2). Pub. L. 100–17, §406(5), added par. (2) and struck out former par. (2) which read as follows: "The additional payment authorized by this subsection shall be made only to such a displaced person who purchases and occupies a replacement dwelling which is decent, safe, and sanitary not later than the end of the one year period beginning on the date on which he receives from the Federal agency final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective 2 years after the date of enactment of Pub. L. 112–141, see section 1521(g) of Pub. L. 112–141, set out as a note under section 308 of Title 23, Highways.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–17 effective on effective date provided in regulations promulgated under section 4633 of this title (as amended by section 412 of Pub. L. 100–17), but not later than 2 years after Apr. 2, 1987, see section 418 of Pub. L. 100–17, set out as a note under section 4601 of this title.

[1] *So in original. Probably should be preceded by "section".*

§4624. Replacement housing for tenants and certain others

(a) In addition to amounts otherwise authorized by this subchapter, the head of a displacing agency shall make a payment to or for any displaced person displaced from any dwelling not eligible to receive a payment under section 4623 of this title which dwelling was actually and lawfully occupied by such displaced person for not less than 90 days immediately prior to (1) the initiation of negotiations for acquisition of such dwelling, or (2) in any case in which displacement is not a direct result of acquisition, such other event as the head of the lead agency shall prescribe. Such payment shall consist of the amount necessary to enable such person to lease or rent for a period not to exceed 42 months, a comparable replacement dwelling, but not to exceed $7,200, as adjusted by regulation, in accordance with section 4633(d) of this title. At the discretion of the head of the displacing agency, a payment under this subsection may be made in periodic installments. Computation of a payment under this subsection to a low-income displaced person for a comparable replacement dwelling shall take into account such person's income.

(b) Any person eligible for a payment under subsection (a) of this section may elect to apply such payment to a down payment on, and other incidental expenses pursuant to, the purchase of a decent,

safe, and sanitary replacement dwelling. Any such person may, at the discretion of the head of the displacing agency, be eligible under this subsection for the maximum payment allowed under subsection (a).

(Pub. L. 91–646, title II, §204, Jan. 2, 1971, 84 Stat. 1897; Pub. L. 100–17, title IV, §407, Apr. 2, 1987, 101 Stat. 251; Pub. L. 112–141, div. A, title I, §1521(c), July 6, 2012, 126 Stat. 578.)

EDITORIAL NOTES

AMENDMENTS

2012—Subsec. (a). Pub. L. 112–141, §1521(c)(1), in second sentence, substituted "$7,200, as adjusted by regulation, in accordance with section 4633(d) of this title" for "$5,250".

Subsec. (b). Pub. L. 112–141, §1521(c)(2), substituted period at end of second sentence for ", except that, in the case of a displaced homeowner who has owned and occupied the displacement dwelling for at least 90 days but not more than 180 days immediately prior to the initiation of negotiations for the acquisition of such dwelling, such payment shall not exceed the payment such person would otherwise have received under section 4623(a) of this title had the person owned and occupied the displacement dwelling 180 days immediately prior to the initiation of such negotiations."

1987—Pub. L. 100–17 amended section generally, revising and restating as subsecs. (a) and (b) provisions formerly contained in introductory provisions and in pars. (1) and (2).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective 2 years after the date of enactment of Pub. L. 112–141, see section 1521(g) of Pub. L. 112–141, set out as a note under section 308 of Title 23, Highways.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–17 effective on effective date provided in regulations promulgated under section 4633 of this title (as amended by section 412 of Pub. L. 100–17), but not later than 2 years after Apr. 2, 1987, see section 418 of Pub. L. 100–17, set out as a note under section 4601 of this title.

§4625. Relocation planning, assistance coordination, and advisory services

(a) Planning of programs or projects undertaken by Federal agencies or with Federal financial assistance

Programs or projects undertaken by a Federal agency or with Federal financial assistance shall be planned in a manner that (1) recognizes, at an early stage in the planning of such programs or projects and before the commencement of any actions which will cause displacements, the problems associated with the displacement of individuals, families, businesses, and farm operations, and (2) provides for the resolution of such problems in order to minimize adverse impacts on displaced persons and to expedite program or project advancement and completion.

(b) Availability of advisory services

The head of any displacing agency shall ensure that the relocation assistance advisory services described in subsection (c) of this section are made available to all persons displaced by such agency. If such agency head determines that any person occupying property immediately adjacent to the property where the displacing activity occurs is caused substantial economic injury as a result thereof, the agency head may make available to such person such advisory services.

(c) Measures, facilities, or services; description

Each relocation assistance advisory program required by subsection (b) of this section shall include such measures, facilities, or services as may be necessary or appropriate in order to—

(1) determine, and make timely recommendations on, the needs and preferences, if any, of displaced persons for relocation assistance;

(2) provide current and continuing information on the availability, sales prices, and rental charges of comparable replacement dwellings for displaced homeowners and tenants and suitable locations for businesses and farm operations;

(3) assure that a person shall not be required to move from a dwelling unless the person has had a reasonable opportunity to relocate to a comparable replacement dwelling, except in the case of—

(A) a major disaster as defined in section 5122(2) of this title;

(B) a national emergency declared by the President; or

(C) any other emergency which requires the person to move immediately from the dwelling because continued occupancy of such dwelling by such person constitutes a substantial danger to the health or safety of such person;

(4) assist a person displaced from a business or farm operation in obtaining and becoming established in a suitable replacement location;

(5) supply (A) information concerning other Federal and State programs which may be of assistance to displaced persons, and (B) technical assistance to such persons in applying for assistance under such programs; and

(6) provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to relocation.

(d) Coordination of relocation activities with other Federal, State, or local governmental actions

The head of a displacing agency shall coordinate the relocation activities performed by such agency with other Federal, State, or local governmental actions in the community which could affect the efficient and effective delivery of relocation assistance and related services.

(e) Selection of implementation procedures

Whenever two or more Federal agencies provide financial assistance to a displacing agency other than a Federal agency, to implement functionally or geographically related activities which will result in the displacement of a person, the heads of such Federal agencies may agree that the procedures of one of such agencies shall be utilized to implement this subchapter with respect to such activities. If such agreement cannot be reached, then the head of the lead agency shall designate one of such agencies as the agency whose procedures shall be utilized to implement this subchapter with respect to such activities. Such related activities shall constitute a single program or project for purposes of this chapter.

(f) Tenants occupying property acquired for programs or projects; eligibility for advisory services

Notwithstanding section 4601(1) of this title, in any case in which a displacing agency acquires property for a program or project, any person who occupies such property on a rental basis for a short term or a period subject to termination when the property is needed for the program or project shall be eligible for advisory services to the extent determined by the displacing agency.

(Pub. L. 91–646, title II, §205, Jan. 2, 1971, 84 Stat. 1897; Pub. L. 100–17, title IV, §408, Apr. 2, 1987, 101 Stat. 252.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (e), was in the original "this Act", meaning Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables.

AMENDMENTS

1987—Pub. L. 100–17, substituted "Relocation planning, assistance coordination, and advisory services" for "Relocation assistance advisory services" in catchline and amended text generally, revising and restating as

subsecs. (a) to (f) provisions formerly contained in subsecs. (a) to (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–17 effective on effective date provided in regulations promulgated under section 4633 of this title (as amended by section 412 of Pub. L. 100–17), but not later than 2 years after Apr. 2, 1987, see section 418 of Pub. L. 100–17, set out as a note under section 4601 of this title.

§4626. Housing replacement by Federal agency as last resort

(a) If a program or project undertaken by a Federal agency or with Federal financial assistance cannot proceed on a timely basis because comparable replacement dwellings are not available, and the head of the displacing agency determines that such dwellings cannot otherwise be made available, the head of the displacing agency may take such action as is necessary or appropriate to provide such dwellings by use of funds authorized for such project. The head of the displacing agency may use this section to exceed the maximum amounts which may be paid under sections 4623 and 4624 of this title on a case-by-case basis for good cause as determined in accordance with such regulations as the head of the lead agency shall issue.

(b) No person shall be required to move from his dwelling on account of any program or project undertaken by a Federal agency or with Federal financial assistance, unless the head of the displacing agency is satisfied that comparable replacement housing is available to such person.

(Pub. L. 91–646, title II, §206, Jan. 2, 1971, 84 Stat. 1898; Pub. L. 100–17, title IV, §409, Apr. 2, 1987, 101 Stat. 253.)

EDITORIAL NOTES

AMENDMENTS

1987—Subsec. (a). Pub. L. 100–17 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "If a Federal project cannot proceed to actual construction because comparable replacement sale or rental housing is not available, and the head of the Federal agency determines that such housing cannot otherwise be made available he may take such action as is necessary or appropriate to provide such housing by use of funds authorized for such project."

Subsec. (b). Pub. L. 100–17 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "No person shall be required to move from his dwelling on or after January 2, 1971, on account of any Federal project, unless the Federal agency head is satisfied that replacement housing, in accordance with section 4625(c)(3) of this title, is available to such person."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–17 effective on effective date provided in regulations promulgated under section 4633 of this title (as amended by section 412 of Pub. L. 100–17), but not later than 2 years after Apr. 2, 1987, see section 418 of Pub. L. 100–17, set out as a note under section 4601 of this title.

§4627. State required to furnish real property incident to Federal assistance (local cooperation)

Whenever real property is acquired by a State agency and furnished as a required contribution incident to a Federal program or project, the Federal agency having authority over the program or project may not accept such property unless such State agency has made all payments and provided all assistance and assurances, as are required of a State agency by sections 4630 and 4655 of this title. Such State agency shall pay the cost of such requirements in the same manner and to the same

extent as the real property acquired for such project, except that in the case of any real property acquisition or displacement occurring prior to July 1, 1972, such Federal agency shall pay 100 per centum of the first $25,000 of the cost of providing such payments and assistance.

(Pub. L. 91–646, title II, §207, Jan. 2, 1971, 84 Stat. 1898.)

§4628. State acting as agent for Federal program

Whenever real property is acquired by a State agency at the request of a Federal agency for a Federal program or project, such acquisition shall, for the purposes of this chapter, be deemed an acquisition by the Federal agency having authority over such program or project.

(Pub. L. 91–646, title II, §208, Jan. 2, 1971, 84 Stat. 1899.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables.

§4629. Public works programs and projects of District of Columbia government and Washington Metropolitan Area Transit Authority

Whenever real property is acquired by the government of the District of Columbia or the Washington Metropolitan Area Transit Authority for a program or project which is not subject to sections 4630 and 4631 of this title, and such acquisition will result in the displacement of any person on or after January 2, 1971, the Mayor of the District of Columbia or the Washington Metropolitan Area Transit Authority, as the case may be, shall make all relocation payments and provide all assistance required of a Federal agency by this chapter. Whenever real property is acquired for such a program or project on or after such effective date, such Mayor or Authority, as the case may be, shall make all payments and meet all requirements prescribed for a Federal agency by subchapter III of this chapter.

(Pub. L. 91–646, title II, §209, Jan. 2, 1971, 84 Stat. 1899; Pub. L. 93–198, title IV, §421, Dec. 24, 1973, 87 Stat. 789.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables.

Subchapter III of this chapter, referred to in text, was in the original "title III of this Act", meaning title III of Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1904, which enacted subchapter III of this chapter, repealed sections 3071 to 3073 of this title, section 141 of Title 23, Highways, and section 596 of Title 33, Navigation and Navigable Waters, and enacted provisions set out as a note under section 4651 of this title. For complete classification of title III to the Code, see Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Mayor" substituted for "Commissioner" pursuant to section 421 of Pub. L. 93–198, title IV, Dec. 24, 1973,

87 Stat. 789. Office of Commissioner of District of Columbia, as established by Reorg. Plan No. 3 of 1967, abolished as of noon Jan. 2, 1975, by Pub. L. 93–198, title VII, §711, Dec. 24, 1973, 87 Stat. 818, and replaced by Office of Mayor of District of Columbia by section 421 of Pub. L. 93–198.

§4630. Requirements for relocation payments and assistance of federally assisted program; assurances of availability of housing

Notwithstanding any other law, the head of a Federal agency shall not approve any grant to, or contract or agreement with, a displacing agency (other than a Federal agency), under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after January 2, 1971, unless he receives satisfactory assurances from such displacing agency that—

(1) fair and reasonable relocation payments and assistance shall be provided to or for displaced persons, as are required to be provided by a Federal agency under sections 4622, 4623, and 4624 of this title;

(2) relocation assistance programs offering the services described in section 4625 of this title shall be provided to such displaced persons;

(3) within a reasonable period of time prior to displacement, comparable replacement dwellings will be available to displaced persons in accordance with section 4625(c)(3) of this title.

(Pub. L. 91–646, title II, §210, Jan. 2, 1971, 84 Stat. 1899; Pub. L. 100–17, title IV, §410, Apr. 2, 1987, 101 Stat. 254.)

EDITORIAL NOTES

AMENDMENTS

1987—Pub. L. 100–17 in introductory provisions substituted "displacing agency (other than a Federal agency)" for "State agency" and "assurances from such displacing agency" for "assurances from such State agency", and in par. (3) substituted "comparable replacement dwellings" for "decent, safe, and sanitary replacement dwellings".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–17 effective on effective date provided in regulations promulgated under section 4633 of this title (as amended by section 412 of Pub. L. 100–17), but not later than 2 years after Apr. 2, 1987, see section 418 of Pub. L. 100–17, set out as a note under section 4601 of this title.

EFFECTIVE DATE

Section as completely applicable to all States after July 1, 1972, but until such date applicable to a State to extent the State is able under its laws to comply with this section, see section 221(b) of Pub. L. 91–646, set out as a note under section 4601 of this title.

§4631. Federal share of costs

(a) Cost to displacing agency; eligibility

The cost to a displacing agency of providing payments and assistance under this subchapter and subchapter III of this chapter shall be included as part of the cost of a program or project undertaken by a Federal agency or with Federal financial assistance. A displacing agency, other than a Federal agency, shall be eligible for Federal financial assistance with respect to such payments and assistance in the same manner and to the same extent as other program or project costs.

(b) Comparable payments under other laws

No payment or assistance under this subchapter or subchapter III of this chapter shall be required

to be made to any person or included as a program or project cost under this section, if such person receives a payment required by Federal, State, or local law which is determined by the head of the Federal agency to have substantially the same purpose and effect as such payment under this section.

(c) Agreements prior to January 2, 1971; advancements

Any grant to, or contract or agreement with, a State agency executed before January 2, 1971, under which Federal financial assistance is available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after January 2, 1971, shall be amended to include the cost of providing payments and services under sections 4630 and 4655 of this title. If the head of a Federal agency determines that it is necessary for the expeditious completion of a program or project he may advance to the State agency the Federal share of the cost of any payments or assistance by such State agency pursuant to sections 4626, 4630, 4635, and 4655 of this title.

(Pub. L. 91–646, title II, §211, Jan. 2, 1971, 84 Stat. 1900; Pub. L. 100–17, title IV, §411, Apr. 2, 1987, 101 Stat. 254.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subchapter III of this chapter, referred to in subsecs. (a) and (b), was in the original "title III of this Act", meaning title III of Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1904, which is classified principally to subchapter III of this chapter. For complete classification of title III to the Code, see Tables.

AMENDMENTS

1987—Subsec. (a). Pub. L. 100–17, §411(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "The cost to a State agency of providing payments and assistance pursuant to sections 4626, 4630, 4635, and 4655 of this title, shall be included as part of the cost of a program or project for which Federal financial assistance is available to such State agency, and such State agency shall be eligible for Federal financial assistance with respect to such payments and assistance in the same manner and to the same extent as other program or project costs, except that, notwithstanding any other law in the case where the Federal financial assistance is by grant or contribution the Federal agency shall pay the full amount of the first $25,000 of the cost to a State agency of providing payments and assistance for a displaced person under sections 4626, 4630, 4635, and 4655 of this title, on account of any acquisition or displacement occurring prior to July 1, 1972, and in any case where such Federal financial assistance is by loan, the Federal agency shall loan such State agency the full amount of the first $25,000 of such cost."

Subsec. (b). Pub. L. 100–17, §411(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "No payment or assistance under section 4630 or 4655 of this title shall be required or included as a program or project cost under this section, if the displaced person receives a payment required by the State law of eminent domain which is determined by such Federal agency head to have substantially the same purpose and effect as such payment under this section, and to be part of the cost of the program or project for which Federal financial assistance is available."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–17 effective on effective date provided in regulations promulgated under section 4633 of this title (as amended by section 412 of Pub. L. 100–17), but not later than 2 years after Apr. 2, 1987, see section 418 of Pub. L. 100–17, set out as a note under section 4601 of this title.

§4632. Administration; relocation assistance in programs receiving Federal financial assistance

In order to prevent unnecessary expenses and duplications of functions, and to promote uniform and effective administration of relocation assistance programs for displaced persons under sections 4626, 4630, and 4635 of this title, a State agency may enter into contracts with any individual, firm,

association, or corporation for services in connection with such programs, or may carry out its functions under this subchapter through any Federal or State governmental agency or instrumentality having an established organization for conducting relocation assistance programs. Such State agency shall, in carrying out the relocation assistance activities described in section 4626 of this title, whenever practicable, utilize the services of State or local housing agencies, or other agencies having experience in the administration or conduct of similar housing assistance activities.

(Pub. L. 91–646, title II, §212, Jan. 2, 1971, 84 Stat. 1900.)

§4633. Duties of lead agency

(a) General provisions

The head of the lead agency shall—

(1) develop, publish, and issue, with the active participation of the Secretary of Housing and Urban Development and the heads of other Federal agencies responsible for funding relocation and acquisition actions, and in coordination with State and local governments, such regulations as may be necessary to carry out this chapter;

(2) provide, in consultation with the Attorney General (acting through the Commissioner of the Immigration and Naturalization Service), through training and technical assistance activities for displacing agencies, information developed with the Attorney General (acting through the Commissioner) on proper implementation of section 4605 of this title;

(3) ensure that displacing agencies implement section 4605 of this title fairly and without discrimination in accordance with section 4605(b)(2)(B) of this title;

(4) ensure that relocation assistance activities under this chapter are coordinated with low-income housing assistance programs or projects by a Federal agency or a State or State agency with Federal financial assistance;

(5) monitor, in coordination with other Federal agencies, the implementation and enforcement of this chapter and report to the Congress, as appropriate, on any major issues or problems with respect to any policy or other provision of this chapter; and

(6) perform such other duties as may be necessary to carry out this chapter.

(b) Regulations and procedures

The head of the lead agency is authorized to issue such regulations and establish such procedures as he may determine to be necessary to assure—

(1) that the payments and assistance authorized by this chapter shall be administered in a manner which is fair and reasonable and as uniform as practicable;

(2) that a displaced person who makes proper application for a payment authorized for such person by this subchapter shall be paid promptly after a move or, in hardship cases, be paid in advance;

(3) that any aggrieved person may have his application reviewed by the head of the Federal agency having authority over the applicable program or project or, in the case of a program or project receiving Federal financial assistance, by the State agency having authority over such program or project or the Federal agency having authority over such program or project if there is no such State agency; and

(4) that each Federal agency that has programs or projects requiring the acquisition of real property or causing a displacement from real property subject to the provisions of this chapter shall provide to the lead agency an annual summary report the [1] describes the activities conducted by the Federal agency.

(c) Applicability to Tennessee Valley Authority and Rural Electrification Administration

The regulations and procedures issued pursuant to this section shall apply to the Tennessee Valley Authority and the Rural Electrification Administration only with respect to relocation assistance under this subchapter and subchapter I.

(d) Adjustment of payments

The head of the lead agency may adjust, by regulation, the amounts of relocation payments provided under sections 4622(a)(4), 4622(c), 4623(a), and 4624(a) of this title if the head of the lead agency determines that cost of living, inflation, or other factors indicate that the payments should be adjusted to meet the policy objectives of this chapter.

(Pub. L. 91–646, title II, §213, Jan. 2, 1971, 84 Stat. 1900; Pub. L. 100–17, title IV, §412, Apr. 2, 1987, 101 Stat. 254; Pub. L. 102–240, title I, §1055, Dec. 18, 1991, 105 Stat. 2002; Pub. L. 105–117, §2, Nov. 21, 1997, 111 Stat. 2385; Pub. L. 112–141, div. A, title I, §1521(d), July 6, 2012, 126 Stat. 578.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1), (4) to (6), (b)(1), (4), and (d), was in the original "this Act", meaning Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables.

AMENDMENTS

2012—Subsec. (b)(4). Pub. L. 112–141, §1521(d)(1), added par. (4).

Subsec. (d). Pub. L. 112–141, §1521(d)(2), added subsec. (d).

1997—Subsec. (a)(2) to (6). Pub. L. 105–117 added pars. (2) and (3) and redesignated former pars. (2) to (4) as (4) to (6), respectively.

1991—Subsec. (c). Pub. L. 102–240 inserted "and the Rural Electrification Administration" after "Tennessee Valley Authority".

1987—Pub. L. 100–17 in amending section generally, substituted "Duties of lead agency" for "Regulations and procedures" in section catchline.

Subsec. (a). Pub. L. 100–17 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "In order to promote uniform and effective administration of relocation assistance and land acquisition of State or local housing agencies, or other agencies having programs or projects by Federal agencies or programs or projects by State agencies receiving Federal financial assistance, the heads of Federal agencies shall consult together on the establishment of regulations and procedures for the implementation of such programs."

Subsec. (b). Pub. L. 100–17 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "The head of each Federal agency is authorized to establish such regulations and procedures as he may determine to be necessary to assure—

"(1) that the payments and assistance authorized by this chapter shall be administered in a manner which is fair and reasonable, and as uniform as practicable;

"(2) that a displaced person who makes proper application for a payment authorized for such person by this subchapter shall be paid promptly after a move or, in hardship cases, be paid in advance; and

"(3) that any person aggrieved by a determination as to eligibility for a payment authorized by this chapter, or the amount of a payment, may have his application reviewed by the head of the Federal agency having authority over the applicable program or project, or in the case of a program or project receiving Federal financial assistance, by the head of the State agency."

Subsec. (c). Pub. L. 100–17 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "The head of each Federal agency may prescribe such other regulations and procedures, consistent with the provisions of this chapter, as he deems necessary or appropriate to carry out this chapter."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective on the date of enactment of Pub. L. 112–141, see section 1521(g) of Pub. L. 112–141, set out as a note under section 308 of Title 23, Highways.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–240 effective Dec. 18, 1991, and applicable to funds authorized to be

appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102–240, set out as a note under section 104 of Title 23, Highways.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–17 effective Apr. 2, 1987, to the extent such amendment prescribes authority to develop, publish, and issue regulations, and otherwise to take effect on effective date provided in such regulations but not later than 2 years after Apr. 2, 1987, see section 418 of Pub. L. 100–17, set out as a note under section 4601 of this title.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

EXECUTIVE DOCUMENTS

IMPROVEMENT OF ADMINISTRATION AND IMPLEMENTATION OF THIS CHAPTER

Memorandum of the President dated February 27, 1985, 50 F.R. 8953, provided:

The purpose of this Memorandum is to improve administration and implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 [42 U.S.C. 4601 et seq.].

Specifically, I hereby direct the following actions:

1. The Presidential Memorandum of September 6, 1973 on this subject is superseded.
2. As with other Administration management improvement initiatives, a lead agency, the Department of Transportation (DOT), is designated to coordinate and monitor implementation of the Act, and consult periodically with State and local governments and other organizations and interest groups affected by administration of the Act.
3. DOT, jointly with the Department of Housing and Urban Development, shall interact with the principal executive departments and agencies affected by the Act in developing Administration policy.
4. Within 90 days of the date of this Memorandum, all affected executive departments and agencies shall propose common regulations under the Act. Within one year of the date of this Memorandum, such departments and agencies shall issue common regulations under the Act. Such regulations shall be consistent with the model policy promulgated by DOT, in consultation and coordination with other affected agencies, and published in final form in the Federal Register simultaneously with this Memorandum.
5. DOT shall report annually to the President's Council on Management Improvement, through the Office of Management and Budget, on implementation of the Act.

[1] *So in original. Probably should be "that".*

§4634. Agency coordination

(a) Agency capacity

Each Federal agency responsible for funding or carrying out relocation and acquisition activities shall have adequately trained personnel and such other resources as are necessary to manage and oversee the relocation and acquisition program of the Federal agency in accordance with this chapter.

(b) Interagency agreements

Not later than 1 year after July 6, 2012, each Federal agency responsible for funding relocation and acquisition activities (other than the agency serving as the lead agency) shall enter into a memorandum of understanding with the lead agency that—

(1) provides for periodic training of the personnel of the Federal agency, which in the case of a Federal agency that provides Federal financial assistance, may include personnel of any displacing

agency that receives Federal financial assistance;

(2) addresses ways in which the lead agency may provide assistance and coordination to the Federal agency relating to compliance with the [1] chapter on a program or project basis; and

(3) addresses the funding of the training, assistance, and coordination activities provided by the lead agency, in accordance with subsection (c).

(c) Interagency payments

(1) In general

For the fiscal year that begins 1 year after July 6, 2012, and each fiscal year thereafter, each Federal agency responsible for funding relocation and acquisition activities (other than the agency serving as the lead agency) shall transfer to the lead agency for the fiscal year, such funds as are necessary, but not less than $35,000, to support the training, assistance, and coordination activities of the lead agency described in subsection (b).

(2) Included costs

The cost to a Federal agency of providing the funds described in paragraph (1) shall be included as part of the cost of 1 or more programs or projects undertaken by the Federal agency or with Federal financial assistance that result in the displacement of persons or the acquisition of real property.

(Pub. L. 91–646, title II, §214, as added Pub. L. 112–141, div. A, title I, §1521(e), July 6, 2012, 126 Stat. 578.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter and the chapter, referred to in subsecs. (a) and (b)(2), were in the original "this Act" and "the Act", respectively, meaning Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables.

PRIOR PROVISIONS

A prior section 4634, Pub. L. 91–646, title II, §214, Jan. 2, 1971, 84 Stat. 1901, required head of each Federal agency to submit an annual report to the President respecting programs and policies established or authorized by this chapter, and the President to submit such reports to Congress, prior to repeal by Pub. L. 100–17, title IV, §§415, 418, Apr. 2, 1987, 100 Stat. 255, 256, effective on effective date provided in regulations promulgated under section 4633 of this title (as amended by section 412 of Pub. L. 100–17), but not later than 2 years after Apr. 2, 1987.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date of enactment of Pub. L. 112–141, see section 1521(g) of Pub. L. 112–141, set out as a note under section 308 of Title 23, Highways.

[1] So in original. Probably should be "this".

§4635. Planning and other preliminary expenses for additional housing

In order to encourage and facilitate the construction or rehabilitation of housing to meet the needs of displaced persons who are displaced from dwellings because of any Federal or Federal financially assisted project, the head of the Federal agency administering such project is authorized to make loans as a part of the cost of any such project, or to approve loans as a part of the cost of any such

project receiving Federal financial assistance, to nonprofit, limited dividend, or cooperative organizations or to public bodies, for necessary and reasonable expenses, prior to construction, for planning and obtaining federally insured mortgage financing for the rehabilitation or construction of housing for such displaced persons. Notwithstanding the preceding sentence, or any other law, such loans shall be available for not to exceed 80 per centum of the reasonable costs expected to be incurred in planning, and in obtaining financing for, such housing, prior to the availability of such financing, including, but not limited to, preliminary surveys and analyses of market needs, preliminary site engineering, preliminary architectural fees, site acquisition, application and mortgage commitment fees, and construction loan fees and discounts. Loans to an organization established for profit shall bear interest at a market rate established by the head of such Federal agency. All other loans shall be without interest. Such Federal agency head shall require repayment of loans made under this section, under such terms and conditions as he may require, upon completion of the project or sooner, and except in the case of a loan to an organization established for profit, may cancel any part or all of a loan if he determines that a permanent loan to finance the rehabilitation or the construction of such housing cannot be obtained in an amount adequate for repayment of such loan. Upon repayment of any such loan, the Federal share of the sum repaid shall be credited to the account from which such loan was made, unless the Secretary of the Treasury determines that such account is no longer in existence, in which case such sum shall be returned to the Treasury and credited to miscellaneous receipts.

(Pub. L. 91–646, title II, §215, Jan. 2, 1971, 84 Stat. 1901.)

§4636. Payments not to be considered as income for revenue purposes or for eligibility for assistance under Social Security Act or other Federal law

No payment received under this subchapter shall be considered as income for the purposes of title 26; or for the purposes of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act [42 U.S.C. 301 et seq.] or any other Federal law (except for any Federal law providing low-income housing assistance).

(Pub. L. 91–646, title II, §216, Jan. 2, 1971, 84 Stat. 1902; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100–17, title IV, §413, Apr. 2, 1987, 101 Stat. 255.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Social Security Act, referred to in text, is act Aug. 14, 1935, ch. 531, 49 Stat. 620, which is classified generally to chapter 7 (§301 et seq.) of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

AMENDMENTS

1987—Pub. L. 100–17 inserted "(except for any Federal law providing low-income housing assistance)" before period at end.

1986—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.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–17 effective on effective date provided in regulations promulgated under section 4633 of this title (as amended by section 412 of Pub. L. 100–17), but not later than 2 years after Apr. 2, 1987, see section 418 of Pub. L. 100–17, set out as a note under section 4601 of this title.

§4637. Repealed. Pub. L. 100–17, title IV, §415, Apr. 2, 1987, 101 Stat. 255

Section, Pub. L. 91–646, title II, §217, Jan. 2, 1971, 84 Stat. 1902, related to displacement by code enforcement, rehabilitation, and demolition programs receiving Federal assistance.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective on effective date provided in regulations promulgated under section 4633 of this title (as amended by section 412 of Pub. L. 100–17), but not later than 2 years after Apr. 2, 1987, see section 418 of Pub. L. 100–17, set out as an Effective Date of 1987 Amendment note under section 4601 of this title.

§4638. Transfers of surplus property

The Administrator of General Services is authorized to transfer to a State agency for the purpose of providing replacement housing required by this subchapter, any real property surplus to the needs of the United States within the meaning of chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41. Such transfer shall be subject to such terms and conditions as the Administrator determines necessary to protect the interests of the United States and may be made without monetary consideration, except that such State agency shall pay to the United States all net amounts received by such agency from any sale, lease, or other disposition of such property for such housing.

(Pub. L. 91–646, title II, §218, Jan. 2, 1971, 84 Stat. 1902; Pub. L. 100–17, title IV, §414, Apr. 2, 1987, 101 Stat. 255.)

EDITORIAL NOTES

CODIFICATION

In text, "chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41" substituted for "the Federal Property and Administrative Services Act of 1949, as amended" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1987—Pub. L. 100–17 inserted "net" after "all".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–17 effective on effective date provided in regulations promulgated under section 4633 of this title (as amended by section 412 of Pub. L. 100–17), but not later than 2 years after Apr. 2, 1987, see section 418 of Pub. L. 100–17, set out as a note under section 4601 of this title.

SUBCHAPTER III—UNIFORM REAL PROPERTY ACQUISITION POLICY

§4651. Uniform policy on real property acquisition practices

In order to encourage and expedite the acquisition of real property by agreements with owners, to avoid litigation and relieve congestion in the courts, to assure consistent treatment for owners in the

many Federal programs, and to promote public confidence in Federal land acquisition practices, heads of Federal agencies shall, to the greatest extent practicable, be guided by the following policies:

(1) The head of a Federal agency shall make every reasonable effort to acquire expeditiously real property by negotiation.

(2) Real property shall be appraised before the initiation of negotiations, and the owner or his designated representative shall be given an opportunity to accompany the appraiser during his inspection of the property, except that the head of the lead agency may prescribe a procedure to waive the appraisal in cases involving the acquisition by sale or donation of property with a low fair market value.

(3) Before the initiation of negotiations for real property, the head of the Federal agency concerned shall establish an amount which he believes to be just compensation therefor and shall make a prompt offer to acquire the property for the full amount so established. In no event shall such amount be less than the agency's approved appraisal of the fair market value of such property. Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property. The head of the Federal agency concerned shall provide the owner of real property to be acquired with a written statement of, and summary of the basis for, the amount he established as just compensation. Where appropriate the just compensation for the real property acquired and for damages to remaining real property shall be separately stated.

(4) No owner shall be required to surrender possession of real property before the head of the Federal agency concerned pays the agreed purchase price, or deposits with the court in accordance with section 3114(a) to (d) of title 40, for the benefit of the owner, an amount not less than the agency's approved appraisal of the fair market value of such property, or the amount of the award of compensation in the condemnation proceeding for such property.

(5) The construction or development of a public improvement shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling (assuming a replacement dwelling as required by subchapter II will be available), or to move his business or farm operation, without at least ninety days' written notice from the head of the Federal agency concerned, of the date by which such move is required.

(6) If the head of a Federal agency permits an owner or tenant to occupy the real property acquired on a rental basis for a short term or for a period subject to termination by the Government on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

(7) In no event shall the head of a Federal agency either advance the time of condemnation, or defer negotiations or condemnation and the deposit of funds in court for the use of the owner, or take any other action coercive in nature, in order to compel an agreement on the price to be paid for the property.

(8) If any interest in real property is to be acquired by exercise of the power of eminent domain, the head of the Federal agency concerned shall institute formal condemnation proceedings. No Federal agency head shall intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.

(9) If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the head of the Federal agency concerned shall offer to acquire that remnant. For the purposes of this chapter, an uneconomic remnant is a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property and which the head of the Federal agency concerned has determined has little or no value or utility to the owner.

(10) A person whose real property is being acquired in accordance with this subchapter may, after the person has been fully informed of his right to receive just compensation for such property, donate such property, and part thereof, any interest therein, or any compensation paid therefor to a Federal agency, as such person shall determine.

(Pub. L. 91–646, title III, §301, Jan. 2, 1971, 84 Stat. 1904; Pub. L. 100–17, title IV, §416, Apr. 2, 1987, 101 Stat. 255.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subchapter II, referred to in par. (5), was in the original "title II", meaning title II of Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1895, which is classified principally to subchapter II of this chapter. For complete classification of title II to the Code, see Short Title note set out under section 4601 of this title and Tables.

This chapter, referred to in par. (9), was in the original "this Act", meaning Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables.

This subchapter, referred to in par. (10), was in the original "this title", meaning title III of Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1904, which is classified principally to this subchapter. For complete classification of title III to the Code, see Tables.

CODIFICATION

In par. (4), "section 3114(a) to (d) of title 40" substituted for "section 1 of the Act of February 26, 1931 (46 Stat. 1421; 40 U.S.C. 258a)" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1987—Par. (2). Pub. L. 100–17, §416(a), inserted provision respecting the waiver of appraisal in cases involving the acquisition of property with a low fair market value.

Par. (9). Pub. L. 100–17, §416(b), amended par. (9) generally. Prior to amendment, par. (9) read as follows: "If the acquisition of only part of a property would leave its owner with an uneconomic remnant, the head of the Federal agency concerned shall offer to acquire the entire property."

Par. (10). Pub. L. 100–17, §416(c), added par. (10).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–17 effective on effective date provided in regulations promulgated under section 4633 of this title (as amended by section 412 of Pub. L. 100–17), but not later than 2 years after Apr. 2, 1987, see section 418 of Pub. L. 100–17, set out as a note under section 4601 of this title.

SAVINGS PROVISION

Pub. L. 91–646, title III, §306, Jan. 2, 1971, 84 Stat. 1907, provided in part that: "Any rights or liabilities now existing under prior Acts or portions thereof shall not be affected by the repeal of such prior Act or portions thereof under this section [repealing sections 3071 to 3073 of this title, section 141 of Title 23, Highways, and section 596 of Title 33, Navigation and Navigable Waters]."

§4652. Buildings, structures, and improvements

(a) Notwithstanding any other provision of law, if the head of a Federal agency acquires any interest in real property in any State, he shall acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property so acquired and which he requires to be removed from such real property or which he determines will be adversely affected by the use to which such real property will be put.

(b)(1) For the purpose of determining the just compensation to be paid for any building, structure, or other improvement required to be acquired by subsection (a) of this section, such building, structure, or other improvement shall be deemed to be a part of the real property to be acquired notwithstanding the right or obligation of a tenant, as against the owner of any other interest in the real property, to remove such building, structure, or improvement at the expiration of his term, and the fair market value which such building, structure, or improvement contributes to the fair market

value of the real property to be acquired, or the fair market value of such building, structure, or improvement for removal from the real property, whichever is the greater, shall be paid to the tenant therefor.

(2) Payment under this subsection shall not result in duplication of any payments otherwise authorized by law. No such payment shall be made unless the owner of the land involved disclaims all interest in the improvements of the tenant. In consideration for any such payment, the tenant shall assign, transfer, and release to the United States all his right, title, and interest in and to such improvements. Nothing in this subsection shall be construed to deprive the tenant of any rights to reject payment under this subsection and to obtain payment for such property interests in accordance with applicable law, other than this subsection.

(Pub. L. 91–646, title III, §302, Jan. 2, 1971, 84 Stat. 1905.)

§4653. Expenses incidental to transfer of title to United States

The head of a Federal agency, as soon as practicable after the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is the earlier, shall reimburse the owner, to the extent the head of such agency deems fair and reasonable, for expenses he necessarily incurred for—

(1) recording fees, transfer taxes, and similar expenses incidental to conveying such real property to the United States;

(2) penalty costs for prepayment of any preexisting recorded mortgage entered into in good faith encumbering such real property; and

(3) the pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the United States, or the effective date of possession of such real property by the United States, whichever is the earlier.

(Pub. L. 91–646, title III, §303, Jan. 2, 1971, 84 Stat. 1906.)

§4654. Litigation expenses

(a) Judgment for owner or abandonment of proceedings

The Federal court having jurisdiction of a proceeding instituted by a Federal agency to acquire real property by condemnation shall award the owner of any right, or title to, or interest in, such real property such sum as will in the opinion of the court reimburse such owner for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of the condemnation proceedings, if—

(1) the final judgment is that the Federal agency cannot acquire the real property by condemnation; or

(2) the proceeding is abandoned by the United States.

(b) Payment

Any award made pursuant to subsection (a) of this section shall be paid by the head of the Federal agency for whose benefit the condemnation proceedings was instituted.

(c) Claims against United States

The court rendering a judgment for the plaintiff in a proceeding brought under section 1346(a)(2) or 1491 of title 28, awarding compensation for the taking of property by a Federal agency, or the Attorney General effecting a settlement of any such proceeding, shall determine and award or allow to such plaintiff, as a part of such judgment or settlement, such sum as will in the opinion of the court or the Attorney General reimburse such plaintiff for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of such proceeding.

(Pub. L. 91–646, title III, §304, Jan. 2, 1971, 84 Stat. 1906.)

§4655. Requirements for uniform land acquisition policies; payments of expenses incidental to transfer of real property to State; payment of litigation expenses in certain cases

(a) Notwithstanding any other law, the head of a Federal agency shall not approve any program or project or any grant to, or contract or agreement with, an acquiring agency under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the acquisition of real property on and after January 2, 1971, unless he receives satisfactory assurances from such acquiring agency that—

(1) in acquiring real property it will be guided, to the greatest extent practicable under State law, by the land acquisition policies in section 4651 of this title and the provisions of section 4652 of this title, and

(2) property owners will be paid or reimbursed for necessary expenses as specified in sections 4653 and 4654 of this title.

(b) For purposes of this section, the term "acquiring agency" means—

(1) a State agency (as defined in section 4601(3) of this title) which has the authority to acquire property by eminent domain under State law, and

(2) a State agency or person which does not have such authority, to the extent provided by the head of the lead agency by regulation.

(Pub. L. 91–646, title III, §305, Jan. 2, 1971, 84 Stat. 1906; Pub. L. 100–17, title IV, §417, Apr. 2, 1987, 101 Stat. 256.)

EDITORIAL NOTES

AMENDMENTS

1987—Pub. L. 100–17 designated existing provisions as subsec. (a), substituted "an acquiring agency" for "a State agency" and "such acquiring agency" for "such State agency", and added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–17 effective on effective date provided in regulations promulgated under section 4633 of this title (as amended by section 412 of Pub. L. 100–17), but not later than 2 years after Apr. 2, 1987, see section 418 of Pub. L. 100–17, set out as a note under section 4601 of this title.

CHAPTER 62—INTERGOVERNMENTAL PERSONNEL PROGRAM

Sec.

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§4701. Congressional findings and declaration of policy

The Congress hereby finds and declares—

That effective State and local governmental institutions are essential in the maintenance and development of the Federal system in an increasingly complex and interdependent society.

That, since numerous governmental activities administered by the State and local governments are related to national purpose and are financed in part by Federal funds, a national interest exists in a high caliber of public service in State and local governments.

That the quality of public service at all levels of government can be improved by the development of systems of personnel administration consistent with such merit principles as—

(1) recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment;

(2) providing equitable and adequate compensation;

(3) training employees, as needed, to assure high-quality performance;

(4) retaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected;

(5) assuring fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, or religious creed and with proper regard for their privacy and constitutional rights as citizens; and

(6) assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office.

That Federal financial and technical assistance to State and local governments for strengthening their personnel administration in a manner consistent with these principles is in the national interest.

(Pub. L. 91–648, §2, Jan. 5, 1971, 84 Stat. 1909.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 91–648, §1, Jan. 5, 1971, 84 Stat. 1909, provided: "That this Act [enacting this chapter and sections 3371 to 3376 of Title 5, Government Organization and Employees, amending section 246(f) of this title, section 1304 of Title 5, repealing sections 1881 to 1888 of Title 7, Agriculture, and section 869b of Title 20, Education, and enacting provisions set out as notes under section 3371 of Title 5] may be cited as the 'Intergovernmental Personnel Act of 1970'."

§4702. Administration of authorities

The authorities provided by this chapter shall be administered in such manner as (1) to recognize fully the rights, powers, and responsibilities of State and local governments, and (2) to encourage innovation and allow for diversity on the part of State and local governments in the design, execution, and management of their own systems of personnel administration.

(Pub. L. 91–648, §3, Jan. 5, 1971, 84 Stat. 1909.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 91–648, Jan. 5, 1971, 84 Stat. 1909, known as the Intergovernmental Personnel Act of 1970, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4701 of this title and Tables.

SUBCHAPTER I—DEVELOPMENT OF POLICIES AND STANDARDS

§§4711 to 4713. Omitted

EDITORIAL NOTES

CODIFICATION

Section 4711, Pub. L. 91–648, title I, §101, Jan. 5, 1971, 84 Stat. 1910, declared the purpose of this subchapter to provide intergovernmental cooperation in the development of policies and standards for the administration of programs authorized by this Act.

Section 4712, Pub. L. 91–648, title I, §102, Jan. 5, 1971, 84 Stat. 1910, which provided for the establishment of an Advisory Council on Intergovernmental Personnel Policy by the President, membership, duties, compensation and travel expenses of the council and termination of the council by the President at any time after the expiration of three years following its establishment, was omitted in view of the revocation of Ex. Ord. No. 11607, July 20, 1971, 36 F.R. 13317, which established the Council, by Ex. Ord. No. 11792, June 25, 1974, 39 F.R. 23191.

Section 4713, Pub. L. 91–648, title I, §103, Jan. 5, 1971, 84 Stat. 1910, which provided that the Council report to the President and Congress, from time to time, its recommendations and findings, was omitted in view of the abolishment of the Council.

SUBCHAPTER II—STRENGTHENING STATE AND LOCAL PERSONNEL ADMINISTRATION

§4721. Declaration of purpose

The purpose of this subchapter is to assist State and local governments to strengthen their staffs by improving their personnel administration.

(Pub. L. 91–648, title II, §201, Jan. 5, 1971, 84 Stat. 1911.)

§4722. State government and statewide programs and grants

(a) Amount of grants; executive certification; systems of personnel administration: innovation and diversity in design, execution, and management

The Office of Personnel Management (hereinafter referred to as the "Office") is authorized to make grants to a State for up to 75 per centum (or, with respect to fiscal years commencing after the expiration of three years following the effective date of the grant provisions of this chapter, for up to 50 per centum) of the costs of developing and carrying out programs or projects, on the certification of the Governor of that State that the programs or projects contained within the State's application are consistent with the applicable principles set forth in clauses (1)–(6) of the third paragraph of section 4701 of this title, to strengthen personnel administration in that State government or in local governments of that State. The authority provided by this section shall be employed in such a manner as to encourage innovation and allow for diversity on the part of State and local governments in the design, execution, and management of their own systems of personnel administration.

(b) Application; time of making; information; terms and conditions; personnel administration improvement

An application for a grant shall be made at such time or times, and contain such information, as the Office may prescribe. The Office may make a grant under subsection (a) of this section only if the application therefor—

(1) provides for designation, by the Governor or chief executive authority, of the State office that will have primary authority and responsibility for the development and administration of the approved program or project at the State level;

(2) provides for the establishment of merit personnel administration where appropriate and the further improvement of existing systems based on merit principles;

(3) provides for specific personnel administration improvement needs of the State government and, to the extent appropriate, of the local governments in that State, including State personnel administration services for local governments;

(4) provides assurance that the making of a Federal Government grant will not result in a reduction in relevant State or local government expenditures or the substitution of Federal funds for State or local funds previously made available for these purposes; and

(5) sets forth clear and practicable actions for the improvement of particular aspects of personnel administration such as—

(A) establishment of statewide personnel systems of general or special functional coverage to meet the needs of urban, suburban, or rural governmental jurisdictions that are not able to provide sound career services, opportunities for advancement, adequate retirement and leave systems, and other career inducements to well-qualified professional, administrative, and technical personnel;

(B) making State grants to local governments to strengthen their staffs by improving their personnel administration;

(C) assessment of State and local government needs for professional, administrative, and technical manpower, and the initiation of timely and appropriate action to meet such needs;

(D) strengthening one or more major areas of personnel administration, such as recruitment and selection, training and development, and pay administration;

(E) undertaking research and demonstration projects to develop and apply better personnel administration techniques, including both projects conducted by State and local government staffs and projects conducted by colleges or universities or other appropriate nonprofit organizations under grants or contracts;

(F) strengthening the recruitment, selection, assignment, and development of handicapped persons, women, and members of disadvantaged groups whose capacities are not being utilized fully;

(G) training programs related directly to upgrading within the agency for nonprofessional employees who show promise of developing a capacity for assuming professional responsibility;

(H) achieving the most effective use of scarce professional, administrative, and technical manpower; and

(I) increasing intergovernmental cooperation in personnel administration, with respect to such matters as recruiting, examining, pay studies, training, education, personnel interchange, manpower utilization, and fringe benefits.

(Pub. L. 91–648, title II, §202, Jan. 5, 1971, 84 Stat. 1911; 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783.)

EDITORIAL NOTES

REFERENCES IN TEXT

For effective date of the grant provisions of this chapter, referred to in subsec. (a), as being 180 days after Jan. 5, 1971, see section 4772 of this title.

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 91–648, Jan. 5, 1971, 84 Stat. 1909, known as the Intergovernmental Personnel Act of 1970, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4701 of this title and Tables.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

"Office of Personnel Management" and "Office" substituted in text for "United States Civil Service Commission" and "Commission", respectively, pursuant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred all functions vested by statute in United States Civil Service Commission and Chairman thereof to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§4723. Local government programs and grants

(a) Population served; amount of grants; executive certification; State grant, conditions

The Office is authorized to make grants to a general local government, or a combination of general local governments, that serve a population of fifty thousand or more, for up to 75 per centum (or, with respect to fiscal years commencing after the expiration of three years following the effective date of the grant provisions of this chapter, for up to 50 per centum) of the costs of developing and carrying out programs or projects, on the certification of the mayor(s), or chief executive officer(s), of the general local government or combination of local governments that the programs or projects are consistent with the applicable principles set forth in clauses (1)–(6) of the third paragraph of section 4701 of this title, to strengthen the personnel administration of such governments. Such a grant may not be made—

(1) if, at the time of submission of an application, the State concerned has an approved plan which, with the agreement of the particular local government concerned, provides for strengthening one or more aspects of personnel administration in that local government, unless the local government concerned has problems which are not met by the previously approved plan and for which, with the agreement of the State government concerned with respect to those aspects of personnel administration covered in the approved plan, it is submitting an application; or

(2) after the State concerned has a statewide plan which has been developed by an appropriate State agency designated or established pursuant to State law which provides such agency with adequate authority, administrative organization, and staffing to develop and administer such a statewide plan, and to provide technical assistance and other appropriate support in carrying out the local components of the plan, and which provides procedures insuring adequate involvement of officials of affected local governments in the development and administration of such a statewide plan, unless the local government concerned has special, unique, or urgent problems which are not met by the approved statewide plan and for which it submits an application for funds to be distributed under section 4766(a) of this title.

Upon the request of a Governor or chief executive authority, a grant to a general local government or combination of such governments in that State may not be made during a period not to exceed ninety days commencing with the date provided in section 4772 of this title, or the date on which official regulations for this chapter are promulgated, whichever date is later: *Provided*, That the request of the Governor or chief executive authority indicates that he is developing a plan under (1) above, or during a period not to exceed one hundred and eighty days commencing with the date provided in section 4772 of this title, or the date on which official regulations for this chapter are promulgated, whichever date is later, provided the request of the Governor or chief executive authority indicates that he is developing a statewide plan under (2) above.

(b) Application; time of making; information; terms and conditions; waiver; development costs; population served

An application for a grant from a general local government or a combination of general local governments shall be made at such time or times and shall contain such information as the Office may prescribe. The Office may make a grant under subsection (a) of this section only if the application therefor meets requirements similar to those established in section 4722(b) of this title for a State application for a grant, unless any such requirement is specifically waived by the Office, and the requirements of subsection (c) of this section. Such a grant may cover the costs of developing the program or project covered by the application. The Office may make grants to general local governments, or combinations of such governments, that serve a population of less than fifty thousand, if it finds that such grants will help meet essential needs in programs or projects of national interest and will assist general local governments experiencing special problems in personnel administration related to such programs or projects.

(c) Gubernatorial review of application; disapproval explanation

An application to be submitted to the Office under subsection (b) of this section shall first be submitted by the general local government or combination of such governments to the Governor for review, comments, and recommendations. The Governor may refer the application to the State office designated under section 4722(b)(1) of this title for review. Comments and recommendations (if any) made as a result of the review, and a statement by the general local government or combination of such governments that it has considered the comments and recommendations of the Governor shall accompany the application to the Office. The application need not be accompanied by the comments and recommendations of the Governor if the general local government or combination of such governments certifies to the Office that the application has been before the Governor for review and comment for a period of sixty days without comment by the Governor. An explanation in writing shall be sent to the Governor of a State by the Office whenever the Office does not concur with recommendations of the Governor in approving any local government applications.

(Pub. L. 91–648, title II, §203, Jan. 5, 1971, 84 Stat. 1912; 1978 Reorg. Plan No. 2, §102, eff. Jan. 1,

1979, 43 F.R. 36037, 92 Stat. 3783.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 91–648, Jan. 5, 1971, 84 Stat. 1909, known as the Intergovernmental Personnel Act of 1970, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4701 of this title and Tables.

For effective date of the grant provisions of this chapter, referred to in subsec. (a), as being 180 days after Jan. 5, 1971, see section 4772 of this title.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

"Office", meaning Office of Personnel Management, substituted in text for "Commission", meaning Civil Service Commission, pursuant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in Civil Service Commission and Chairman thereof to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§4724. Intergovernmental cooperation in recruiting and examining activities; potential employees, certification; payments for costs; credits to appropriation or fund for payment of expenses

(a) The Office may join, on a shared-costs basis, with State and local governments in cooperative recruiting and examining activities under such procedures and regulations as may jointly be agreed upon.

(b) The Office also may, on the written request of a State or local government and under such procedures as may be jointly agreed upon, certify to such governments from appropriate Federal registers the names of potential employees. The State or local government making the request shall pay the Office for the costs, as determined by the Office, of performing the service, and such payments shall be credited to the appropriation or fund from which the expenses were or are to be paid.

(Pub. L. 91–648, title II, §204, Jan. 5, 1971, 84 Stat. 1914; 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783.)

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

"Office", meaning Office of Personnel Management, substituted in text for "Commission", meaning Civil Service Commission, pursuant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in Civil Service Commission and Chairman thereof to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§4725. Technical assistance; waiver of payments for costs; credits to appropriation or fund for payment of expenses

The Office may furnish technical advice and assistance, on request, to State and general local

governments seeking to improve their systems of personnel administration. The Office may waive, in whole or in part, payments from such governments for the costs of furnishing such assistance. All such payments shall be credited to the appropriation or fund from which the expenses were or are to be paid.

(Pub. L. 91–648, title II, §205, Jan. 5, 1971, 84 Stat. 1914; 1978 Reorg. Plan. No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783.)

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

"Office", meaning Office of Personnel Management, substituted in text for "Commission", meaning Civil Service Commission, pursuant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in Civil Service Commission and Chairman thereof to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§4726. Coordination of Federal programs

The Office, after consultation with other agencies concerned, shall—

(1) coordinate the personnel administration support and technical assistance given to State and local governments and the support given State programs or projects to strengthen local government personnel administration, including the furnishing of needed personnel administration services and technical assistance, under authority of this chapter with any such support given under other Federal programs; and

(2) make such arrangements, including the collection, maintenance, and dissemination of data on grants for strengthening State and local government personnel administration and on grants to States for furnishing needed personnel administration services and technical assistance to local governments, as needed to avoid duplication and insure consistent administration of related Federal activities.

(Pub. L. 91–648, title II, §206, Jan. 5, 1971, 84 Stat. 1914; 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in par. (1), was in the original "this Act", meaning Pub. L. 91–648, Jan. 5, 1971, 84 Stat. 1909, known as the Intergovernmental Personnel Act of 1970, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4701 of this title and Tables.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

"Office", meaning Office of Personnel Management, substituted in text for "Commission", meaning Civil Service Commission, pursuant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in Civil Service Commission and Chairman thereof to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§4727. Interstate compacts

The consent of the Congress is hereby given to any two or more States to enter into compacts or other agreements, not in conflict with any law of the United States, for cooperative efforts and mutual assistance (including the establishment of appropriate agencies) in connection with the development and administration of personnel and training programs for employees and officials of State and local governments.

(Pub. L. 91–648, title II, §207, Jan. 5, 1971, 84 Stat. 1915.)

§4728. Transfer of functions

(a) Prescription of personnel standards on a merit basis

There are hereby transferred to the Office all functions, powers, and duties of—

(1) the Secretary of Agriculture under section 10(e)(2) of the Food and Nutrition Act of 2008 of 1964 (7 U.S.C. 2019(e)(2)); [1]

(2) the Secretary of Labor under—

(A) the Act of June 6, 1933, as amended (29 U.S.C. 49 et seq.); and

(B) section 503(a)(1) of this title;

(3) the Secretary of Health and Human Services under—

(A) sections 2674(a)(6) and 2684(a)(6) of this title;

(B) section 3023(a)(6) of this title;

(C) sections 246(a)(2)(F) and (d)(2)(F) and 291d(a)(8) of this title; and

(D) sections 302(a)(5)(A), 602(a)(5)(A), 705(a)(3)(A), 1202(a)(5)(A), 1352(a)(5)(A), 1382(a)(5)(A), and 1396a(a)(4)(A) of this title; and

(4) any other department, agency, office, or officer (other than the President) under any other provision of law or regulation applicable to a program of grant-in-aid that specifically requires the establishment and maintenance of personnel standards on a merit basis with respect to the program;

insofar as the functions, powers, and duties relate to the prescription of personnel standards on a merit basis.

(b) Standards for systems of personnel administration

In accordance with regulations of the Office of Personnel Management, Federal agencies may require as a condition of participation in assistance programs, systems of personnel administration consistent with personnel standards prescribed by the Office for positions engaged in carrying out such programs. The standards shall—

(1) include the merit principles in section 4701 of this title;

(2) be prescribed in such a manner as to minimize Federal intervention in State and local personnel administration.

(c) Powers and duties of Office

The Office shall—

(1) provide consultation and technical advice and assistance to State and local governments to aid them in complying with standards prescribed by the Office under subsection (a) of this section; and

(2) advise Federal agencies administering programs of grants or financial assistance as to the application of required personnel administration standards, and recommend and coordinate the taking of such actions by the Federal agencies as the Office considers will most effectively carry out the purpose of this subchapter.

(d) Transfer of personnel, property, records, and funds; time of transfer

So much of the personnel, property, records, and unexpended balances of appropriations,

allocations, and other funds of any Federal agency employed, used, held, available, or to be made available in connection with the functions, powers, and duties vested in the Office by this section as the Director of the Management and Budget shall determine shall be transferred to the Office at such time or times as the Director shall direct.

(e) Modification or supersedure of personnel standards

Personnel standards prescribed by Federal agencies under laws and regulations referred to in subsection (a) of this section shall continue in effect until modified or superseded by standards prescribed by the Office under subsection (a) of this section.

(f) Systems of personnel administration; innovation and diversity in design, execution, and management

Any standards or regulations established pursuant to the provisions of this section shall be such as to encourage innovation and allow for diversity on the part of State and local governments in the design, execution, and management of their own individual systems of personnel administration.

(g) Interpretation of certain provisions; limitation

Nothing in this section or in section 4722 or 4723 of this title shall be construed to—

(1) authorize any agency or official of the Federal Government to exercise any authority, direction, or control over the selection, assignment, advancement, retention, compensation, or other personnel action with respect to any individual State or local employee;

(2) authorize the application of personnel standards on a merit basis to the teaching personnel of educational institutions or school systems;

(3) prevent participation by employees or employee organizations in the formulation of policies and procedures affecting the conditions of their employment, subject to the laws and ordinances of the State or local government concerned;

(4) require or request any State or local government employee to disclose his race, religion, or national origin, or the race, religion, or national origin, of any of his forebears;

(5) require or request any State or local government employee, or any person applying for employment as a State or local government employee, to submit to any interrogation or examination or to take any psychological test or any polygraph test which is designed to elicit from him information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs or practices, or concerning his attitude or conduct with respect to sexual matters; or

(6) require or request any State or local government employee to participate in any way in any activities or undertakings unless such activities or undertakings are related to the performance of official duties to which he is or may be assigned or to the development of skills, knowledge, or abilities which qualify him for the performance of such duties.

(h) Grants-in-aid; abolition of certain requirements

Effective one year after October 13, 1978, all statutory personnel requirements established as a condition of the receipt of Federal grants-in-aid by State and local governments are hereby abolished, except—

(1) requirements prescribed under laws and regulations referred to in subsection (a) of this section;

(2) requirements that generally prohibit discrimination in employment or require equal employment opportunity;

(3) sections 3141–3144, 3146, and 3147 of title 40; and

(4) chapter 15 of title 5, relating to political activities of certain State and local employees.

(Pub. L. 91–648, title II, §208, Jan. 5, 1971, 84 Stat. 1915; Pub. L. 95–454, §602(a)(2), (3), Oct. 13, 1978, 92 Stat. 1188, 1189; 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 110–234, title IV, §4002(b)(1)(C), (2)(CC), May 22, 2008, 122 Stat. 1096, 1097; Pub. L. 110–246, §4(a), title IV, §4002(b)(1)(C), (2)(CC), June 18, 2008, 122 Stat. 1664, 1857, 1859.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 10(e)(2) of the Food and Nutrition Act of 2008 of 1964 (7 U.S.C. 2019(e)(2)), referred to in subsec. (a)(1), was a reference to section 10(e)(2) of the Food Stamp Act of 1964 prior to the amendment by Pub. L. 110–246 which substituted "Food and Nutrition Act of 2008" for "Food Stamp Act". See 2008 Amendment note below. Section 10 of the Food Stamp Act of 1964, which was classified to section 2019 of Title 7, Agriculture, was amended generally by Pub. L. 95–113, §1301, Sept. 29, 1977, 91 Stat. 969, and the provisions formerly contained in section 2019(e)(2) were covered by section 2020(e)(6) of Title 7.

Act of June 6, 1933, as amended, referred to in subsec. (a)(2)(A), is act June 6, 1933, ch. 49, 48 Stat. 113, known as the "Wagner-Peyser Act", which is classified generally to chapter 4B (§49 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 49 of Title 29 and Tables.

Sections 2674(a)(6) and 2684(a)(6) of this title, referred to in subsec. (a)(3)(A), was in the original a reference to sections 134(a)(6) and 204(a)(6) of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963. Section 134 of the Act was renumbered "133" and amended by Pub. L. 94–103, and is classified to section 6063 of this title. Provisions relating to personnel standards on a merit basis appeared in section 6063(b)(7) of this title, and were subsequently deleted in a general amendment of subsec. (b). Title II of the Act was amended generally by Pub. L. 94–63, and provisions relating to personnel standards on a merit basis appeared in section 237(a)(1)(D) of the Act, which was classified to section 2689t(a)(1)(D) of this title. Section 2689t was repealed by Pub. L. 97–35, title IX, §902(e)(2)(B), Aug. 13, 1981, 95 Stat. 560.

Section 3023(a)(6) of this title, referred to in subsec. (a)(3)(B), was in the original a reference to section 303(a)(6) of the Older Americans Act of 1965. Section 301 of Pub. L. 93–29 amended the Older Americans Act of 1965 by striking out title III and inserting in lieu thereof a new title III. Provisions relating to personnel standards on a merit basis appeared in section 305(a)(2) of the Act, which was classified to section 3025(a)(2) of this title prior to the general revision and reorganization of title III by Pub. L. 95–478, §103(b). Provisions similar to those comprising section 3025 of this title are contained in section 3027 of this title.

Section 246(d) of this title, referred to in subsec. (a)(3)(C), was repealed by Pub. L. 97–35, title IX, §902(b), Aug. 13, 1981, 95 Stat. 559.

Section 602 of this title, referred to in subsec. (a)(3)(D), was repealed and a new section 602 enacted by Pub. L. 104–193, title I, §103(a)(1), Aug. 22, 1996, 110 Stat. 2112, and, as so enacted, no longer contains a subsec. (a)(5)(A).

Section 705 of this title, referred to in subsec. (a)(3)(D), was amended by Pub. L. 97–35, title XXI, §2192(a), Aug. 13, 1981, 95 Stat. 822, and, as so amended, did not contain a subsec. (a). Section 705 was subsequently amended by Pub. L. 101–239, title VI, §6503(b)(2), (4), Dec. 19, 1989, 103 Stat. 2276, which inserted a subsec. "(a)" designation at the beginning of the section and added a par. (3) to subsec. (a).

Section 1382(a)(5)(A) of this title, referred to in subsec. (a)(3)(D), was in the original a reference to section 1602(a)(5)(A) of the Social Security Act. Title XVI of the Social Security Act (section 1381 et seq. of this title) was amended generally by Pub. L. 92–603, title III, §301, Oct. 30, 1972, 86 Stat. 1465, and the provisions formerly contained in section 1382 of this title appeared in section 602 of the Act, which was classified to section 802 of this title, and was repealed by Pub. L. 93–647, §3(b), Jan. 4, 1975, 88 Stat. 2349.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

In subsec. (h)(3), "sections 3141–3144, 3146, and 3147 of title 40" substituted for "the Davis-Bacon Act (40 U.S.C. 276 et seq.)", meaning 40 U.S.C. 276a et seq., on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

2008—Pub. L. 110–246, §4002(b)(1)(C), (2)(CC), substituted "Food and Nutrition Act of 2008" for "Food Stamp Act".

1978—Subsecs. (b) to (h). Pub. L. 95–454 added subsec. (b), redesignated former subsecs. (b) to (g) as (c) to (h), respectively, and in subsec. (h), as so redesignated, substituted provisions respecting abolition of certain requirements respecting grants-in-aid, for provisions setting forth effective date of this section as 60 days after Jan. 5, 1971.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Secretary of Health and Human Services" substituted for "Secretary of Health, Education, and Welfare" in subsec. (a)(3) pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(C), (2)(CC) of Pub. L. 110–246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110–246, set out as a note under section 1161 of Title 2, The Congress.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of Title 5, Government Organization and Employees.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

"Office", meaning Office of Personnel Management, substituted for "Commission", meaning Civil Service Commission, in subsecs. (a) and (c) to (e) pursuant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in Civil Service Commission and Chairman thereof to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

[1] *See References in Text note below.*

SUBCHAPTER III—TRAINING AND DEVELOPING STATE AND LOCAL EMPLOYEES

§4741. Declaration of purpose

The purpose of this subchapter is to strengthen the training and development of State and local government employees and officials, particularly in professional, administrative, and technical fields.

(Pub. L. 91–648, title III, §301, Jan. 5, 1971, 84 Stat. 1916.)

§4742. Admission to Federal employee training programs

(a) State and local government officers and employees

In accordance with such conditions as may be prescribed by the head of the Federal agency concerned, a Federal agency may admit State and local government employees and officials to agency training programs established for Federal professional, administrative, or technical personnel.

(b) Waiver of payments for training costs

Federal agencies may waive, in whole or in part, payments from, or on behalf of, State and local governments for the costs of training provided under this section. Payments received by the Federal agency concerned for training under this section shall be credited to the appropriation or fund used for paying the training costs.

(c) Initial costs; reimbursement of other Federal agencies

The Office may use appropriations authorized by this chapter to pay the initial additional developmental or overhead costs that are incurred by reason of admittance of State and local government employees to Federal training courses and to reimburse other Federal agencies for such costs.

(Pub. L. 91–648, title III, §302, Jan. 5, 1971, 84 Stat. 1916; 1978 Reorg. Plan No. 2, 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original "this Act", meaning Pub. L. 91–648, Jan. 5, 1971, 84 Stat. 1909, known as the Intergovernmental Personnel Act of 1970, which enacted this chapter and sections 3371 to 3376 of Title 5, Government Organization and Employees, amended section 246(f) of this title, section 1304 of Title 5, repealed sections 1881 to 1888 of Title 7, Agriculture, and section 869b of Title 20, Education, and enacted provisions set out as notes under section 3371 of Title 5. For complete classification of this Act to the Code, see Short Title note set out section 4701 of this title and Tables.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

"Office", meaning Office of Personnel Management, substituted for "Commission", meaning Civil Service Commission, in subsec. (c) pursuant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in Civil Service Commission and Chairman thereof to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§4743. Grants to State and local governments for training

(a) Amount of grants; executive certification; use restrictions; uses for non-Federal share; personnel training and education programs: innovation and diversity in development and execution

If in its judgment training is not adequately provided for under grant-in-aid or other statutes, the Office is authorized to make grants to State and general local governments for up to 75 per centum (or, with respect to fiscal years commencing after the expiration of three years following the effective date of the grant provisions of this chapter, for up to 50 per centum) of the costs of developing and carrying out programs, on the certification of the Governor of that State, or the mayor or chief executive officer of the general local government, that the programs are consistent with the applicable principles set forth in clauses (1)–(6) of the third paragraph of section 4701 of this title, to train and educate their professional, administrative, and technical employees and officials. Such grants may not be used to cover costs of full-time graduate-level study, provided for in section 4745 of this title, or the costs of the construction or acquisition of training facilities. The State and local government share of the cost of developing and carrying out training and education plans and programs may include, but shall not consist solely of, the reasonable value of facilities and of supervisory and other personal services made available by such governments. The authority provided by this section shall be employed in such a manner as to encourage innovation and allow for diversity on the part of State and local governments in developing and carrying out training and education programs for their personnel.

(b) Application; time of making; information; terms and conditions; waiver; development costs

An application for a grant from a State or general local government shall be made at such time or times, and shall contain such information, as the Office may prescribe. The Office may make a grant

under subsection (a) of this section, only if the application therefor meets requirements established by this subsection unless any requirement is specifically waived by the Office. Such grant to a State, or to a general local government under subsection (c) of this section, may cover the costs of developing the program covered by the application. The program covered by the application shall—

(1) provide for designation, by the Governor or chief executive authority, of the State office that will have primary authority and responsibility for the development and administration of the program at the State level;

(2) provide, to the extent feasible, for coordination with relevant training available under or supported by other Federal Government programs or grants;

(3) provide for training needs of the State government and of local governments in that State;

(4) provide, to the extent feasible, for intergovernmental cooperation in employee training matters, especially within metropolitan or regional areas; and

(5) provide assurance that the making of a Federal Government grant will not result in a reduction in relevant State or local government expenditures or the substitution of Federal funds for State or local funds previously made available for these purposes.

(c) Population served; amount of grants; executive certification; State grant, conditions; terms and conditions; waiver

A grant authorized by subsection (a) of this section may be made to a general local government, or a combination of such governments, that serve a population of fifty thousand or more, for up to 75 per centum (or, with respect to fiscal years commencing after the expiration of three years following the effective date of the grant provisions of this chapter, for up to 50 per centum) of the costs of developing and carrying out programs or projects, on the certification of the mayor(s), or chief executive officer(s), of the general local government or combination of local governments that the programs or projects are consistent with the applicable principles set forth in clauses (1)–(6) of the third paragraph of section 4701 of this title to train and educate their professional, administrative, and technical employees and officials. Such a grant may not be made—

(1) if, at the time of submission of an application, the State concerned has an approved plan which, with the agreement of the particular local government concerned, provides for strengthening one or more aspects of training in that local government, unless the local government concerned has problems which are not met by the previously approved plan and for which, with the agreement of the State government concerned with respect to those aspects of training covered in the approved plan, it is submitting an application; or

(2) after the State concerned has a statewide plan which has been developed by an appropriate State agency designated or established pursuant to State law which provides such agency with adequate authority, administrative organization, and staffing to develop and administer such a statewide plan, and to provide technical assistance and other appropriate support in carrying out the local components of the plan, and which provides procedures insuring adequate involvement of officials of affected local governments in the development and administration of such a statewide plan, unless the local government concerned has special, unique, or urgent problems which are not met by the approved statewide plan and for which it submits an application for funds to be distributed under section 4766(a) of this title.

Upon the request of a Governor or chief executive authority, a grant to a general local government or combination of such governments in that State may not be made during a period not to exceed ninety days commencing with the date provided in section 4772 of this title, or the date on which official regulations for this chapter are promulgated, whichever date is later: *Provided*, That the request of the Governor or chief executive authority indicates that he is developing a plan under (1) above, or during a period not to exceed one hundred and eighty days commencing with the date provided in section 4772 of this title, or the date on which official regulations for this chapter are promulgated, whichever date is later, provided the request of the Governor or chief executive authority indicates that he is developing a statewide plan under (2) above. To be approved, an application for a grant under this subsection must meet requirements similar to those established in subsection (b) of this section for State applications, unless any such requirement is specifically

waived by the Office, and the requirements of subsection (d) of this section. The Office may make grants to general local governments, or combinations of such governments that serve a population of less than fifty thousand if it finds that such grants will help meet essential needs in programs or projects of national interest and will assist general local governments experiencing special needs for personnel training and education related to such programs or projects.

(d) Gubernatorial review of application; disapproval explanation

An application to be submitted to the Office under subsection (c) of this section shall first be submitted by the general local government or combination of such governments to the Governor for review, comments, and recommendations. The Governor may refer the application to the State office designated under subsection (b)(1) of this section for review. Comments and recommendations (if any) made as a result of the review and a statement by the general local government or combination of such governments that it has considered the comments and recommendations of the Governor shall accompany the application to the Office. The application need not be accompanied by the comments and recommendations of the Governor if the general local government or combination of such governments certifies to the Office that the application has been before the Governor for review and comment for a period of sixty days without comment by the Governor. An explanation in writing shall be sent to the Governor of a State by the Office whenever the Office does not concur with recommendations of the Governor in approving any local government applications.

(Pub. L. 91–648, title III, §303, Jan. 5, 1971, 84 Stat. 1917; 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (c), was in the original "this Act", meaning Pub. L. 91–648, Jan. 5, 1971, 84 Stat. 1909, known as the Intergovernmental Personnel Act of 1970, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4701 of this title and Tables.

For effective date of the grant provisions of this chapter, referred to in subsecs. (a) and (c), as being 180 days after Jan. 5, 1971, see section 4772 of this title.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

"Office", meaning Office of Personnel Management, substituted in text for "Commission", meaning Civil Service Commission, pursuant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in Civil Service Commission and Chairman thereof to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§4744. Grants to other organizations

(a) Amount of grants; conditions

The Office is authorized to make grants to other organizations to pay up to 75 per centum (or, with respect to fiscal years commencing after the expiration of three years following the effective date of the grant provisions of this chapter, up to 50 per centum) of the costs of providing training to professional, administrative, or technical employees and officials of State or local governments if the Office—

(1) finds that State or local governments have requested the proposed program;

(2) determines that the capability to provide such training does not exist, or is not readily available, within the Federal or the State or local governments requesting such program or within

associations of State or local governments, or if such capability does exist that such government or association is not disposed to provide such training; and

(3) approves the program as meeting such requirements as may be prescribed by the Office in its regulations pursuant to this chapter.

(b) "Other organization" defined

For the purpose of this section "other organization" means—

(1) a national, regional, statewide, areawide, or metropolitan organization, representing member State or local governments;

(2) an association of State or local public officials; or

(3) a nonprofit organization one of whose principal functions is to offer professional advisory, research, development, educational or related services to governments.

(Pub. L. 91–648, title III, §304, Jan. 5, 1971, 84 Stat. 1919; 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 91–648, Jan. 5, 1971, 84 Stat. 1909, known as the Intergovernmental Personnel Act of 1970, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4701 of this title and Tables.

For effective date of the grant provisions of this chapter, referred to in subsec. (a), as being 180 days after Jan. 5, 1971, see section 4772 of this title.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

"Office", meaning Office of Personnel Management, substituted for "Commission", meaning Civil Service Commission, in subsec. (a) pursuant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in Civil Service Commission and Chairman thereof to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§4745. Government Service Fellowships

(a) Diverse payments

The Office is authorized to make grants to State and general local governments to support programs approved by the Office for providing Government Service Fellowships for State and local government personnel. The grants may cover—

(1) the necessary costs of the fellowship recipient's books, travel, and transportation, and such related expenses as may be authorized by the Office;

(2) reimbursement to the State or local government for not to exceed one-fourth of the salary of each fellow during the period of the fellowship; and

(3) payment to the educational institutions involved of such amounts as the Office determines to be consistent with prevailing practices under comparable federally supported programs for each fellow, less any amount charged the fellow for tuition and nonrefundable fees and deposits.

(b) Period of fellowships; eligibility criteria

Fellowships awarded under this section may not exceed two years of full-time graduate-level study for professional, administrative, and technical employees. The regulations of the Office shall include eligibility criteria for the selection of fellowship recipients by State and local governments.

(c) Selection of fellows; continuation of salary and employment benefits; public service plans upon completion of study: outline of plans in application for grant

The State or local government concerned shall—

(1) select the individual recipients of the fellowships;

(2) during the period of the fellowship, continue the full salary of the recipient and normal employment benefits such as credit for seniority, leave accrual, retirement, and insurance; and

(3) make appropriate plans for the utilization and continuation in public service of employees completing fellowships and outline such plans in the application for the grant.

(Pub. L. 91–648, title III, §305, Jan. 5, 1971, 84 Stat. 1919; 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783.)

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

"Office", meaning Office of Personnel Management, substituted for "Commission", meaning Civil Service Commission, in subsecs. (a) and (b) pursuant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in Civil Service Commission and Chairman thereof to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§4746. Coordination of Federal programs

The Office, after consultation with other agencies concerned, shall—

(1) prescribe regulations concerning administration of training for employees and officials of State and local governments provided for in this subchapter, including requirements for coordination of and reasonable consistency in such training programs;

(2) coordinate the training support given to State and local governments under authority of this chapter with training support given such governments under other Federal programs; and

(3) make such arrangements, including the collection and maintenance of data on training grants and programs, as may be necessary to avoid duplication of programs providing for training and to insure consistent administration of related Federal training activities, with particular regard to title IX of the Higher Education Act of 1965.

(Pub. L. 91–648, title III, §306, Jan. 5, 1971, 84 Stat. 1920; 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in par. (2), was in the original "this Act", meaning Pub. L. 91–648, Jan. 5, 1971, 84 Stat. 1909, known as the Intergovernmental Personnel Act of 1970, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4701 of this title and Tables.

The Higher Education Act of 1965, referred to in par. (3), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219. Title IX of the Act was classified generally to subchapter IX (§1134 et seq.) of chapter 28 of Title 20, Education, prior to repeal by Pub. L. 105–244, title VII, §702, Oct. 7, 1998, 112 Stat. 1803. Title IX as originally added by Pub. L. 89–329 related to education for the public service. Pub. L. 92–318 struck out title IX and inserted in lieu thereof a new title IX relating to graduate programs. Subsequently Pub. L. 99–498 extensively revised title IX relating to graduate programs. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

"Office", meaning Office of Personnel Management, substituted in text for "Commission", meaning Civil Service Commission, pursuant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in Civil Service Commission and Chairman thereof to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

SUBCHAPTER IV—GENERAL PROVISIONS

§4761. Declaration of purpose

The purpose of this subchapter is to provide for the general administration of subchapters I, II, III, and IV of this chapter (hereinafter referred to as "this chapter"), and to provide for the establishment of certain advisory committees.

(Pub. L. 91–648, title V, §501, Jan. 5, 1971, 84 Stat. 1925.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this title", meaning title V of Pub. L. 91–648. See below.

Subchapters I, II, III, and IV of this chapter, referred to in text, was in the original "titles I, II, III, and V of this Act", meaning Pub. L. 91–648, Jan. 5, 1971, 84 Stat. 1909. Titles I, II, and III of the Act are classified generally to subchapters I (§4701 et seq.), II (§4721 et seq.), and III (§4741 et seq.), respectively, of this chapter. Title V of the Act is classified principally to this subchapter. For complete classification of titles I to III and V to the Code, see Tables.

§4762. Definitions

For the purpose of this chapter—

(1) "Office" means the Office of Personnel Management;

(2) "Federal agency" means an executive department, military department, independent establishment, or agency in the executive branch of the Government of the United States, including Government owned or controlled corporations;

(3) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and a territory or possession of the United States, and includes interstate and Federal-interstate agencies but does not include the governments of the political subdivisions of a State;

(4) "local government" means a city, town, county, or other subdivision or district of a State, including agencies, instrumentalities, and authorities of any of the foregoing and any combination of such units or combination of such units and a State. A "general local government" means a city, town, county, or comparable general-purpose political subdivision of a State; and

(5) Notwithstanding the population requirements of sections 4723(a) and 4743(c) of this title, a "local government" and a "general local government" also mean the recognized governing body of an Indian tribe, band, pueblo, or other organized group or community, including any Alaska Native village, as defined in the Alaska Native Claims Settlement Act (85 Stat. 688) [43 U.S.C. 1601 et seq.], which performs substantial governmental functions. The requirements of sections 4723(c) and 4743(d) of this title, relating to reviews by the Governor of a State, do not apply to

grant applications from the governing body of an Indian tribe, although nothing in this chapter is intended to discourage or prohibit voluntary communication and cooperation between Indian tribes and State and local governments.

(Pub. L. 91–648, title V, §502, Jan. 5, 1971, 84 Stat. 1925; Pub. L. 93–638, title I, §104(d), formerly §105(d), Jan. 4, 1975, 88 Stat. 2208, renumbered §104(d), Pub. L. 100–472, title II, §203(a), Oct. 5, 1988, 102 Stat. 2290; Pub. L. 95–454, title VI, §602(d), Oct. 13, 1978, 92 Stat. 1189; 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, means the provisions of subchapters I, II, III, and IV of this chapter. See section 4761 of this title.

The Alaska Native Claims Settlement Act, referred to in par. (5), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

AMENDMENTS

1978—Par. (3). Pub. L. 95–454 inserted reference to Trust Territory of the Pacific Islands.

1975—Par. (5). Pub. L. 93–638 added par. (5).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of Title 5, Government Organization and Employees.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

"Office" and "Office of Personnel Management" substituted for "Commission" and "Civil Service Commission", respectively, in par. (1), pursuant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred all functions vested by statute in Civil Service Commission and Chairman thereof to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§4763. General administrative provisions

(a) Administration by Office

Unless otherwise specifically provided, the Office shall administer this chapter.

(b) Advice and assistance

The Office shall furnish such advice and assistance to State and local governments as may be necessary to carry out the purposes of this chapter.

(c) Regulations and standards; contracts: modification, covenants, conditions, and provisions; utilization of other agencies

In the performance of, and with respect to, the functions, powers, and duties vested in it by this chapter, the Office may—

(1) issue such standards and regulations as may be necessary to carry out the purposes of this chapter;

(2) consent to the modification of any contract entered into pursuant to this chapter, such consent being subject to any specific limitations of this chapter;

(3) include in any contract made pursuant to this chapter such covenants, conditions, or provisions as it deems necessary to assure that the purposes of this chapter will be achieved; and

(4) utilize the services and facilities of any Federal agency, any State or local government, and any other public or nonprofit agency or institution, on a reimbursable basis or otherwise, in accordance with agreements between the Office and the head thereof.

(d) Information: collection and availability; research and evaluation; administration report; coordination of Federal programs

In the performance of, and with respect to the functions, powers, and duties vested in it by this chapter, the Office—

(1) may collect information from time to time with respect to State and local government training programs and personnel administration improvement programs and projects under this chapter, and make such information available to interested groups, organizations, or agencies, public or private;

(2) may conduct such research and make such evaluation as needed for the efficient administration of this chapter;

(3) shall include in its annual report a report of the administration of this chapter; and

(4) shall make such arrangements as may be necessary to avoid duplication of programs providing for training and to insure consistent administration of the related Federal training activities, with particular regard to title I of the Higher Education Act of 1965 [20 U.S.C. 1001 et seq.].

(e) Additional authority

The provisions of this chapter are not a limitation on existing authorities under other statutes but are in addition to any such authorities, unless otherwise specifically provided in this chapter.

(Pub. L. 91–648, title V, §503, Jan. 5, 1971, 84 Stat. 1926; 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, means the provisions of subchapters I, II, III, and IV of this chapter. See section 4761 of this title.

The Higher Education Act of 1965, referred to in subsec. (d)(4), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219. Title I of the Higher Education Act of 1965 is classified generally to subchapter I (§1001 et seq.) of chapter 28 of Title 20, Education. Title I as originally enacted by Pub. L. 89–329 related to community service and continuing education programs. Title I was amended generally by Pub. L. 96–374, Pub. L. 99–498, Pub. L. 102–325, and Pub. L. 105–244, and now contains general provisions. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

"Office", meaning Office of Personnel Management, substituted for "Commission", meaning Civil Service Commission, in subsecs. (a) to (d) pursuant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in Civil Service Commission and Chairman thereof to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§4764. Reporting and recordkeeping requirements for State or local governments and other organizations

(a) A State or local government office designated to administer a program or project under this chapter shall make reports and evaluations in such form, at such times, and containing such information concerning the status and application of Federal funds and the operation of the approved program or project as the Office may require, and shall keep and make available such records as may be required by the Office for the verification of such reports and evaluations.

(b) An organization which receives a training grant under section 4744 of this title shall make reports and evaluations in such form, at such times, and containing such information concerning the status and application of Federal grant funds and the operation of the training program as the Office may require, and shall keep and make available such records as may be required by the Office for the verification of such reports and evaluations.

(Pub. L. 91–648, title V, §504, Jan. 5, 1971, 84 Stat. 1926; 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), means the provisions of subchapters I, II, III, and IV of this chapter. See section 4761 of this title.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

"Office", meaning Office of Personnel Management, substituted in text for "Commission", meaning Civil Service Commission, pursuant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in Civil Service Commission and Chairman thereof to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§4765. Review and audit

The Office, the head of the Federal agency concerned, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of a grant recipient that are pertinent to the grant received.

(Pub. L. 91–648, title V, §505, Jan. 5, 1971, 84 Stat. 1927; 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783.)

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

"Office", meaning Office of Personnel Management, substituted in text for "Commission", meaning Civil Service Commission, pursuant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in Civil Service Commission and Chairman thereof to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§4766. Distribution of grants

(a) State and local government allocations; equitable distribution

The Office shall allocate 20 per centum of the total amount available for grants under this chapter in such manner as will most nearly provide an equitable distribution of the grants among States and between State and local governments, taking into consideration such factors as the size of the population, number of employees affected, the urgency of the programs or projects, the need for funds to carry out the purposes of this chapter, and the potential of the governmental jurisdictions concerned to use the funds most effectively.

(b) Weighted formula; minimum allocation; reallocation; "State" defined

(1) The Office shall allocate 80 per centum of the total amount available for grants under this chapter among the States on a weighted formula taking into consideration such factors as the size of population and the number of State and local government employees affected.

(2) The amount allocated for each State under paragraph (1) of this subsection shall be further allocated by the Office to meet the needs of both the State government and the local governments within the State on a weighted formula taking into consideration such factors as the number of State and local government employees and the amount of State and local government expenditures. The Office shall determine the categories of employees and expenditures to be included or excluded, as the case may be, in the number of employees and amount of expenditures. The minimum allocation for meeting needs of local governments in each State (other than the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands) shall be 50 per centum of the amount allocated for the State under paragraph (1) of this subsection.

(3) The amount of any allocation under paragraph (2) of this subsection which the Office determines, on the basis of information available to it, will not be used to meet needs for which allocated shall be available for use to meet the needs of the State government or local governments in that State, as the case may be, on such date or dates as the Office may fix.

(4) The amount allocated for any State under paragraph (1) of this subsection which the Office determines, on the basis of information available to it, will not be used shall be available for reallocation by the Office from time to time, on such date or dates as it may fix, among other States with respect to which such a determination has not been made, in accordance with the formula set forth in paragraph (1) of this subsection, but with such amount for any of such other States being reduced to the extent it exceeds the sum the Office estimates said State needs and will be able to use; and the total of such reductions shall be similarly reallocated among the States whose proportionate amounts were not so reduced.

(5) For the purposes of this subsection, "State" means the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands.

(c) Payment limitation

Notwithstanding the other provisions of this section, the total of the payments from the appropriations for any fiscal year under this chapter made with respect to programs or projects in any one State may not exceed an amount equal to 12½ per centum of such appropriation.

(Pub. L. 91–648, title V, §506, Jan. 5, 1971, 84 Stat. 1927; Pub. L. 95–454, title VI, §602(e), Oct. 13, 1978, 92 Stat. 1189; 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b)(1), and (c), means the provisions of subchapters I, II, III, and IV of this chapter. See section 4761 of this title.

AMENDMENTS

1978—Subsec. (b)(2), (5). Pub. L. 95–454 inserted references to Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of Title 5, Government Organization and Employees.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

"Office", meaning Office of Personnel Management, substituted for "Commission", meaning Civil Service Commission, in subsecs. (a) and (b), pursuant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in Civil Service Commission and Chairman thereof to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§4767. Termination of grants

Whenever the Office, after giving reasonable notice and opportunity for hearing to the State or general local government concerned, finds—

(1) that a program or project has been so changed that it no longer complies with the provisions of this chapter; or

(2) that in the operation of the program or project there is a failure to comply substantially with any such provision;

the Office shall notify the State or general local government of its findings and no further payments may be made to such government by the Office until it is satisfied that such noncompliance has been, or will promptly be, corrected. However, the Office may authorize the continuance of payments to those projects approved under this chapter which are not involved in the noncompliance.

(Pub. L. 91–648, title V, §507, Jan. 5, 1971, 84 Stat. 1928; 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, means the provisions of subchapters I, II, III, and IV of this chapter. See section 4761 of this title.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

"Office", meaning Office of Personnel Management, substituted in text for "Commission", meaning Civil Service Commission, pursuant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in Civil Service Commission and Chairman thereof to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§4768. Advisory committees; appointment; compensation and travel expenses

(a) The Office may appoint, without regard to the provisions of title 5 governing appointments in the competitive service, such advisory committee or committees as it may determine to be necessary

to facilitate the administration of this chapter.

(b) Members of advisory committees who are not regular full-time employees of the United States, while serving on the business of the committees including traveltime may receive compensation at rates not exceeding the daily rate for GS–18; and while so serving away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for individuals in the Government service employed intermittently.

(Pub. L. 91–648, title V, §508, Jan. 5, 1971, 84 Stat. 1928; 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), means the provisions of subchapters I, II, III, and IV of this chapter. See section 4761 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 1013 of Title 5, Government Organization and Employees.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

"Office", meaning Office of Personnel Management, substituted for "Commission", meaning Civil Service Commission, in subsec. (a) pursuant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in Civil Service Commission and Chairman thereof to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§4769. Authorization of appropriations

There are authorized to be appropriated, without fiscal year limitation, such sums as may be necessary to carry out the programs authorized by this chapter.

(Pub. L. 91–648, title V, §509, Jan. 5, 1971, 84 Stat. 1928.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, means the provisions of subchapters I, II, III, and IV of this chapter. See section 4761 of this title.

§4770. Limitations on availability of funds for cost sharing

Federal funds made available to State or local governments under other programs may not be used by the State or local government for cost-sharing purposes under grant provisions of this chapter, except that Federal funds of a program financed wholly by Federal funds may be used to pay a pro-rata share of such cost sharing. State or local government funds used for cost sharing on other federally assisted programs may not be used for cost sharing under grant provisions of this chapter.

(Pub. L. 91–648, title V, §511, Jan. 5, 1971, 84 Stat. 1928.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, means the provisions of subchapters I, II, III, and IV of this chapter. See section 4761 of this title.

§4771. Method of payment; installments; advances or reimbursement; adjustments

Payments under this chapter may be made in installments, and in advance or by way of reimbursement, as the Office may determine, with necessary adjustments on account of overpayments or underpayments.

(Pub. L. 91–648, title V, §512, Jan. 5, 1971, 84 Stat. 1929; 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, means the provisions of subchapters I, II, III, and IV of this chapter. See section 4761 of this title.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

"Office", meaning Office of Personnel Management, substituted in text for "Commission", meaning Civil Service Commission, pursuant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in Civil Service Commission and Chairman thereof to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§4772. Effective date of grant provisions

Grant provisions of this chapter shall become effective one hundred and eighty days following January 5, 1971.

(Pub. L. 91–648, title V, §513, Jan. 5, 1971, 84 Stat. 1929.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, means the provisions of subchapters I, II, III, and IV of this chapter. See section 4761 of this title.

CHAPTER 63—LEAD-BASED PAINT POISONING PREVENTION

SUBCHAPTER I—GRANTS FOR DETECTION AND TREATMENT OF LEAD-BASED PAINT POISONING

Sec.
4801. Repealed.
SUBCHAPTER II—GRANTS FOR ELIMINATION OF LEAD-BASED PAINT POISONING
4811. Repealed.
SUBCHAPTER III—FEDERAL DEMONSTRATION AND RESEARCH PROGRAM: FEDERAL HOUSING ADMINISTRATION REQUIREMENTS
4821. Development of program; consultation; nature of program; safe level of lead; report to Congress.
4822. Requirements for housing receiving Federal assistance.
SUBCHAPTER IV—PROHIBITION AGAINST FUTURE USE OF LEAD-BASED PAINT
4831. Use of lead-based paint.
SUBCHAPTER V—GENERAL PROVISIONS
4841. Definitions.
4842. Consultation by Secretary with other departments and agencies.
4843. Authorization of appropriations.
4844, 4845. Repealed.
4846. State laws superseded, and null and void.

SUBCHAPTER I—GRANTS FOR DETECTION AND TREATMENT OF LEAD-BASED PAINT POISONING

§4801. Repealed. Pub. L. 95–626, title II, §208(b), Nov. 10, 1978, 92 Stat. 3588

Section, Pub. L. 91–695, title I, §101, Jan. 13, 1971, 84 Stat. 2078; Pub. L. 93–151, §1, Nov. 9, 1973, 87 Stat. 565; Pub. L. 94–317, title II, 204(a), June 23, 1976, 90 Stat. 705, related to the development of local programs with respect to detection and treatment of lead-based paint poisoning.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 95–626, title II, §208(b), Nov. 10, 1978, 92 Stat. 3588, provided that the repeal of this section is effective Oct. 1, 1979.

SHORT TITLE

Pub. L. 91–695, §1, Jan. 13, 1971, 84 Stat. 2078, provided: "That this Act [enacting this chapter] may be cited as the 'Lead-Based Paint Poisoning Prevention Act'."

SUBCHAPTER II—GRANTS FOR ELIMINATION OF LEAD-BASED PAINT POISONING

§4811. Repealed. Pub. L. 95–626, title II, §208(b), Nov. 10, 1978, 92 Stat. 3588

Section, Pub. L. 91–695, title II, §201, Jan. 13, 1971, 84 Stat. 2078; Pub. L. 93–151, §2, Nov. 9, 1973, 87 Stat. 565, related to the development of local programs for the elimination of lead-based paint poisoning.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 95–626, title II, §208(b), Nov. 10, 1978, 92 Stat. 3588, provided that the repeal of this section is effective Oct. 1, 1979.

SUBCHAPTER III—FEDERAL DEMONSTRATION AND RESEARCH PROGRAM: FEDERAL HOUSING ADMINISTRATION REQUIREMENTS

§4821. Development of program; consultation; nature of program; safe level of lead; report to Congress

(a) The Secretary of Housing and Urban Development, in consultation with the Secretary of Health and Human Services, shall develop and carry out a demonstration and research program to determine the nature and extent of the problem of lead based paint poisoning in the United States, particularly in urban areas, including the methods by which the lead based paint hazard can most effectively be removed from interior surfaces, porches, and exterior surfaces of residential housing to which children may be exposed.

(b) The Chairman of the Consumer Product Safety Commission shall conduct appropriate research on multiple layers of dried paint film, containing the various lead compounds commonly used, in order to ascertain the safe level of lead in residential paint products. No later than December 31, 1974, the Chairman shall submit to Congress a full and complete report of his findings and recommendations as developed pursuant to such programs, together with a statement of any legislation which should be enacted or any changes in existing law which should be made in order to carry out such recommendations.

(Pub. L. 91–695, title III, §301, Jan. 13, 1971, 84 Stat. 2079; Pub. L. 93–151, §3, Nov. 9, 1973, 87 Stat. 566; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

EDITORIAL NOTES

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–151 incorporated existing first sentence in provisions designated as subsec. (a).

Subsec. (b). Pub. L. 93–151 required the Chairman of the Consumer Product Safety Commission to conduct research to ascertain the safe level of lead in provisions designated as subsec. (b), incorporated existing second sentence as the second sentence of the subsection, substituting requirement of submission of report by the Chairman no later than Dec. 31, 1974, for former similar requirement for submission of a report by the Secretary within one year after Jan. 13, 1971.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Secretary of Health and Human Services" substituted for "Secretary of Health, Education, and Welfare" in subsec. (a) pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

§4822. Requirements for housing receiving Federal assistance

(a) General requirements

(1) Elimination of hazards

The Secretary of Housing and Urban Development (hereafter in this section referred to as the "Secretary") shall establish procedures to eliminate as far as practicable the hazards of lead based paint poisoning with respect to any existing housing which may present such hazards and which is covered by an application for mortgage insurance or housing assistance payments under a program administered by the Secretary or otherwise receives more than $5,000 in project-based assistance under a Federal housing program. Beginning on January 1, 1995, such procedures shall apply to all such housing that constitutes target housing, as defined in section 4851b of this title, and shall provide for appropriate measures to conduct risk assessments, inspections, interim controls, and abatement of lead-based paint hazards. At a minimum, such procedures shall require—

(A) the provision of lead hazard information pamphlets, developed pursuant to section 2686 of title 15, to purchasers and tenants;

(B) periodic risk assessments and interim controls in accordance with a schedule determined by the Secretary, the initial risk assessment of each unit constructed prior to 1960 to be conducted not later than January 1, 1996, and, for units constructed between 1960 and 1978—

(i) not less than 25 percent shall be performed by January 1, 1998;

(ii) not less than 50 percent shall be performed by January 1, 2000; and

(iii) the remainder shall be performed by January 1, 2002;

(C) inspection for the presence of lead-based paint prior to federally-funded renovation or rehabilitation that is likely to disturb painted surfaces;

(D) reduction of lead-based paint hazards in the course of rehabilitation projects receiving less than $25,000 per unit in Federal funds;

(E) abatement of lead-based paint hazards in the course of substantial rehabilitation projects receiving more than $25,000 per unit in Federal funds;

(F) where risk assessment, inspection, or reduction activities have been undertaken, the provision of notice to occupants describing the nature and scope of such activities and the actual risk assessment or inspection reports (including available information on the location of any remaining lead-based paint on a surface-by-surface basis); and

(G) such other measures as the Secretary deems appropriate.

(2) Additional measures

The Secretary may establish such other procedures as may be appropriate to carry out the purposes of this section.

(3) Disposition of federally owned housing

(A) Pre-1960 target housing

Beginning on January 1, 1995, procedures established under paragraphs (1) and (2) shall require the inspection and abatement of lead-based paint hazards in all federally owned target housing constructed prior to 1960.

(B) Target housing constructed between 1960 and 1978

Beginning on January 1, 1995, procedures established under paragraphs (1) and (2) shall require an inspection for lead-based paint and lead-based paint hazards in all federally owned target housing constructed between 1960 and 1978. The results of such inspections shall be made available to prospective purchasers, identifying the presence of lead-based paint and lead-based paint hazards on a surface-by-surface basis. The Secretary shall have the discretion

to waive the requirement of this subparagraph for housing in which a federally funded risk assessment, performed by a certified contractor, has determined no lead-based paint hazards are present.

(C) Budget authority

To the extent that subparagraphs (A) and (B) increase the cost to the Government of outstanding direct loan obligations or loan guarantee commitments, such activities shall be treated as modifications under section 661c(e) of title 2 and shall be subject to the availability of appropriations. To the extent that paragraphs (A) and (B) impose additional costs to the Resolution Trust Corporation and the Federal Deposit Insurance Corporation, its requirements shall be carried out only if appropriations are provided in advance in an appropriations Act. In the absence of appropriations sufficient to cover the costs of subparagraphs (A) and (B), these requirements shall not apply to the affected agency or agencies.

(D) Definitions

For the purposes of this subsection, the terms "inspection", "abatement", "lead-based paint hazard", "federally owned housing", "target housing", "risk assessment", and "certified contractor" have the same meaning given such terms in section 4851b of this title.

(4) Definitions

For purposes of this subsection, the terms "risk assessment", "inspection", "interim control", "abatement", "reduction", and "lead-based paint hazard" have the same meaning given such terms in section 4851b of this title.

(b) Measurement criteria

The procedures established by the Secretary under this section for the risk assessment, interim control, inspection, and abatement of lead-based paint hazards in housing covered by this section shall be based upon guidelines developed pursuant to section 4852c of this title.

(c) Inspection requirements

The Secretary shall require the inspection of all intact and nonintact interior and exterior painted surfaces of housing subject to this section for lead-based paint using an approved x-ray fluorescence analyzer, atomic absorption spectroscopy, or comparable approved sampling or testing technique. A certified inspector or laboratory shall certify in writing the precise results of the inspection. If the results equal or exceed a level of 1.0 milligrams per centimeter squared or 0.5 percent by weight, the results shall be provided to any potential purchaser or tenant of the housing. The Secretary shall periodically review and reduce the level below 1.0 milligram per centimeter squared or 0.5 percent by weight to the extent that reliable technology makes feasible the detection of a lower level and medical evidence supports the imposition of a lower level. The requirements of this subsection shall apply as provided in subsection (d).

(d) Abatement required

(1) Transitional testing and abatement in public housing receiving modernization assistance

In the case of public housing assisted with capital assistance provided under section 1437g of this title, the Secretary shall require the inspection described in subsection (c) for—

(A) a random sample of dwellings and common areas in all public housing projects assisted under such section; and

(B) each dwelling in any public housing project in which there is a dwelling determined under subparagraph (A) to have lead-based paint hazards, except that the Secretary shall not require the inspection of each dwelling if the Secretary requires the abatement of the lead-based paint hazards for the surfaces of each dwelling in the public housing project that correspond to the surfaces in the sample determined to have such hazards under subparagraph (A).

The Secretary shall require the inspection of all housing subject to this paragraph in accordance with the modernization schedule. A public housing agency may elect to test for lead-based paint

using atomic absorption spectroscopy and may elect to abate lead-based paint and dust containing lead under standards more stringent than that in subsection (c), including the abatement of lead-based paint and dust which exceeds the standard of lead permitted in paints by the Consumer Product Safety Commission under this chapter, and such abatement shall qualify for capital assistance provided under section 1437g of this title. The Secretary shall require abatement of lead-based paint and lead-based paint hazards in housing in which the test results equal or exceed the standard established by or under subsection (c). Final inspection and certification after abatement shall be made by a qualified inspector, industrial hygienist, or local public health official.

(2) Abatement demonstration program

(A) Abatement demonstration program

In carrying out the requirements of this subsection with respect to single-family and multifamily properties owned by the Department of Housing and Urban Development and public housing, the Secretary shall utilize a sufficient variety of abatement methods in a sufficient number of areas and circumstances to demonstrate their relative cost-effectiveness and their applicability to various types of housing. For purposes of the demonstration, a public housing agency may elect to test for lead-based paint using atomic absorption spectroscopy and may elect to abate lead-based paint and dust containing lead under standards more stringent than that in subsection (c), including the abatement of lead-based paint and dust which exceeds the standard of lead permitted in paints by the Consumer Product Safety Commission under this chapter, and such abatement shall qualify for assistance under section 1437l [1] of this title.

(B) Report

Not later than 18 months after the effective date of the regulations issued to carry out this subsection, the Secretary shall transmit to the Congress the findings and recommendations of the Secretary as a result of the demonstration program, including any recommendations of the Secretary for legislation to revise the requirements of this subsection. Based on the demonstration, the Secretary shall prepare and include in the report a comprehensive and workable plan for the cost-effective inspection and abatement of public housing in accordance with paragraph (3), including an estimate of the total cost of abatement in accordance with paragraph (3)(B). In preparing such report, the Secretary shall examine—

(i) the most reliable technology available for detecting lead-based paint, including X-ray fluorescence and atomic absorption spectroscopy;

(ii) the most efficient and cost-effective methods for abatement, including removal, containment, or encapsulation of the contaminated components, procedures which minimize the generation of dust (including the high efficiency vacuum removal of leaded dust), and procedures that provide for offsite disposal of the removed components, in compliance with all applicable regulatory standards and procedures;

(iii) safety considerations in testing, abatement, and worker protection;

(iv) the overall accuracy and reliability of laboratory testing of physical samples, x-ray fluorescence machines, and other available testing procedures;

(v) availability of qualified samplers and testers;

(vi) an estimate of the amount, characteristics, and regional distribution of housing in the United States that contains lead-based paint hazards at differing levels of contamination; and

(vii) the merits of an interim containment protocol for public housing dwellings that are determined to have lead-based paint hazards but for which comprehensive improvement assistance under section 1437l [1] of this title is not available.

(3) Testing and abatement of other public housing

(A) Required inspection

The Secretary shall require the inspection described in subsection (c) for—

(i) a random sample of dwellings and common areas in all public housing that is not

subject to paragraph (1); and

(ii) each dwelling in any public housing project in which there is a dwelling determined under clause (i) to have lead-based paint hazards, except that the Secretary shall not require the inspection of each dwelling if the Secretary requires the abatement of the lead-based paint hazards for the surfaces of each dwelling in the public housing project that correspond to the surfaces in the sample determined to have such hazards under clause (i).

(B) Schedule

The Secretary shall require the inspection of all housing subject to this paragraph prior to the expiration of 5 years after the report is required to be transmitted under paragraph (2)(B). The Secretary may prioritize, within such 5-year period, inspections on the basis of vacancy, age of housing, or projected modernization or rehabilitation. The Secretary shall require abatement and final inspection and certification of such housing in accordance with the last two sentences of paragraph (1).

(4) Report required

Not later than 9 months after completion of the demonstration required by paragraph (2), the Secretary shall, based on the demonstration, prepare and transmit to the Congress, a comprehensive and workable plan, including any recommendations for changes in legislation, for the prompt and cost effective inspection and abatement of privately owned single family and multifamily housing, including housing assisted under section 1437f of this title. After the expiration of the 9-month period referred to in the preceding sentence, the Secretary may not obligate or expend any funds or otherwise carry out activities related to any other policy development and research project until the report is transmitted.

(e) Exceptions

The provisions of this section shall not apply to—

(1) housing for the elderly or persons with disabilities, or any 0-bedroom dwelling, except for any dwelling in such housing in which any child who is under age 6 resides or is expected to reside; or

(2) any project for which an application for insurance is submitted under section 1715v, 1715w, 1715z–6, or 1715z–7 of title 12.

(f) Funding

The Secretary shall carry out the provisions of this section utilizing available Federal funding sources. The Secretary shall use funds available under the Capital Fund under section 1437g of this title to carry out this section in public housing. The Secretary shall submit annually to the Congress an estimate of the funds required to carry out the provisions of this section with the reports required by paragraphs (2)(B) and (4).

(g) Interpretation of section

This section may not be construed to affect the responsibilities of the Environmental Protection Agency with respect to the protection of the public health from hazards posed by lead-based paint.

(Pub. L. 91–695, title III, §302, as added Pub. L. 93–151, §4(a)(1), Nov. 9, 1973, 87 Stat. 566; amended Pub. L. 100–242, title V, §566(a), Feb. 5, 1988, 101 Stat. 1945; Pub. L. 100–628, title X, §1088(a)–(f), (h), Nov. 7, 1988, 102 Stat. 3280–3282; Pub. L. 102–550, title X, §§1012(a)–(d), 1013, Oct. 28, 1992, 106 Stat. 3904, 3905, 3907; Pub. L. 105–276, title V, §522(b)(4), Oct. 21, 1998, 112 Stat. 2564; Pub. L. 115–31, div. K, title II, §237(a), May 5, 2017, 131 Stat. 788.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1437l of this title, referred to in subsec. (d)(2)(A), (B)(vii), was repealed by Pub. L. 105–276, title V, §522(a), Oct. 21, 1998, 112 Stat. 2564.

For effective date of the regulations issued to carry out this subsection, referred to in subsec. (d)(2)(B), see

section 566(b) of Pub. L. 100–242, set out as a note below.

AMENDMENTS

2017—Subsec. (e)(1). Pub. L. 115–31, §237(a)(1), substituted "persons with disabilities, or any 0-bedroom dwelling" for "handicapped" and "under age 6" for "less than 7 years of age" and inserted "or" after "expected to reside;".

Subsec. (e)(3). Pub. L. 115–31, §237(a)(2), (3), struck out par. (3) which read as follows: "any 0-bedroom dwelling."

1998—Subsec. (d)(1). Pub. L. 105–276, §522(b)(4)(A), in introductory provisions, substituted "assisted with capital assistance provided under section 1437g of this title" for "assisted under section 1437l of this title" and, in concluding provisions, substituted "capital assistance provided under section 1437g of this title" for "assistance under section 1437l of this title".

Subsec. (f). Pub. L. 105–276, §522(b)(4)(B), substituted "under the Capital Fund under section 1437g of this title" for "for comprehensive improvement assistance under section 1437l of this title".

1992—Pub. L. 102–550, §1012(a)(1), amended section catchline generally.

Subsec. (a). Pub. L. 102–550, §1012(a)(2)–(4), designated first sentence of subsec. (a) as par. (1), inserted heading, inserted before period at end of first sentence "or otherwise receives more than $5,000 in project-based assistance under a Federal housing program", substituted "Beginning on January 1, 1995, such procedures shall apply to all such housing that constitutes target housing, as defined in section 4851b of this title, and shall provide for appropriate measures to conduct risk assessments, inspections, interim controls, and abatement of lead-based paint hazards. At a minimum, such procedures shall require—" and subpars. (A) to (G) for former second sentence of subsec. (a) which read as follows: "Such procedures shall apply to all such housing constructed or substantially rehabilitated prior to 1978 and shall as a minimum provide for (1) appropriate measures to eliminate as far as practicable immediate hazards due to the presence of accessible intact, intact, and nonintact interior and exterior painted surfaces that may contain lead in any such housing in which any child who is less than 7 years of age resides or is expected to reside, and (2) assured notification (using a brochure developed after consultation with the National Institute of Building Sciences) to purchasers and tenants of such housing of the hazards of lead based paint, of the symptoms and treatment of lead based paint poisoning, and of the importance and availability of maintenance and removal techniques for eliminating such hazards.", and designated former third sentence of subsec. (a) as par. (2) and inserted heading.

Pub. L. 102–550, §1013, added pars. (3) and (4) and struck out former fourth sentence of subsec. (a) which read as follows: "Further, the Secretary shall establish and implement procedures to eliminate the hazards of lead based paint poisoning in all federally owned properties prior to the sale of such properties when their use is intended for residential habitation."

Subsec. (b). Pub. L. 102–550, §1012(b), substituted "for the risk assessment, interim control, inspection, and abatement of lead-based paint hazards in housing covered by this section shall be based upon guidelines developed pursuant to section 4852c of this title." for "for the detection and abatement of lead-based paint poisoning hazards in any housing, including housing assisted under section 1437f of this title—

"(1) shall be based upon criteria that measure the condition of the housing; and

"(2) shall not be based upon criteria that measure the health of the residents of the housing."

Subsec. (c). Pub. L. 102–550, §1012(c), substituted "certified inspector" for "qualified inspector" and substituted "centimeter squared or 0.5 percent by weight" for "centimeter squared" in two places.

Subsec. (d)(1). Pub. L. 102–550, §1012(d), in heading, substituted "modernization" for "CIAP" and in fourth sentence, substituted "of lead-based paint and lead-based paint hazards" for "to eliminate the lead-based paint poisoning hazards".

1988—Pub. L. 100–242 designated existing provisions as subsec. (a) "General requirements", substituted "housing constructed or substantially rehabilitated prior to 1978" for "housing constructed prior to 1950", in cl. (1), substituted "accessible intact, intact, and nonintact interior and exterior painted surfaces that may contain lead in any such housing in which any child who is less than 7 years of age resides or is expected to reside" for "paint which may contain lead and to which children may be exposed", in cl. (2), inserted "(using a brochure developed after consultation with the National Institute of Building Sciences)" after "notification", and struck out after second sentence "Such procedures may apply to housing constructed during or after 1950 if the Secretary determines, in his discretion, that such housing presents hazards of lead based paint.", and added subsecs. (b) to (f).

Subsec. (c). Pub. L. 100–628, §1088(f), inserted ", atomic absorption spectroscopy," after "fluorescence analyzer" in first sentence, and "or laboratory" after "inspector" in second sentence.

Subsec. (d)(1). Pub. L. 100–628, §1088(a), substituted "Transitional testing and abatement in public housing receiving CIAP assistance" for "Public housing" in heading, substituted "section 1437l of this title"

for "section 1437g of this title" in first sentence, added subpars. (A) and (B) and second and third sentences, inserted ", industrial hygienist, or local public health official" before period at end of last sentence, and struck out former subpars. (A) to (C) and second and third sentences which read as follows:

"(A) each vacant dwelling prior to rerenting;

"(B) a random sample of all occupied dwellings; and

"(C) each dwelling in any housing in which there is a dwelling determined under subparagraph (A) or (B) to have lead-based paint hazards.

The Secretary shall require the inspection of all housing subject to this paragraph prior to the expiration of 5 years from the date of the publication of final regulations pursuant to this subsection. The Secretary shall prioritize, within such 5-year period, inspections on the basis of vacancy, age of housing, or projected modernization or rehabilitation."

Subsec. (d)(2). Pub. L. 100–628, §1088(b)(1), substituted "Abatement demonstration program" for "HUD-owned properties" in heading.

Subsec. (d)(2)(A). Pub. L. 100–628, §1088(b)(2), inserted "and public housing" after "Urban Development", and inserted at end "For purposes of the demonstration, a public housing agency may elect to test for lead-based paint using atomic absorption spectroscopy and may elect to abate lead-based paint and dust containing lead under standards more stringent than that in subsection (c), including the abatement of lead-based paint and dust which exceeds the standard of lead permitted in paints by the Consumer Product Safety Commission under this chapter, and such abatement shall qualify for assistance under section 1437l of this title."

Subsec. (d)(2)(B). Pub. L. 100–628, §1088(b)(3), in introductory provisions, inserted after first sentence "Based on the demonstration, the Secretary shall prepare and include in the report a comprehensive and workable plan for the cost-effective inspection and abatement of public housing in accordance with paragraph (3), including an estimate of the total cost of abatement in accordance with paragraph (3)(B)."

Subsec. (d)(2)(B)(i). Pub. L. 100–628, §1088(c)(1), inserted ", including X-ray fluorescence and atomic absorption spectroscopy" after "lead-based paint".

Subsec. (d)(2)(B)(ii). Pub. L. 100–628, §1088(c)(2), inserted ", including removal, containment, or encapsulation of the contaminated components, procedures which minimize the generation of dust (including the high efficiency vacuum removal of leaded dust), and procedures that provide for offsite disposal of the removed components, in compliance with all applicable regulatory standards and procedures" after "methods for abatement".

Subsec. (d)(2)(B)(iii). Pub. L. 100–628, §1088(c)(3), inserted ", abatement, and worker protection" after "in testing".

Subsec. (d)(2)(B)(vii). Pub. L. 100–628, §1088(c)(4)–(6), added cl. (vii).

Subsec. (d)(3), (4). Pub. L. 100–628, §1088(d), added par. (3) and redesignated former par. (3) as (4).

Subsec. (f). Pub. L. 100–628, §1088(e), inserted at end "The Secretary shall submit annually to the Congress an estimate of the funds required to carry out the provisions of this section with the reports required by paragraphs (2)(B) and (4)."

Subsec. (g). Pub. L. 100–628, §1088(h), added subsec. (g).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

EFFECTIVE DATE

Pub. L. 93–151, §4(b), Nov. 9, 1973, 87 Stat. 566, provided that: "The amendments made by subsection (a) of this section [enacting this section] become effective upon the expiration of ninety days following the date of enactment of this Act [Nov. 9, 1973]."

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (f) of this section relating to annual submittal to Congress of estimate of funds, 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 item 22 on page 97 of House Document No. 103–7.

LEAD-BASED PAINT ABATEMENT TRAINING AND CERTIFICATION REQUIREMENTS AND TRAINING GRANTS

Pub. L. 102–139, title III, Oct. 28, 1991, 105 Stat. 765, 766, which provided for regulations governing lead-based paint abatement activities to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, that contractors are certified, and that laboratories engaged in testing for substances are certified, and which also provided for grants for training and education of workers who are or may be directly engaged in lead-based paint abatement activities, was omitted as superseded by section 2682(a)(1) of Title 15, Commerce and Trade, which provided in part that on Oct. 28, 1992, the provisions of law formerly set out in this note would cease to have any force and effect.

LEAD-BASED PAINT TECHNICAL GUIDELINES; DRAFT GUIDELINES

Pub. L. 101–144, title II, Nov. 9, 1989, 103 Stat. 853, provided that if the Secretary of the Department of Housing and Urban Development had not issued the lead-based paint technical guidelines on reliable testing protocols by Apr. 1, 1990, the Department's Sept. 29, 1989, draft guidelines would take effect until revised by the Secretary.

PREREQUISITES TO IMPLEMENTATION OF REGULATIONS REGARDING TESTING AND ABATEMENT OF LEAD-BASED PAINT IN PUBLIC HOUSING

Pub. L. 100–404, title I, Aug. 19, 1988, 102 Stat. 1021, provided that: "None of the funds provided in this Act [see Tables for classification] or heretofore provided may be used to implement or enforce the regulations promulgated by the Department of Housing and Urban Development on June 6, 1988, with respect to the testing and abatement of lead-based paint in public housing until the Secretary develops comprehensive technical guidelines on reliable testing protocols, safe and effective abatement techniques, cleanup methods, and acceptable post-abatement lead dust levels."

REGULATIONS AND CONSULTATION

Pub. L. 100–242, title V, §566(b), Feb. 5, 1988, 101 Stat. 1947, as amended by Pub. L. 100–418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433; Pub. L. 100–628, title X, §1088(g), Nov. 7, 1988, 102 Stat. 3282, provided that:

"(1) PROPOSED REGULATIONS.—Not later than the expiration of the 60-day period following the date of the enactment of this Act [Feb. 5, 1988], the Secretary of Housing and Urban Development shall publish proposed regulations to carry out the amendments made by this section [amending this section].

"(2) FINAL REGULATIONS.—The Secretary shall publish final regulations to carry out the amendments made by this section, which shall become effective not later than the expiration of the 120-day period following the date of the enactment of this Act.

"(3) REQUIRED CONSULTATIONS.—Before issuing proposed regulations and in preparing reports under this section, the Secretary shall consult with—

"(A) the National Institute of Building Sciences, the Environmental Protection Agency, the National Institute of Environmental Health Sciences, the Centers for Disease Control [now Centers for Disease Control and Prevention], the Consumer Product Safety Commission, major public housing organizations, other major housing organizations, and the National Institute of Standards and Technology with respect to the most cost-effective methods of detecting and abating lead-based paint poisoning hazards; and

"(B) public housing agencies to develop a cost-efficient plan for detecting and abating lead-based paint poisoning hazards in dwelling assisted under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] and dwellings in public housing assisted under such Act [42 U.S.C. 1437 et seq.]."

[1] *See References in Text note below.*

SUBCHAPTER IV—PROHIBITION AGAINST FUTURE USE OF LEAD-BASED PAINT

§4831. Use of lead-based paint

(a) Prohibition by Secretary of Health and Human Services in application to cooking, drinking,

or eating utensils

The Secretary of Health and Human Services shall take such steps and impose such conditions as may be necessary or appropriate to prohibit the application of lead-based paint to any cooking utensil, drinking utensil, or eating utensil manufactured and distributed after January 13, 1971.

(b) Prohibition by Secretary of Housing and Urban Development of use in residential structures constructed or rehabilitated by Federal Government or with Federal assistance

The Secretary of Housing and Urban Development shall take steps and impose such conditions as may be necessary or appropriate to prohibit the use of lead-based paint in residential structures constructed or rehabilitated by the Federal Government, or with Federal assistance in any form after January 13, 1971.

(c) Prohibition by Consumer Product Safety Commission in application to toys or furniture articles

The Consumer Product Safety Commission shall take such steps and impose such conditions as may be necessary or appropriate to prohibit the application of lead-based paint to any toy or furniture article.

(Pub. L. 91–695, title IV, §401, Jan. 13, 1971, 84 Stat. 2079; Pub. L. 93–151, §5, Nov. 9, 1973, 87 Stat. 566; Pub. L. 94–317, title II, §204(b), June 23, 1976, 90 Stat. 705; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

EDITORIAL NOTES

REFERENCES IN TEXT

January 13, 1971, referred to in subsecs. (a) and (b), was in the original "the date of enactment of this Act".

AMENDMENTS

1976—Pub. L. 94–317 amended section generally, designating existing provisions as subsec. (a), striking out requirement of consultation with Secretary of Housing and Urban Development and provisions relating to prohibition of use of lead based paint in residential structures constructed or rehabilitated by Federal Government or with Federal assistance, and adding subsecs. (b) and (c).

1973—Pub. L. 93–151 amended section generally, providing for consultation of the Secretaries, incorporating existing provisions as cl. (1), and adding cl. (2).

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Secretary of Health and Human Services" substituted for "Secretary of Health, Education, and Welfare" in subsec. (a) pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

SUBCHAPTER V—GENERAL PROVISIONS

§4841. Definitions

As used in this chapter—

(1) The term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(2) The term "units of general local government" means (A) any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, (B) any

combination of units of general local government in one or more States, (C) an Indian tribe, or (D) with respect to lead-based paint poisoning elimination activities in their urban areas, the territories and possessions of the United States.

(3)(A) Except as provided in subparagraph (B), the term "lead-based paint" means any paint containing more than five-tenths of 1 per centum lead by weight (calculated as lead metal) in the total nonvolatile content of the paint, or the equivalent measure of lead in the dried film of paint already applied, or both.

(B)(i) The Consumer Product Safety Commission shall, during the six-month period beginning on the date of the enactment of the National Health Promotion and Disease Prevention Act of 1976, determine, on the basis of available data and information and after providing opportunity for an oral hearing and considering recommendations of the Secretary of Health and Human Services (including those of the Centers for Disease Control and Prevention) and of the National Academy of Sciences, whether or not a level of lead in paint which is greater than six one-hundredths of 1 per centum but not in excess of five-tenths of 1 per centum is safe. If the Commission determines, in accordance with the preceding sentence, that another level of lead is safe, the term "lead-based paint" means, with respect to paint which is manufactured after the expiration of the six-month period beginning on the date of the Commission's determination, paint containing by weight (calculated as lead metal) in the total nonvolatile content of the paint more than the level of lead determined by the Commission to be safe or the equivalent measure of lead in the dried film of paint already applied, or both.

(ii) Unless the definition of the term "lead-based paint" has been established by a determination of the Consumer Product Safety Commission pursuant to clause (i) of this subparagraph, the term "lead-based paint" means, with respect to paint which is manufactured after the expiration of the twelve-month period beginning on such date of enactment, paint containing more than six one-hundredths of 1 per centum lead by weight (calculated as lead metal) in the total nonvolatile content of the paint, or the equivalent measure of lead in the dried film of paint already applied, or both.

(Pub. L. 91–695, title V, §501, Jan. 13, 1971, 84 Stat. 2080; Pub. L. 93–151, §6, Nov. 9, 1973, 87 Stat. 567; Pub. L. 94–317, title II, §204(c), June 23, 1976, 90 Stat. 706; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 102–531, title III, §312(g), Oct. 27, 1992, 106 Stat. 3506.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Health Promotion and Disease Prevention Act of 1976, referred to in par. (3)(B)(i), probably means Pub. L. 94–317, June 23, 1976, 90 Stat. 695, which enacted sections 300u to 300u–5 of this title, amended sections 201, 243, 247b, 247c, 264, 300f, 4801, 4831, and 4841 to 4843 of this title, and enacted provisions set out as notes under sections 201, 247b, and 247c of this title. For complete classification of this Act to the Code, see Tables.

Such date of enactment, referred to in par. (3)(B)(ii), probably means the date of approval of Pub. L. 94–317, which was June 23, 1976.

AMENDMENTS

1992—Par. (3)(B)(i). Pub. L. 102–531 substituted "Centers for Disease Control and Prevention" for "Center for Disease Control".

1976—Par. (3). Pub. L. 94–317 substituted provisions redefining standards for lead in paint and procedures used to determine such standards, for provisions defining standards of lead-based paint to be paint containing more than five-tenths of 1 per centum of lead by weight prior to Dec. 31, 1974, and after such date, paint containing more than six one-hundredths of 1 per centum of lead by weight, except where the Chairman of the Consumer Product Safety Commission determined that the pre-1974 level was safe, then such level to become effective.

1973—Par. (3). Pub. L. 93–151 amended par. (3). Prior to amendment, par. (3) defined "lead-based paint" to mean any paint containing more than 1 per centum lead by weight (calculated as lead metal) in the total non-volatile content of liquid paints or in the dried film of paint already applied.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Secretary of Health and Human Services" substituted for "Secretary of Health, Education, and Welfare" in par. (3)(B)(i) pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

§4842. Consultation by Secretary with other departments and agencies

In carrying out their respective authorities under this chapter, the Secretary of Housing and Urban Development and the Secretary of Health and Human Services shall each cooperate with and seek the advice of the heads of any other departments or agencies regarding any programs under their respective responsibilities which are related to, or would be affected by, such authority.

(Pub. L. 91–695, title V, §502, Jan. 13, 1971, 84 Stat. 2080; Pub. L. 94–317, title II, §204(d), June 23, 1976, 90 Stat. 706; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

EDITORIAL NOTES

AMENDMENTS

1976—Pub. L. 94–317 substituted "In carrying out their respective authorities under this chapter, the Secretary of Housing and Urban Development and the Secretary of Health, Education, and Welfare shall each" for "In carrying out the authority under this chapter, the Secretary of Health, Education, and Welfare shall".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Secretary of Health and Human Services" substituted in text for "Secretary of Health, Education, and Welfare" pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

§4843. Authorization of appropriations

(a) There are authorized to be appropriated to carry out this chapter $10,000,000 for the fiscal year 1976, $12,000,000 for the fiscal year 1977, and $14,000,000 for the fiscal year 1978.

(b) Any amounts appropriated under this section shall remain available until expended when so provided in appropriation Acts; and any amounts authorized for one fiscal year but not appropriated may be appropriated for the succeeding fiscal year.

(Pub. L. 91–695, title V, §503, Jan. 13, 1971, 84 Stat. 2080; Pub. L. 93–151, §7(a)–(d), Nov. 9, 1973, 87 Stat. 567; Pub. L. 94–317, title II, §204(e), June 23, 1976, 90 Stat. 706.)

EDITORIAL NOTES

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–317, §204(e)(1), substituted provisions authorizing appropriations for this chapter of $10,000,000 for fiscal year 1976, $12,000,000 for fiscal year 1977, and $14,000,000 for fiscal year 1978 for provisions authorizing appropriations for subchapter I of this chapter not to exceed $3,330,000 for fiscal year 1971, $6,660,000 for fiscal year 1972, and $25,000,000 for each of fiscal years 1974 and 1975.

Subsec. (b). Pub. L. 94–317, §204(e)(1), (2), redesignated subsec. (d) as (b). Former subsec. (b), which provided authorization of appropriations for subchapter II of this chapter not to exceed $5,000,000 for fiscal year 1971, $10,000,000 for fiscal year 1972, and $35,000,000 for each of fiscal years 1974 and 1975, was

struck out.

Subsec. (c). Pub. L. 94–317, §204(e)(1), struck out subsec. (c) which provided for authorization of appropriations for subchapter III of this chapter not to exceed $1,670,000 for fiscal year 1971, $3,340,000 for fiscal year 1972, and $3,000,000 for each of fiscal years 1974 and 1975.

Subsec. (d). Pub. L. 94–317, §204(e)(2), redesignated subsec. (d) as (b).

1973—Subsec. (a). Pub. L. 93–151, §7(a), provided for appropriations authorization of $25,000,000 for fiscal years 1974 and 1975 for carrying out subchapter I provisions.

Subsec. (b). Pub. L. 93–151, §7(b), provided for appropriations authorization of $35,000,000 for fiscal years 1974 and 1975 for carrying out subchapter II provisions.

Subsec. (c). Pub. L. 93–151, §7(c), provided for appropriations authorization of $3,000,000 for fiscal years 1974 and 1975 for carrying out subchapter III provisions.

Subsec. (d). Pub. L. 93–151, §7(d), substituted "amounts authorized for one fiscal year but not appropriated may be appropriated for the succeeding fiscal year" for "amounts authorized for the fiscal year 1971 but not appropriated may be appropriated for the fiscal year 1972".

§§4844, 4845. Repealed. Pub. L. 95–626, title II, §208(b), Nov. 10, 1978, 92 Stat. 3588

Section 4844, Pub. L. 91–695, title V, §504, as added Pub. L. 93–151, §7(e), Nov. 9, 1973, 87 Stat. 567, related to the eligibility of certain State agencies with respect to grants made under former sections 4801 and 4811 of this title.

Section 4845, Pub. L. 91–695, title V, §505, as added Pub. L. 93–151, §7(e), Nov. 9, 1973, 87 Stat. 568, provided for the establishment of a National Childhood Lead Based Paint Poisoning Advisory Board.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 95–626, title II, §208(b), Nov. 10, 1978, 92 Stat. 3588, provided that the repeal is effective Oct. 1, 1979.

§4846. State laws superseded, and null and void

It is hereby expressly declared that it is the intent of the Congress to supersede any and all laws of the States and units of local government insofar as they may now or hereafter provide for a requirement, prohibition, or standard relating to the lead content in paints or other similar surface-coating materials which differs from the provisions of this chapter or regulations issued pursuant to this chapter. Any law, regulation, or ordinance purporting to establish such different requirement, prohibition, or standard shall be null and void.

(Pub. L. 91–695, title V, §504, formerly §506, as added Pub. L. 93–151, §7(e), Nov. 9, 1973, 87 Stat. 568; renumbered §504, Pub. L. 95–626, title II, §208(b), Nov. 10, 1978, 92 Stat. 3588.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 504 of Pub. L. 91–695 was classified to section 4844 of this title prior to repeal by Pub. L. 95–626.

CHAPTER 63A—RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION

Sec.

4851. Findings.

4851a. Purposes.
4851b. Definitions.

SUBCHAPTER I—LEAD-BASED PAINT HAZARD REDUCTION

4852. Grants for lead-based paint hazard reduction in target housing.
4852a. Task force on lead-based paint hazard reduction and financing.
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SUBCHAPTER II—WORKER PROTECTION

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PART 1—HUD RESEARCH

4854. Research on lead exposure from other sources.
4854a. Testing technologies.
4854b. Authorization.

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4855. Federal implementation and insurance study.

SUBCHAPTER IV—REPORTS

4856. Reports of Secretary of Housing and Urban Development.

§4851. Findings

The Congress finds that—

(1) low-level lead poisoning is widespread among American children, afflicting as many as 3,000,000 children under age 6, with minority and low-income communities disproportionately affected;

(2) at low levels, lead poisoning in children causes intelligence quotient deficiencies, reading and learning disabilities, impaired hearing, reduced attention span, hyperactivity, and behavior problems;

(3) pre-1980 American housing stock contains more than 3,000,000 tons of lead in the form of lead-based paint, with the vast majority of homes built before 1950 containing substantial amounts of lead-based paint;

(4) the ingestion of household dust containing lead from deteriorating or abraded lead-based paint is the most common cause of lead poisoning in children;

(5) the health and development of children living in as many as 3,800,000 American homes is endangered by chipping or peeling lead paint, or excessive amounts of lead-contaminated dust in their homes;

(6) the danger posed by lead-based paint hazards can be reduced by abating lead-based paint or by taking interim measures to prevent paint deterioration and limit children's exposure to lead dust and chips;

(7) despite the enactment of laws in the early 1970's requiring the Federal Government to eliminate as far as practicable lead-based paint hazards in federally owned, assisted, and insured housing, the Federal response to this national crisis remains severely limited; and

(8) the Federal Government must take a leadership role in building the infrastructure—including an informed public, State and local delivery systems, certified inspectors, contractors, and laboratories, trained workers, and available financing and insurance—necessary to ensure that the national goal of eliminating lead-based paint hazards in housing can be achieved as expeditiously as possible.

(Pub. L. 102–550, title X, §1002, Oct. 28, 1992, 106 Stat. 3897.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 102–550, title X, §1001, Oct. 28, 1992, 106 Stat. 3897, provided that: "This title [enacting this chapter and sections 2681 to 2692 of Title 15, Commerce and Trade, amending sections 1437f, 1437aaa–1, 1437aaa–2, 1471, 4822, 5305, 12705, 12742, 12872, 12873, 12892, and 12893 of this title, sections 1703, 1709, and 1715l of Title 12, Banks and Banking, sections 2606, 2610, 2612, 2615, 2616, 2618, and 2619 of Title 15, and section 671 of Title 29, Labor, and enacting provisions set out as a note under section 2601 of Title 15] may be cited as the 'Residential Lead-Based Paint Hazard Reduction Act of 1992'."

§4851a. Purposes

The purposes of this chapter are—

(1) to develop a national strategy to build the infrastructure necessary to eliminate lead-based paint hazards in all housing as expeditiously as possible;

(2) to reorient the national approach to the presence of lead-based paint in housing to implement, on a priority basis, a broad program to evaluate and reduce lead-based paint hazards in the Nation's housing stock;

(3) to encourage effective action to prevent childhood lead poisoning by establishing a workable framework for lead-based paint hazard evaluation and reduction and by ending the current confusion over reasonable standards of care;

(4) to ensure that the existence of lead-based paint hazards is taken into account in the development of Government housing policies and in the sale, rental, and renovation of homes and apartments;

(5) to mobilize national resources expeditiously, through a partnership among all levels of government and the private sector, to develop the most promising, cost-effective methods for evaluating and reducing lead-based paint hazards;

(6) to reduce the threat of childhood lead poisoning in housing owned, assisted, or transferred by the Federal Government; and

(7) to educate the public concerning the hazards and sources of lead-based paint poisoning and steps to reduce and eliminate such hazards.

(Pub. L. 102–550, title X, §1003, Oct. 28, 1992, 106 Stat. 3897.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning title X of Pub. L. 102–550, Oct. 28, 1992, 106 Stat. 3897, known as the Residential Lead-Based Paint Hazard Reduction Act of 1992. For complete classification of this Act to the Code, see Short Title note set out under section 4851 of this title and Tables.

§4851b. Definitions

For the purposes of this chapter, the following definitions shall apply:

(1) Abatement

The term "abatement" means any set of measures designed to permanently eliminate lead-based paint hazards in accordance with standards established by appropriate Federal agencies. Such term includes—

(A) the removal of lead-based paint and lead-contaminated dust, the permanent containment or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead contaminated soil; and

(B) all preparation, cleanup, disposal, and postabatement clearance testing activities

associated with such measures.

(2) Accessible surface

The term "accessible surface" means an interior or exterior surface painted with lead-based paint that is accessible for a young child to mouth or chew.

(3) Certified contractor

The term "certified contractor" means—

(A) a contractor, inspector, or supervisor who has completed a training program certified by the appropriate Federal agency and has met any other requirements for certification or licensure established by such agency or who has been certified by any State through a program which has been found by such Federal agency to be at least as rigorous as the Federal certification program; and

(B) workers or designers who have fully met training requirements established by the appropriate Federal agency.

(4) Contract for the purchase and sale of residential real property

The term "contract for the purchase and sale of residential real property" means any contract or agreement in which one party agrees to purchase an interest in real property on which there is situated 1 or more residential dwellings used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(5) Deteriorated paint

The term "deteriorated paint" means any interior or exterior paint that is peeling, chipping, chalking or cracking or any paint located on an interior or exterior surface or fixture that is damaged or deteriorated.

(6) Evaluation

The term "evaluation" means risk assessment, inspection, or risk assessment and inspection.

(7) Federally assisted housing

The term "federally assisted housing" means residential dwellings receiving project-based assistance under programs including—

(A) section 1715l(d)(3) or 1715z–1 of title 12;

(B) section 1 of the Housing and Urban Development Act of 1965;

(C) section 1437f of this title; or

(D) sections 1472(a), 1474, 1484, 1485, 1486 and 1490m of this title.

(8) Federally owned housing

The term "federally owned housing" means residential dwellings owned or managed by a Federal agency, or for which a Federal agency is a trustee or conservator. For the purpose of this paragraph, the term "Federal agency" includes the Department of Housing and Urban Development, the Farmers Home Administration, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the General Services Administration, the Department of Defense, the Department of Veterans Affairs, the Department of the Interior, the Department of Transportation, and any other Federal agency.

(9) Federally supported work

The term "federally supported work" means any lead hazard evaluation or reduction activities conducted in federally owned or assisted housing or funded in whole or in part through any financial assistance program of the Department of Housing and Urban Development, the Farmers Home Administration, or the Department of Veterans Affairs.

(10) Friction surface

The term "friction surface" means an interior or exterior surface that is subject to abrasion or friction, including certain window, floor, and stair surfaces.

(11) Impact surface

The term "impact surface" means an interior or exterior surface that is subject to damage by repeated impacts, for example, certain parts of door frames.

(12) Inspection

The term "inspection" means a surface-by-surface investigation to determine the presence of lead-based paint as provided in section 4822(c) of this title and the provision of a report explaining the results of the investigation.

(13) Interim controls

The term "interim controls" means a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

(14) Lead-based paint

The term "lead-based paint" means paint or other surface coatings that contain lead in excess of limits established under section 4822(c) of this title.

(15) Lead-based paint hazard

The term "lead-based paint hazard" means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as established by the appropriate Federal agency.

(16) Lead-contaminated dust

The term "lead-contaminated dust" means surface dust in residential dwellings that contains an area or mass concentration of lead in excess of levels determined by the appropriate Federal agency to pose a threat of adverse health effects in pregnant women or young children.

(17) Lead-contaminated soil

The term "lead-contaminated soil" means bare soil on residential real property that contains lead at or in excess of the levels determined to be hazardous to human health by the appropriate Federal agency.

(18) Mortgage loan

The term "mortgage loan" includes any loan (other than temporary financing such as a construction loan) that—

(A) is secured by a first lien on any interest in residential real property; and

(B) either—

(i) is insured, guaranteed, made, or assisted by the Department of Housing and Urban Development, the Department of Veterans Affairs, or the Farmers Home Administration, or by any other agency of the Federal Government; or

(ii) is intended to be sold by each originating mortgage institution to any federally chartered secondary mortgage market institution.

(19) Originating mortgage institution

The term "originating mortgage institution" means a lender that provides mortgage loans.

(20) Priority housing

The term "priority housing" means target housing that qualifies as affordable housing under section 12745 of this title, including housing that receives assistance under subsection (b) or (o) of section 1437f of this title.

(21) Public housing

The term "public housing" has the same meaning given the term in section 1437a(b) of this title.

(22) Reduction

The term "reduction" means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and abatement.

(23) Residential dwelling

The term "residential dwelling" means—

(A) a single-family dwelling, including attached structures such as porches and stoops; or

(B) a single-family dwelling unit in a structure that contains more than 1 separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(24) Residential real property

The term "residential real property" means real property on which there is situated 1 or more residential dwellings used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(25) Risk assessment

The term "risk assessment" means an on-site investigation to determine and report the existence, nature, severity and location of lead-based paint hazards in residential dwellings, including—

(A) information gathering regarding the age and history of the housing and occupancy by children under age 6;

(B) visual inspection;

(C) limited wipe sampling or other environmental sampling techniques;

(D) other activity as may be appropriate; and

(E) provision of a report explaining the results of the investigation.

(26) Secretary

The term "Secretary" means the Secretary of Housing and Urban Development.

(27) Target housing

The term "target housing" means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities or any 0-bedroom dwelling (unless any child who is less than 6 years of age resides or is expected to reside in such housing). In the case of jurisdictions which banned the sale or use of lead-based paint prior to 1978, the Secretary, at the Secretary's discretion, may designate an earlier date.

(Pub. L. 102–550, title X, §1004, Oct. 28, 1992, 106 Stat. 3898; Pub. L. 115–31, div. K, title II, §237(b), May 5, 2017, 131 Stat. 789.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning title X of Pub. L. 102–550, Oct. 28, 1992, 106 Stat. 3897, known as the Residential Lead-Based Paint Hazard Reduction Act of 1992. For complete classification of this Act to the Code, see Short Title note set out under section 4851 of this title and Tables.

Section 1 of the Housing and Urban Development Act of 1965, referred to in par. (7)(B), is section 1 of Pub. L. 89–117, which is set out as a Short Title of 1965 Amendment note under section 1701 of Title 12, Banks and Banking.

AMENDMENTS

2017—Par. (27). Pub. L. 115–31, §237(b)(1), which directed insertion of "or any 0-bedroom dwelling" after "disabilities,", was executed by making the insertion after "disabilities" the first place appearing to reflect the probable intent of Congress.

Pub. L. 115–31, §237(b)(2), which directed substitution of "housing)" for "housing for the elderly or persons with disabilities) or any 0 bedroom dwelling", was executed by making the substitution for "housing for the elderly or persons with disabilities) or any 0-bedroom dwelling" to reflect the probable intent of Congress.

SUBCHAPTER I—LEAD-BASED PAINT HAZARD REDUCTION

§4852. Grants for lead-based paint hazard reduction in target housing

(a) General authority

The Secretary is authorized to provide grants to eligible applicants to evaluate and reduce lead-based paint hazards in housing that is not federally assisted housing, federally owned housing, or public housing, in accordance with the provisions of this section. Grants shall only be made under this section to provide assistance for housing which meets the following criteria—

(1) for grants made to assist rental housing, at least 50 percent of the units must be occupied by or made available to families with incomes at or below 50 percent of the area median income level and the remaining units shall be occupied or made available to families with incomes at or below 80 percent of the area median income level, and in all cases the landlord shall give priority in renting units assisted under this section, for not less than 3 years following the completion of lead abatement activities, to families with a child under the age of six years, except that buildings with five or more units may have 20 percent of the units occupied by families with incomes above 80 percent of area median income level;

(2) for grants made to assist housing owned by owner-occupants, all units assisted with grants under this section shall be the principal residence of families with income at or below 80 percent of the area median income level, and not less than 90 percent of the units assisted with grants under this section shall be occupied by a child under the age of six years or shall be units where a child under the age of six years spends a significant amount of time visiting; and

(3) notwithstanding paragraphs (1) and (2), Round II grantees who receive assistance under this section may use such assistance for priority housing.

(b) Eligible applicants

A State or unit of local government that has an approved comprehensive housing affordability strategy under section 12705 of this title is eligible to apply for a grant under this section.

(c) Form of applications

To receive a grant under this section, a State or unit of local government shall submit an application in such form and in such manner as the Secretary shall prescribe. An application shall contain—

(1) a copy of that portion of an applicant's comprehensive housing affordability strategy required by section 12705(b)(16) [1] of this title;

(2) a description of the amount of assistance the applicant seeks under this section;

(3) a description of the planned activities to be undertaken with grants under this section, including an estimate of the amount to be allocated to each activity;

(4) a description of the forms of financial assistance to owners and occupants of housing that will be provided through grants under this section; and

(5) such assurances as the Secretary may require regarding the applicant's capacity to carry out the activities.

(d) Selection criteria

The Secretary shall award grants under this section on the basis of the merit of the activities proposed to be carried out and on the basis of selection criteria, which shall include—

(1) the extent to which the proposed activities will reduce the risk of lead-based paint poisoning to children under the age of 6 who reside in housing;

(2) the degree of severity and extent of lead-based paint hazards in the jurisdiction to be served;

(3) the ability of the applicant to leverage State, local, and private funds to supplement the grant under this section;

(4) the ability of the applicant to carry out the proposed activities; and

(5) such other factors as the Secretary determines appropriate to ensure that grants made available under this section are used effectively and to promote the purposes of this chapter.

(e) Eligible activities

A grant under this section may be used to—

(1) perform risk assessments and inspections in housing;

(2) provide for the interim control of lead-based paint hazards in housing;

(3) provide for the abatement of lead-based paint hazards in housing;

(4) provide for the additional cost of reducing lead-based paint hazards in units undergoing renovation funded by other sources;

(5) ensure that risk assessments, inspections, and abatements are carried out by certified contractors in accordance with section 2682 of title 15;

(6) monitor the blood-lead levels of workers involved in lead hazard reduction activities funded under this section;

(7) assist in the temporary relocation of families forced to vacate housing while lead hazard reduction measures are being conducted;

(8) educate the public on the nature and causes of lead poisoning and measures to reduce exposure to lead, including exposure due to residential lead-based paint hazards;

(9) test soil, interior surface dust, and the blood-lead levels of children under the age of 6 residing in housing after lead-based paint hazard reduction activity has been conducted, to assure that such activity does not cause excessive exposures to lead; and

(10) carry out such other activities that the Secretary determines appropriate to promote the purposes of this chapter.

(f) Forms of assistance

The applicant may provide the services described in this section through a variety of programs, including grants, loans, equity investments, revolving loan funds, loan funds, loan guarantees, interest write-downs, and other forms of assistance approved by the Secretary.

(g) Technical assistance and capacity building

(1) In general

The Secretary shall develop the capacity of eligible applicants to carry out the requirements of section 12705(b)(16) [1] of this title and to carry out activities under this section. In fiscal years 1993 and 1994, the Secretary may make grants of up to $200,000 for the purpose of establishing State training, certification or accreditation programs that meet the requirements of section 2682 of title 15.

(2) Set-aside

Of the total amount approved in appropriation Acts under subsection (o), there shall be set aside to carry out this subsection $3,000,000 for fiscal year 1993 and $3,000,000 for fiscal year 1994.

(h) Matching requirement

Each recipient of a grant under this section shall make contributions toward the cost of activities that receive assistance under this section in an amount not less than 10 percent of the total grant amount under this section.

(i) Prohibition of substitution of funds

Grants under this subchapter may not be used to replace other amounts made available or designated by State or local governments for use for the purposes under this subchapter.

(j) Limitation on use

An applicant shall ensure that not more than 10 percent of the grant will be used for administrative expenses associated with the activities funded.

(k) Financial records

An applicant shall maintain and provide the Secretary with financial records sufficient, in the determination of the Secretary, to ensure proper accounting and disbursing of amounts received from a grant under this section.

(l) Report

An applicant under this section shall submit to the Secretary, for any fiscal year in which the applicant expends grant funds under this section, a report that—

(1) describes the use of the amounts received;

(2) states the number of risk assessments and the number of inspections conducted in residential dwellings;

(3) states the number of residential dwellings in which lead-based paint hazards have been reduced through interim controls;

(4) states the number of residential dwellings in which lead-based paint hazards have been abated; and

(5) provides any other information that the Secretary determines to be appropriate.

(m) Notice of Funding Availability

The Secretary shall publish a Notice of Funding Availability pursuant to this section not later than 120 days after funds are appropriated for this section.

(n) Relationship to other law

Effective 2 years after the date of promulgation of regulations under section 2682 of title 15, no grants for lead-based paint hazard evaluation or reduction may be awarded to a State under this section unless such State has an authorized program under section 2684 of title 15.

(o) Environmental review

(1) In general

For purposes of environmental review, decisionmaking, and action pursuant to the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and other provisions of law that further the purposes of such Act, a grant under this section shall be treated as assistance under the HOME Investment Partnership [2] Act, established under title II of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12721 et seq.], and shall be subject to the regulations promulgated by the Secretary to implement section 288 of such Act [42 U.S.C. 12838].

(2) Applicability

This subsection shall apply to—

(A) grants awarded under this section; and

(B) grants awarded to States and units of general local government for the abatement of significant lead-based paint and lead dust hazards in low- and moderate-income owner-occupied units and low-income privately owned rental units pursuant to title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102–139, 105 Stat. 736).

(p) Authorization of appropriations

For the purposes of carrying out this chapter, there are authorized to be appropriated $125,000,000 for fiscal year 1993 and $250,000,000 for fiscal year 1994.

(Pub. L. 102–550, title X, §1011, Oct. 28, 1992, 106 Stat. 3901; Pub. L. 103–233, title III, §305(a), Apr. 11, 1994, 108 Stat. 370; Pub. L. 104–134, title I, §101(e) [title II, §217], Apr. 26, 1996, 110 Stat. 1321–257, 1321–290; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 12705(b)(16) of this title, referred to in subsecs. (c)(1) and (g)(1), probably means section 12705(b)(16) relating to housing units that contain lead-based paint hazards which was redesignated section

12705(b)(17) by Pub. L. 105–276, title V, §583(5)(B), Oct. 21, 1998, 112 Stat. 2644.

This chapter, referred to in subsecs. (d)(5), (e)(10), and (p), was in the original "this Act", meaning title X of Pub. L. 102–550, Oct. 28, 1992, 106 Stat. 3897, known as the Residential Lead-Based Paint Hazard Reduction Act of 1992. For complete classification of this Act to the Code, see Short Title note set out under section 4851 of this title and Tables.

This subchapter, referred to in subsec. (i), was in the original "this subtitle", meaning subtitle A of title X of Pub. L. 102–550, Oct. 28, 1992, 106 Stat. 3901, which enacted this subchapter and amended sections 1437f, 1437aaa–1, 1437aaa–2, 1471, 4822, 5305, 12705, 12742, 12872, 12873, 12892, and 12893 of this title and sections 1703, 1709, and 1715l of Title 12, Banks and Banking.

The National Environmental Policy Act of 1969, referred to in subsec. (o)(1), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

The Cranston-Gonzalez National Affordable Housing Act, referred to in subsec. (o)(1), is Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4079. Title II of the Act, known as the HOME Investment Partnerships Act, is classified principally to subchapter II (§12721 et seq.) of chapter 130 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992, referred to in subsec. (o)(2)(B), is Pub. L. 102–139, Oct. 28, 1991, 105 Stat. 736. Title II of the Act relates to appropriations for the Department of Housing and Urban Development. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–134, §101(e) [title II, §217], substituted "hazards in housing" for "hazards in priority housing" and inserted at end "Grants shall only be made under this section to provide assistance for housing which meets the following criteria—" and pars. (1) to (3).

Subsecs. (c)(4), (d)(1), (e)(1) to (3), (7), (9). Pub. L. 104–134, §101(e) [title II, §217(a)], substituted "housing" for "priority housing".

1994—Subsecs. (o), (p). Pub. L. 103–233 added subsec. (o) and redesignated former subsec. (o) as (p).

[1] See References in Text note below.

[2] So in original. Probably should be "Partnerships".

§4852a. Task force on lead-based paint hazard reduction and financing

(a) In general

The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall establish a task force to make recommendations on expanding resources and efforts to evaluate and reduce lead-based paint hazards in private housing.

(b) Membership

The task force shall include individuals representing the Department of Housing and Urban Development, the Farmers Home Administration, the Department of Veterans Affairs, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Environmental Protection Agency, employee organizations in the building and construction trades industry, landlords, tenants, primary lending institutions, private mortgage insurers, single-family and multifamily real estate interests, nonprofit housing developers, property liability insurers, public housing agencies, low-income housing advocacy organizations, national, State and local lead-poisoning prevention advocates and experts, and community-based organizations located in areas with substantial rental housing.

(c) Responsibilities

The task force shall make recommendations to the Secretary and the Administrator of the Environmental Protection Agency concerning—

(1) incorporating the need to finance lead-based paint hazard reduction into underwriting

standards;

(2) developing new loan products and procedures for financing lead-based paint hazard evaluation and reduction activities;

(3) adjusting appraisal guidelines to address lead safety;

(4) incorporating risk assessments or inspections for lead-based paint as a routine procedure in the origination of new residential mortgages;

(5) revising guidelines, regulations, and educational pamphlets issued by the Department of Housing and Urban Development and other Federal agencies relating to lead-based paint poisoning prevention;

(6) reducing the current uncertainties of liability related to lead-based paint in rental housing by clarifying standards of care for landlords and lenders, and by exploring the "safe harbor" concept;

(7) increasing the availability of liability insurance for owners of rental housing and certified contractors and establishing alternative systems to compensate victims of lead-based paint poisoning; and

(8) evaluating the utility and appropriateness of requiring risk assessments or inspections and notification to prospective lessees of rental housing.

(d) Compensation

The members of the task force shall not receive Federal compensation for their participation.

(Pub. L. 102–550, title X, §1015, Oct. 28, 1992, 106 Stat. 3908.)

§4852b. National consultation on lead-based paint hazard reduction

In carrying out this chapter, the Secretary shall consult on an ongoing basis with the Administrator of the Environmental Protection Agency, the Director of the Centers for Disease Control, other Federal agencies concerned with lead poisoning prevention, and the task force established pursuant to section 4852a of this title.

(Pub. L. 102–550, title X, §1016, Oct. 28, 1992, 106 Stat. 3909.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning title X of Pub. L. 102–550, Oct. 28, 1992, 106 Stat. 3897, known as the Residential Lead-Based Paint Hazard Reduction Act of 1992. For complete classification of this Act to the Code, see Short Title note set out under section 4851 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Centers for Disease Control changed to Centers for Disease Control and Prevention by Pub. L. 102–531, title III, §312, Oct. 27, 1992, 106 Stat. 3504.

§4852c. Guidelines for lead-based paint hazard evaluation and reduction activities

Not later than 12 months after October 28, 1992, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Labor, and the Secretary of Health and Human Services (acting through the Director of the Centers for Disease Control), shall issue guidelines for the conduct of federally supported work involving risk assessments, inspections, interim controls, and abatement of lead-based paint hazards. Such guidelines shall be based upon criteria that measure the condition of the housing (and the presence of children under age 6 for the

purposes of risk assessments) and shall not be based upon criteria that measure the health of the residents of the housing.

(Pub. L. 102–550, title X, §1017, Oct. 28, 1992, 106 Stat. 3909.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Centers for Disease Control changed to Centers for Disease Control and Prevention by Pub. L. 102–531, title III, §312, Oct. 27, 1992, 106 Stat. 3504.

§4852d. Disclosure of information concerning lead upon transfer of residential property

(a) Lead disclosure in purchase and sale or lease of target housing

(1) Lead-based paint hazards

Not later than 2 years after October 28, 1992, the Secretary and the Administrator of the Environmental Protection Agency shall promulgate regulations under this section for the disclosure of lead-based paint hazards in target housing which is offered for sale or lease. The regulations shall require that, before the purchaser or lessee is obligated under any contract to purchase or lease the housing, the seller or lessor shall—

(A) provide the purchaser or lessee with a lead hazard information pamphlet, as prescribed by the Administrator of the Environmental Protection Agency under section 406 of the Toxic Substances Control Act [15 U.S.C. 2686];

(B) disclose to the purchaser or lessee the presence of any known lead-based paint, or any known lead-based paint hazards, in such housing and provide to the purchaser or lessee any lead hazard evaluation report available to the seller or lessor; and

(C) permit the purchaser a 10-day period (unless the parties mutually agree upon a different period of time) to conduct a risk assessment or inspection for the presence of lead-based paint hazards.

(2) Contract for purchase and sale

Regulations promulgated under this section shall provide that every contract for the purchase and sale of any interest in target housing shall contain a Lead Warning Statement and a statement signed by the purchaser that the purchaser has—

(A) read the Lead Warning Statement and understands its contents;

(B) received a lead hazard information pamphlet; and

(C) had a 10-day opportunity (unless the parties mutually agreed upon a different period of time) before becoming obligated under the contract to purchase the housing to conduct a risk assessment or inspection for the presence of lead-based paint hazards.

(3) Contents of lead warning statement

The Lead Warning Statement shall contain the following text printed in large type on a separate sheet of paper attached to the contract:

"Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A

risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.".

(4) Compliance assurance

Whenever a seller or lessor has entered into a contract with an agent for the purpose of selling or leasing a unit of target housing, the regulations promulgated under this section shall require the agent, on behalf of the seller or lessor, to ensure compliance with the requirements of this section.

(5) Promulgation

A suit may be brought against the Secretary of Housing and Urban Development and the Administrator of the Environmental Protection Agency under section 20 of the Toxic Substances Control Act [15 U.S.C. 2619] to compel promulgation of the regulations required under this section and the Federal district court shall have jurisdiction to order such promulgation.

(b) Penalties for violations

(1) Monetary penalty

Any person who knowingly violates any provision of this section shall be subject to civil money penalties in accordance with the provisions of section 3545 of this title.

(2) Action by Secretary

The Secretary is authorized to take such lawful action as may be necessary to enjoin any violation of this section.

(3) Civil liability

Any person who knowingly violates the provisions of this section shall be jointly and severally liable to the purchaser or lessee in an amount equal to 3 times the amount of damages incurred by such individual.

(4) Costs

In any civil action brought for damages pursuant to paragraph (3), the appropriate court may award court costs to the party commencing such action, together with reasonable attorney fees and any expert witness fees, if that party prevails.

(5) Prohibited act

It shall be a prohibited act under section 409 of the Toxic Substances Control Act [15 U.S.C. 2689] for any person to fail or refuse to comply with a provision of this section or with any rule or order issued under this section. For purposes of enforcing this section under the Toxic Substances Control Act [15 U.S.C. 2601 et seq.], the penalty for each violation applicable under section 16 of that Act [15 U.S.C. 2615] shall not be more than $10,000.

(c) Validity of contracts and liens

Nothing in this section shall affect the validity or enforceability of any sale or contract for the purchase and sale or lease of any interest in residential real property or any loan, loan agreement, mortgage, or lien made or arising in connection with a mortgage loan, nor shall anything in this section create a defect in title.

(d) Effective date

The regulations under this section shall take effect 3 years after October 28, 1992.

(Pub. L. 102–550, title X, §1018, Oct. 28, 1992, 106 Stat. 3910.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Toxic Substances Control Act, referred to in subsec. (b)(5), is Pub. L. 94–469, Oct. 11, 1976, 90 Stat. 2003, which is classified generally to chapter 53 (§2601 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 15 and

Tables.

SUBCHAPTER II—WORKER PROTECTION

§4853. Worker protection

Not later than 180 days after October 28, 1992, the Secretary of Labor shall issue an interim final regulation regulating occupational exposure to lead in the construction industry. Such interim final regulation shall provide employment and places of employment to employees which are as safe and healthful as those which would prevail under the Department of Housing and Urban Development guidelines published at Federal Register 55, page 38973 (September 28, 1990) (Revised Chapter 8). Such interim final regulations shall take effect upon issuance (except that such regulations may include a reasonable delay in the effective date), shall have the legal effect of an Occupational Safety and Health Standard, and shall apply until a final standard becomes effective under section 655 of title 29.

(Pub. L. 102–550, title X, §1031, Oct. 28, 1992, 106 Stat. 3924.)

§4853a. Coordination between Environmental Protection Agency and Department of Labor

The Secretary of Labor, in promulgating regulations under section 4853 of this title, shall consult and coordinate with the Administrator of the Environmental Protection Agency for the purpose of achieving the maximum enforcement of title IV of the Toxic Substances Control Act [15 U.S.C. 2681 et seq.] and the Occupational Safety and Health Act of 1970 [29 U.S.C. 651 et seq.] while imposing the least burdens of duplicative requirements on those subject to such title and Act and for other purposes.

(Pub. L. 102–550, title X, §1032, Oct. 28, 1992, 106 Stat. 3924.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Toxic Substances Control Act, referred to in text, is Pub. L. 94–469, Oct. 11, 1976, 90 Stat. 2003. Title IV of the Act is classified generally to subchapter IV (§2681 et seq.) of chapter 53 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 15 and Tables.

The Occupational Safety and Health Act of 1970, referred to in text, is Pub. L. 91–596, Dec. 29, 1970, 84 Stat. 1590, which is classified principally to chapter 15 (§651 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 651 of Title 29 and Tables.

SUBCHAPTER III—RESEARCH AND DEVELOPMENT

PART 1—HUD RESEARCH

§4854. Research on lead exposure from other sources

The Secretary, in cooperation with other Federal agencies, shall conduct research on strategies to reduce the risk of lead exposure from other sources, including exterior soil and interior lead dust in carpets, furniture, and forced air ducts.

(Pub. L. 102–550, title X, §1051, Oct. 28, 1992, 106 Stat. 3925.)

§4854a. Testing technologies

The Secretary, in cooperation with other Federal agencies, shall conduct research to—

(1) develop improved methods for evaluating lead-based paint hazards in housing;

(2) develop improved methods for reducing lead-based paint hazards in housing;

(3) develop improved methods for measuring lead in paint films, dust, and soil samples;

(4) establish performance standards for various detection methods, including spot test kits;

(5) establish performance standards for lead-based paint hazard reduction methods, including the use of encapsulants;

(6) establish appropriate cleanup standards;

(7) evaluate the efficacy of interim controls in various hazard situations;

(8) evaluate the relative performance of various abatement techniques;

(9) evaluate the long-term cost-effectiveness of interim control and abatement strategies; and

(10) assess the effectiveness of hazard evaluation and reduction activities funded by this chapter.

(Pub. L. 102–550, title X, §1052, Oct. 28, 1992, 106 Stat. 3925.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in par. (10), was in the original "this Act", meaning title X of Pub. L. 102–550, Oct. 28, 1992, 106 Stat. 3897, known as the Residential Lead-Based Paint Hazard Reduction Act of 1992. For complete classification of this Act to the Code, see Short Title note set out under section 4851 of this title and Tables.

§4854b. Authorization

Of the total amount approved in appropriation Acts under section 4852(o) [1] of this title, there shall be set aside to carry out this part $5,000,000 for fiscal year 1993, and $5,000,000 for fiscal year 1994.

(Pub. L. 102–550, title X, §1053, Oct. 28, 1992, 106 Stat. 3926.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 4852(o) of this title, referred to in text, was redesignated section 4852(p) of this title by Pub. L. 103–233, title III, §305(a)(1), Apr. 11, 1994, 108 Stat. 370.

[1] *See References in Text note below.*

PART 2—GAO REPORT

§4855. Federal implementation and insurance study

(a) Federal implementation study

The Comptroller General of the United States shall assess the effectiveness of Federal enforcement and compliance with lead safety laws and regulations, including any changes needed in annual inspection procedures to identify lead-based paint hazards in units receiving assistance under subsections (b) and (o) of section 1437f of this title.

(b) Insurance study

The Comptroller General of the United States shall assess the availability of liability insurance for owners of residential housing that contains lead-based paint and persons engaged in lead-based paint hazard evaluation and reduction activities. In carrying out the assessment, the Comptroller General shall—

(1) analyze any precedents in the insurance industry for the containment and abatement of environmental hazards, such as asbestos, in federally assisted housing;

(2) provide an assessment of the recent insurance experience in the public housing lead hazard identification and reduction program; and

(3) recommend measures for increasing the availability of liability insurance to owners and contractors engaged in federally supported work.

(Pub. L. 102–550, title X, §1056, Oct. 28, 1992, 106 Stat. 3926.)

SUBCHAPTER IV—REPORTS

§4856. Reports of Secretary of Housing and Urban Development

(a) Annual report

The Secretary shall transmit to the Congress an annual report that—

(1) sets forth the Secretary's assessment of the progress made in implementing the various programs authorized by this chapter;

(2) summarizes the most current health and environmental studies on childhood lead poisoning, including studies that analyze the relationship between interim control and abatement activities and the incidence of lead poisoning in resident children;

(3) recommends legislative and administrative initiatives that may improve the performance by the Department of Housing and Urban Development in combating lead hazards through the expansion of lead hazard evaluation and reduction activities;

(4) describes the results of research carried out in accordance with subchapter III; and

(5) estimates the amount of Federal assistance annually expended on lead hazard evaluation and reduction activities.

(b) Biennial report

(1) In general

24 months after October 28, 1992, and at the end of every 24-month period thereafter, the Secretary shall report to the Congress on the progress of the Department of Housing and Urban Development in implementing expanded lead-based paint hazard evaluation and reduction activities.

(2) Contents

The report shall—

(A) assess the effectiveness of section 4852d of this title in making the public aware of lead-based paint hazards;

(B) estimate the extent to which lead-based paint hazard evaluation and reduction activities are being conducted in the various categories of housing;

(C) monitor and report expenditures for lead-based paint hazard evaluation and reduction for

programs within the jurisdiction of the Department of Housing and Urban Development;

(D) identify the infrastructure needed to eliminate lead-based paint hazards in all housing as expeditiously as possible, including cost-effective technology, standards and regulations, trained and certified contractors, certified laboratories, liability insurance, private financing techniques, and appropriate Government subsidies;

(E) assess the extent to which the infrastructure described in subparagraph (D) exists, make recommendations to correct shortcomings, and provide estimates of the costs of measures needed to build an adequate infrastructure; and

(F) include any additional information that the Secretary deems appropriate.

(Pub. L. 102–550, title X, §1061, Oct. 28, 1992, 106 Stat. 3926.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1), was in the original "this title", meaning title X of Pub. L. 102–550, Oct. 28, 1992, 106 Stat. 3897, known as the Residential Lead-Based Paint Hazard Reduction Act of 1992. For complete classification of this title to the Code, see Short Title note set out under section 4851 of this title and Tables.

CHAPTER 64—PUBLIC SERVICE EMPLOYMENT PROGRAMS

§§4871 to 4883. Omitted

EDITORIAL NOTES

CODIFICATION

The public service employment programs covered by this chapter and authorized pursuant to the Emergency Employment Act of 1971, Pub. L. 92–54, July 12, 1971, 85 Stat. 146, which enacted this chapter, are omitted because appropriations were not authorized after June 30, 1973. Similar public service employment programs were included in the Comprehensive Employment and Training Act of 1973, Pub. L. 93–203, title II, §§201–211, Dec. 28, 1973, 87 Stat. 850–857, which was classified to section 841 et seq. of Title 29, Labor, and was repealed by section 184(a)(1) of the Job Training Partnership Act, Pub. L. 97–300, title I, Oct. 13, 1982, 96 Stat. 1357. The Job Training Partnership Act was classified principally to chapter 19 (§1501 et seq.) of Title 29 and was repealed by Pub. L. 105–220, title I, §199(b)(2), 112 Stat. 1059, effective July 1, 2000.

Section 4871, Pub. L. 92–54, §2, July 12, 1971, 85 Stat. 146, set forth Congressional statement of findings and purpose.

Section 4872, Pub. L. 92–54, §3, July 12, 1971, 85 Stat. 147, related to financial assistance.

Section 4873, Pub. L. 92–54, §4, July 12, 1971, 85 Stat. 147, related to eligibility of applicants.

Section 4874, Pub. L. 92–54, §5, July 12, 1971, 85 Stat. 148, related to authorization of appropriations and the national unemployment rate.

Section 4875, Pub. L. 92–54, §6, July 12, 1971, 85 Stat. 148, related to special employment assistance.

Section 4876, Pub. L. 92–54, §7, July 12, 1971, 85 Stat. 149, related to applications for financial assistance.

Section 4877, Pub. L. 92–54, §8, July 12, 1971, 85 Stat. 151, related to approval of applications and non-Federal contributions.

Section 4878, Pub. L. 92–54, §9, July 12, 1971, 85 Stat. 151, related to interstate and intrastate allocation of funds.

Section 4879, Pub. L. 92–54, §10, July 12, 1971, 85 Stat. 152, related to training and manpower services.

Section 4880, Pub. L. 92–54, §11, July 12, 1971, 85 Stat. 152, related to periodic review and evaluation by the Secretary.

Section 4881, Pub. L. 92–54, §12, July 12, 1971, 85 Stat. 153, set forth special provisions relating to programs.

Section 4882, Pub. L. 92–54, §13, July 12, 1971, 85 Stat. 155, related to a special report to Congress.
Section 4883, Pub. L. 92–54, §14, July 12, 1971, 85 Stat. 155, set forth definitions.

CHAPTER 65—NOISE CONTROL

Sec.

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§4901. Congressional findings and statement of policy

(a) The Congress finds—

(1) that inadequately controlled noise presents a growing danger to the health and welfare of the Nation's population, particularly in urban areas;

(2) that the major sources of noise include transportation vehicles and equipment, machinery, appliances, and other products in commerce; and

(3) that, while primary responsibility for control of noise rests with State and local governments, Federal action is essential to deal with major noise sources in commerce control of which require national uniformity of treatment.

(b) The Congress declares that it is the policy of the United States to promote an environment for all Americans free from noise that jeopardizes their health or welfare. To that end, it is the purpose of this chapter to establish a means for effective coordination of Federal research and activities in noise control, to authorize the establishment of Federal noise emission standards for products distributed in commerce, and to provide information to the public respecting the noise emission and noise reduction characteristics of such products.

(Pub. L. 92–574, §2, Oct. 27, 1972, 86 Stat. 1234.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–609, §1, Nov. 8, 1978, 92 Stat. 3079, provided: "That this Act [amending sections 4905, 4910, 4913, 4918, 6901, 6903, 6907, 6913, 6922, 6923, 6925, to 6928, 6947, 6961, 6962, 6964, 6972, 6973, 6977, and 6981 to 6984 of this title and section 1431 of former Title 49, Transportation, and enacting provision set out as a note under section 1431 of former Title 49] may be cited as the 'Quiet Communities Act of 1978'."

SHORT TITLE

Pub. L. 92–574, §1, Oct. 27, 1972, 86 Stat. 1234, provided that: "This Act [enacting this chapter, amending section 1431 of former Title 49, Transportation, and enacting provisions set out as notes under this section and section 1431 of former Title 49] may be cited as the 'Noise Control Act of 1972'."

EXECUTIVE DOCUMENTS

FEDERAL COMPLIANCE WITH POLLUTION CONTROL STANDARDS

For provisions relating to the responsibility of the head of each Executive agency for compliance with applicable pollution control standards, see Ex. Ord. No. 12088, Oct. 13, 1978, 43 F.R. 47707, set out as a note under section 4321 of this title.

§4902. Definitions

For purposes of this chapter:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "person" means an individual, corporation, partnership, or association, and (except as provided in sections 4910(e) and 4911(a) of this title) includes any officer, employee, department, agency, or instrumentality of the United States, a State, or any political subdivision of a State.

(3) The term "product" means any manufactured article or goods or component thereof; except that such term does not include—

(A) any aircraft, aircraft engine, propeller, or appliance, as such terms are defined in section 40102(a) of title 49; or

(B)(i) any military weapons or equipment which are designed for combat use; (ii) any rockets or equipment which are designed for research, experimental, or developmental work to be performed by the National Aeronautics and Space Administration; or (iii) to the extent provided by regulations of the Administrator, any other machinery or equipment designed for use in experimental work done by or for the Federal Government.

(4) The term "ultimate purchaser" means the first person who in good faith purchases a product for purposes other than resale.

(5) The term "new product" means (A) a product the equitable or legal title of which has never been transferred to an ultimate purchaser, or (B) a product which is imported or offered for importation into the United States and which is manufactured after the effective date of a regulation under section 4905 or 4907 of this title which would have been applicable to such product had it been manufactured in the United States.

(6) The term "manufacturer" means any person engaged in the manufacturing or assembling of new products, or the importing of new products for resale, or who acts for, and is controlled by, any such person in connection with the distribution of such products.

(7) The term "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

(8) The term "distribute in commerce" means sell in, offer for sale in, or introduce or deliver for introduction into, commerce.

(9) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

(10) The term "Federal agency" means an executive agency (as defined in section 105 of title 5) and includes the United States Postal Service.

(11) The term "environmental noise" means the intensity, duration, and the character of sounds from all sources.

(Pub. L. 92–574, §3, Oct. 27, 1972, 86 Stat. 1234.)

EDITORIAL NOTES

CODIFICATION

In par. (3)(A), "section 40102(a) of title 49" substituted for "section 101 of the Federal Aviation Act of 1958" on authority of Pub. L. 103–272, §6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation.

EXECUTIVE DOCUMENTS

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§4903. Federal programs

(a) Furtherance of Congressional policy

The Congress authorizes and directs that Federal agencies shall, to the fullest extent consistent with their authority under Federal laws administered by them, carry out the programs within their control in such a manner as to further the policy declared in section 4901(b) of this title.

(b) Presidential authority to exempt activities or facilities from compliance requirements

Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government—

(1) having jurisdiction over any property or facility, or

(2) engaged in any activity resulting, or which may result, in the emission of noise,

shall comply with Federal, State, interstate, and local requirements respecting control and abatement of environmental noise to the same extent that any person is subject to such requirements. The President may exempt any single activity or facility, including noise emission sources or classes thereof, of any department, agency, or instrumentality in the executive branch from compliance with any such requirement if he determines it to be in the paramount interest of the United States to do so; except that no exemption, other than for those products referred to in section 4902(3)(B) of this title, may be granted from the requirements of sections 4905, 4916, and 4917 of this title. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting such exemption.

(c) Coordination of programs of Federal agencies; standards and regulations; status reports

(1) The Administrator shall coordinate the programs of all Federal agencies relating to noise research and noise control. Each Federal agency shall, upon request, furnish to the Administrator such information as he may reasonably require to determine the nature, scope, and results of the noise-research and noise-control programs of the agency.

(2) Each Federal agency shall consult with the Administrator in prescribing standards or regulations respecting noise. If at any time the Administrator has reason to believe that a standard or regulation, or any proposed standard or regulation, of any Federal agency respecting noise does not protect the public health and welfare to the extent he believes to be required and feasible, he may request such agency to review and report to him on the advisability of revising such standard or regulation to provide such protection. Any such request may be published in the Federal Register and shall be accompanied by a detailed statement of the information on which it is based. Such agency shall complete the requested review and report to the Administrator within such time as the

Administrator specifies in the request, but such time specified may not be less than ninety days from the date the request was made. The report shall be published in the Federal Register and shall be accompanied by a detailed statement of the findings and conclusions of the agency respecting the revision of its standard or regulation. With respect to the Federal Aviation Administration, section 44715 of title 49 shall apply in lieu of this paragraph.

(3) On the basis of regular consultation with appropriate Federal agencies, the Administrator shall compile and publish, from time to time, a report on the status and progress of Federal activities relating to noise research and noise control. This report shall describe the noise-control programs of each Federal agency and assess the contributions of those programs to the Federal Government's overall efforts to control noise.

(Pub. L. 92–574, §4, Oct. 27, 1972, 86 Stat. 1235.)

EDITORIAL NOTES

CODIFICATION

In subsec. (c)(2), "section 44715 of title 49" substituted for "section 611 of the Federal Aviation Act of 1958 (as amended by section 7 of this Act)" on authority of Pub. L. 103–272, §6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (b) of this section relating to annual report 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 item 7 on page 20 of House Document No. 103–7.

§4904. Identification of major noise sources

(a) Development and publication of criteria

(1) The Administrator shall, after consultation with appropriate Federal agencies and within nine months of October 27, 1972, develop and publish criteria with respect to noise. Such criteria shall reflect the scientific knowledge most useful in indicating the kind and extent of all identifiable effects on the public health or welfare which may be expected from differing quantities and qualities of noise.

(2) The Administrator shall, after consultation with appropriate Federal agencies and within twelve months of October 27, 1972, publish information on the levels of environmental noise the attainment and maintenance of which in defined areas under various conditions are requisite to protect the public health and welfare with an adequate margin of safety.

(b) Compilation and publication of reports on noise sources and control technology

The Administrator shall, after consultation with appropriate Federal agencies, compile and publish a report or series of reports (1) identifying products (or classes of products) which in his judgment are major sources of noise, and (2) giving information on techniques for control of noise from such products, including available data on the technology, costs, and alternative methods of noise control. The first such report shall be published not later than eighteen months after October 27, 1972.

(c) Supplemental criteria and reports

The Administrator shall from time to time review and, as appropriate, revise or supplement any criteria or reports published under this section.

(d) Publication in Federal Register

Any report (or revision thereof) under subsection (b)(1) identifying major noise sources shall be published in the Federal Register. The publication or revision under this section of any criteria or

information on control techniques shall be announced in the Federal Register, and copies shall be made available to the general public.

(Pub. L. 92–574, §5, Oct. 27, 1972, 86 Stat. 1236.)

§4905. Noise emission standards for products distributed in commerce

(a) Proposed regulations

(1) The Administrator shall publish proposed regulations, meeting the requirements of subsection (c), for each product—

(A) which is identified (or is part of a class identified) in any report published under section 4904(b)(1) of this title as a major source of noise,

(B) for which, in his judgment, noise emission standards are feasible, and

(C) which falls in one of the following categories:

(i) Construction equipment.

(ii) Transportation equipment (including recreational vehicles and related equipment).

(iii) Any motor or engine (including any equipment of which an engine or motor is an integral part).

(iv) Electrical or electronic equipment.

(2)(A) Initial proposed regulations under paragraph (1) shall be published not later than eighteen months after October 27, 1972, and shall apply to any product described in paragraph (1) which is identified (or is a part of a class identified) as a major source of noise in any report published under section 4904(b)(1) of this title on or before the date of publication of such initial proposed regulations.

(B) In the case of any product described in paragraph (1) which is identified (or is part of a class identified) as a major source of noise in a report published under section 4904(b)(1) of this title after publication of the initial proposed regulations under subparagraph (A) of this paragraph, regulations under paragraph (1) for such product shall be proposed and published by the Administrator not later than eighteen months after such report is published.

(3) After proposed regulations respecting a product have been published under paragraph (2), the Administrator shall, unless in his judgment noise emission standards are not feasible for such product, prescribe regulations, meeting the requirements of subsection (c), for such product—

(A) not earlier than six months after publication of such proposed regulations, and

(B) not later than—

(i) twenty-four months after October 27, 1972, in the case of a product subject to proposed regulations published under paragraph (2)(A), or

(ii) in the case of any other product, twenty-four months after the publication of the report under section 4904(b)(1) of this title identifying it (or a class of products of which it is a part) as a major source of noise.

(b) Authority to publish regulations not otherwise required

The Administrator may publish proposed regulations, meeting the requirements of subsection (c), for any product for which he is not required by subsection (a) to prescribe regulations but for which, in his judgment, noise emission standards are feasible and are requisite to protect the public health and welfare. Not earlier than six months after the date of publication of such proposed regulations respecting such product, he may prescribe regulations, meeting the requirements of subsection (c), for such product.

(c) Contents of regulations; appropriate consideration of other standards; participation by interested persons; revision

(1) Any regulation prescribed under subsection (a) or (b) of this section (and any revision thereof) respecting a product shall include a noise emission standard which shall set limits on noise emissions from such product and shall be a standard which in the Administrator's judgment, based on criteria

published under section 4904 of this title, is requisite to protect the public health and welfare, taking into account the magnitude and conditions of use of such product (alone or in combination with other noise sources), the degree of noise reduction achievable through the application of the best available technology, and the cost of compliance. In establishing such a standard for any product, the Administrator shall give appropriate consideration to standards under other laws designed to safeguard the health and welfare of persons, including any standards under chapter 301 of title 49, the Clean Air Act [42 U.S.C. 7401 et seq.], and the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.]. Any such noise emission standards shall be a performance standard. In addition, any regulation under subsection (a) or (b) (and any revision thereof) may contain testing procedures necessary to assure compliance with the emission standard in such regulation, and may contain provisions respecting instructions of the manufacturer for the maintenance, use, or repair of the product.

(2) After publication of any proposed regulations under this section, the Administrator shall allow interested persons an opportunity to participate in rulemaking in accordance with the first sentence of section 553(c) of title 5.

(3) The Administrator may revise any regulation prescribed by him under this section by (A) publication of proposed revised regulations, and (B) the promulgation, not earlier than six months after the date of such publication, of regulations making the revision; except that a revision which makes only technical or clerical corrections in a regulation under this section may be promulgated earlier than six months after such date if the Administrator finds that such earlier promulgation is in the public interest.

(d) Warranty by manufacturer of conformity of product with regulations; transfer of cost obligation from manufacturer to dealer prohibited

(1) On and after the effective date of any regulation prescribed under subsection (a) or (b) of this section, the manufacturer of each new product to which such regulation applies shall warrant to the ultimate purchaser and each subsequent purchaser that such product is designed, built, and equipped so as to conform at the time of sale with such regulation.

(2) Any cost obligation of any dealer incurred as a result of any requirement imposed by paragraph (1) of this subsection shall be borne by the manufacturer. The transfer of any such cost obligation from a manufacturer to any dealer through franchise or other agreement is prohibited.

(3) If a manufacturer includes in any advertisement a statement respecting the cost or value of noise emission control devices or systems, such manufacturer shall set forth in such statement the cost or value attributed to such devices or systems by the Secretary of Labor (through the Bureau of Labor Statistics). The Secretary of Labor, and his representatives, shall have the same access for this purpose to the books, documents, papers, and records of a manufacturer as the Comptroller General has to those of a recipient of assistance for purposes of section 311 of the Clean Air Act [42 U.S.C. 7611].

(e) State and local regulations

(1) No State or political subdivision thereof may adopt or enforce—

(A) with respect to any new product for which a regulation has been prescribed by the Administrator under this section, any law or regulation which sets a limit on noise emissions from such new product and which is not identical to such regulation of the Administrator; or

(B) with respect to any component incorporated into such new product by the manufacturer of such product, any law or regulation setting a limit on noise emissions from such component when so incorporated.

(2) Subject to sections 4916 and 4917 of this title, nothing in this section precludes or denies the right of any State or political subdivision thereof to establish and enforce controls on environmental noise (or one or more sources thereof) through the licensing, regulation, or restriction of the use, operation, or movement of any product or combination of products.

(f) Publication of notice of receipt of revision petitions and proposed revised regulations

At any time after the promulgation of regulations respecting a product under this section, a State or political subdivision thereof may petition the Administrator to revise such standard on the grounds that a more stringent standard under subsection (c) of this section is necessary to protect the public health and welfare. The Administration shall publish notice of receipt of such petition in the Federal Register and shall within ninety days of receipt of such petition respond by (1) publication of proposed revised regulations in accordance with subsection (c)(3) of this section, or (2) publication in the Federal Register of a decision not to publish such proposed revised regulations at that time, together with a detailed explanation for such decision.

(Pub. L. 92–574, §6, Oct. 27, 1972, 86 Stat. 1237; Pub. L. 95–609, §5, Nov. 8, 1978, 92 Stat. 3081.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (c)(1), is act July 14, 1955, ch. 360, 69 Stat. 322, which is classified generally to chapter 85 (§7401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of this title and Tables.

The Federal Water Pollution Control Act, referred to in subsec. (c)(1), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, §2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

CODIFICATION

In subsec. (c)(1), "chapter 301 of title 49" substituted for "the National Traffic and Motor Vehicle Safety Act of 1966 [15 U.S.C. 1381 et seq.]" on authority of Pub. L. 103–272, §6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation.

AMENDMENTS

1978—Subsec. (f). Pub. L. 95–609 added subsec. (f).

§4906. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 92–574, §7(a), Oct. 27, 1972, 86 Stat. 1239, related to a study by the Administrator of the adequacy of noise controls, noise emission standards, and measures available to control such noise, the results of such study to be reported to the appropriate committees of Congress within nine months after Oct. 27, 1972.

§4907. Labeling

(a) Regulations

The Administrator shall by regulation designate any product (or class thereof)—

(1) which emits noise capable of adversely affecting the public health or welfare; or

(2) which is sold wholly or in part on the basis of its effectiveness in reducing noise.

(b) Manner of notice; form; methods and units of measurement

For each product (or class thereof) designated under subsection (a) the Administrator shall by regulation require that notice be given to the prospective user of the level of the noise the product emits, or of its effectiveness in reducing noise, as the case may be. Such regulations shall specify (1) whether such notice shall be affixed to the product or to the outside of its container, or to both, at the time of its sale to the ultimate purchaser or whether such notice shall be given to the prospective user

in some other manner, (2) the form of the notice, and (3) the methods and units of measurement to be used. Section 4905(c)(2) of this title shall apply to the prescribing of any regulation under this section.

(c) State regulation of product labeling

This section does not prevent any State or political subdivision thereof from regulating product labeling or information respecting products in any way not in conflict with regulations prescribed by the Administrator under this section.

(Pub. L. 92–574, §8, Oct. 27, 1972, 86 Stat. 1241.)

§4908. Imports

The Secretary of the Treasury shall, in consultation with the Administrator, issue regulations to carry out the provisions of this chapter with respect to new products imported or offered for importation.

(Pub. L. 92–574, §9, Oct. 27, 1972, 86 Stat. 1242.)

§4909. Prohibited acts

(a) Except as otherwise provided in subsection (b), the following acts or the causing thereof are prohibited:

(1) In the case of a manufacturer, to distribute in commerce any new product manufactured after the effective date of a regulation prescribed under section 4905 of this title which is applicable to such product, except in conformity with such regulation.

(2)(A) The removal or rendering inoperative by any person, other than for purposes of maintenance, repair, or replacement, of any device or element of design incorporated into any product in compliance with regulations under section 4905 of this title, prior to its sale or delivery to the ultimate purchaser or while it is in use, or (B) the use of a product after such device or element of design has been removed or rendered inoperative by any person.

(3) In the case of a manufacturer, to distribute in commerce any new product manufactured after the effective date of a regulation prescribed under section 4907(b) of this title (requiring information respecting noise) which is applicable to such product, except in conformity with such regulation.

(4) The removal by any person of any notice affixed to a product or container pursuant to regulations prescribed under section 4907(b) of this title, prior to sale of the product to the ultimate purchaser.

(5) The importation into the United States by any person of any new product in violation of a regulation prescribed under section 4908 of this title which is applicable to such product.

(6) The failure or refusal by any person to comply with any requirement of section 4910(d) or 4912(a) of this title or regulations prescribed under section 4912(a), 4916, or 4917 of this title.

(b)(1) For the purpose of research, investigations, studies, demonstrations, or training, or for reasons of national security, the Administrator may exempt for a specified period of time any product, or class thereof, from paragraphs (1), (2), (3), and (5) of subsection (a), upon such terms and conditions as he may find necessary to protect the public health or welfare.

(2) Paragraphs (1), (2), (3), and (4) of subsection (a) shall not apply with respect to any product which is manufactured solely for use outside any State and which (and the container of which) is labeled or otherwise marked to show that it is manufactured solely for use outside any State; except that such paragraphs shall apply to such product if it is in fact distributed in commerce for use in any State.

(Pub. L. 92–574, §10, Oct. 27, 1972, 86 Stat. 1242.)

§4910. Enforcement

(a) Criminal penalties

(1) Any person who willfully or knowingly violates paragraph (1), (3), (5), or (6) of subsection (a) of section 4909 of this title shall be punished by a fine of not more than $25,000 per day of violation, or by imprisonment for not more than one year, or by both. If the conviction is for a violation committed after a first conviction of such person under this subsection, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

(2) Any person who violates paragraph (1), (3), (5), or (6) of subsection (a) of section 4909 of this title shall be subject to a civil penalty not to exceed $10,000 per day of such violation.

(b) Separate violations

For the purpose of this section, each day of violation of any paragraph of section 4909(a) of this title shall constitute a separate violation of that section.

(c) Actions to restrain violations

The district courts of the United States shall have jurisdiction of actions brought by and in the name of the United States to restrain any violations of section 4909(a) of this title.

(d) Orders issued to protect public health and welfare; notice; opportunity for hearing

(1) Whenever any person is in violation of section 4909(a) of this title, the Administrator may issue an order specifying such relief as he determines is necessary to protect the public health and welfare.

(2) Any order under this subsection shall be issued only after notice and opportunity for a hearing in accordance with section 554 of title 5.

(e) "Person" defined

The term "person," as used in this section, does not include a department, agency, or instrumentality of the United States.

(Pub. L. 92–574, §11, Oct. 27, 1972, 86 Stat. 1242; Pub. L. 95–609, §4, Nov. 8, 1978, 92 Stat. 3081.)

EDITORIAL NOTES

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–609 redesignated existing provisions as par. (1) and added par. (2).

§4911. Citizen suits

(a) Authority to commence suits

Except as provided in subsection (b), any person (other than the United States) may commence a civil action on his own behalf—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any noise control requirement (as defined in subsection (e) [1]), or

(2) against—

(A) the Administrator of the Environmental Protection Agency where there is alleged a failure of such Administrator to perform any act or duty under this chapter which is not discretionary with such Administrator, or

(B) the Administrator of the Federal Aviation Administration where there is alleged a failure of such Administrator to perform any act or duty under section 44715 of title 49 which is not discretionary with such Administrator.

The district courts of the United States shall have jurisdiction, without regard to the amount in controversy, to restrain such person from violating such noise control requirement or to order such Administrator to perform such act or duty, as the case may be.

(b) Notice

No action may be commenced—

(1) under subsection (a)(1)—

(A) prior to sixty days after the plaintiff has given notice of the violation (i) to the Administrator of the Environmental Protection Agency (and to the Federal Aviation Administrator in the case of a violation of a noise control requirement under such section 44715 of title 49) and (ii) to any alleged violator of such requirement, or

(B) if an Administrator has commenced and is diligently prosecuting a civil action to require compliance with the noise control requirement, but in any such action in a court of the United States any person may intervene as a matter of right, or

(2) under subsection (a)(2) prior to sixty days after the plaintiff has given notice to the defendant that he will commence such action.

Notice under this subsection shall be given in such manner as the Administrator of the Environmental Protection Agency shall prescribe by regulation.

(c) Intervention

In an action under this section, the Administrator of the Environmental Protection Agency, if not a party, may intervene as a matter of right. In an action under this section respecting a noise control requirement under section 44715 of title 49, the Administrator of the Federal Aviation Administration, if not a party, may also intervene as a matter of right.

(d) Litigation costs

The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate.

(e) Other common law or statutory rights of action

Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any noise control requirement or to seek any other relief (including relief against an Administrator).

(f) "Noise control requirement" defined

For purposes of this section, the term "noise control requirement" means paragraph (1), (2), (3), (4), or (5) of section 4909(a) of this title, or a standard, rule, or regulation issued under section 4916 or 4917 of this title or under section 44715 of title 49.

(Pub. L. 92–574, §12, Oct. 27, 1972, 86 Stat. 1243.)

EDITORIAL NOTES

CODIFICATION

In subsecs. (a)(2)(B), (b)(1)(A), (c), and (f), "section 44715 of title 49" substituted for "section 611 of the Federal Aviation Act of 1958" and "such section 611" on authority of Pub. L. 103–272, §6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation.

[1] *So in original. Probably should be subsection "(f)".*

§4912. Records, reports, and information

(a) Duties of manufacturers of products

Each manufacturer of a product to which regulations under section 4905 or 4907 of this title apply shall—

(1) establish and maintain such records, make such reports, provide such information, and make such tests, as the Administrator may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this chapter,

(2) upon request of an officer or employee duly designated by the Administrator, permit such officer or employee at reasonable times to have access to such information and the results of such tests and to copy such records, and

(3) to the extent required by regulations of the Administrator, make products coming off the assembly line or otherwise in the hands of the manufacturer available for testing by the Administrator.

(b) Confidential information; disclosure

(1) All information obtained by the Administrator or his representatives pursuant to subsection (a) of this section, which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18, shall be considered confidential for the purpose of that section, except that such information may be disclosed to other Federal officers or employees, in whose possession it shall remain confidential, or when relevant to the matter in controversy in any proceeding under this chapter.

(2) Nothing in this subsection shall authorize the withholding of information by the Administrator, or by any officers or employees under his control, from the duly authorized committees of the Congress.

(c) Violations and penalties

Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this chapter, shall upon conviction be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both.

(Pub. L. 92–574, §13, Oct. 27, 1972, 86 Stat. 1244.)

§4913. Quiet communities, research, and public information

To promote the development of effective State and local noise control programs, to provide an adequate Federal noise control research program designed to meet the objectives of this chapter, and to otherwise carry out the policy of this chapter, the Administrator shall, in cooperation with other Federal agencies and through the use of grants, contracts, and direct Federal actions—

(a) develop and disseminate information and educational materials to all segments of the public on the public health and other effects of noise and the most effective means for noise control, through the use of materials for school curricula, volunteer organizations, radio and television programs, publication, and other means;

(b) conduct or finance research directly or with any public or private organization or any person on the effects, measurement, and control of noise, including but not limited to—

(1) investigation of the psychological and physiological effects of noise on humans and the effects of noise on domestic animals, wildlife, and property, and the determination of dose/response relationships suitable for use in decisionmaking, with special emphasis on the nonauditory effects of noise;

(2) investigation, development, and demonstration of noise control technology for products subject to possible regulation under sections 4905 and 4907 of this title and section 44715 of title 49;

(3) investigation, development, and demonstration of monitoring equipment and other technology especially suited for use by State and local noise control programs;

(4) investigation of the economic impact of noise on property and human activities; and

(5) investigation and demonstration of the use of economic incentives (including emission charges) in the control of noise;

(c) administer a nationwide Quiet Communities Program which shall include, but not be limited to—

(1) grants to States, local governments, and authorized regional planning agencies for the purpose of—

(A) identifying and determining the nature and extent of the noise problem within the subject jurisdiction;

(B) planning, developing, and establishing a noise control capacity in such jurisdiction, including purchasing initial equipment;

(C) developing abatement plans for areas around major transportation facilities (including airports, highways, and rail yards) and other major stationary sources of noise, and, where appropriate, for the facility or source itself; and,

(D) evaluating techniques for controlling noise (including institutional arrangements) and demonstrating the best available techniques in such jurisdiction;

(2) purchase of monitoring and other equipment for loan to State and local noise control programs to meet special needs or assist in the beginning implementation of a noise control program or project;

(3) development and implementation of a quality assurance program for equipment and monitoring procedures of State and local noise control programs to help communities assure that their data collection activities are accurate;

(4) conduct of studies and demonstrations to determine the resource and personnel needs of States and local governments required for the establishment and implementation of effective noise abatement and control programs; and

(5) development of education and training materials and programs, including national and regional workshops, to support State and local noise abatement and control programs;

except that no actions, plans or programs hereunder shall be inconsistent with existing Federal authority under this chapter to regulate sources of noise in interstate commerce;

(d) develop and implement a national noise environmental assessment program to identify trends in noise exposure and response, ambient levels, and compliance data and to determine otherwise the effectiveness of noise abatement actions through the collection of physical, social, and human response data;

(e) establish regional technical assistance centers which use the capabilities of university and private organizations to assist State and local noise control programs;

(f) provide technical assistance to State and local governments to facilitate their development and enforcement of noise control, including direct onsite assistance of agency or other personnel with technical expertise, and preparation of model State or local legislation for noise control; and

(g) provide for the maximum use in programs assisted under this section of senior citizens and persons eligible for participation in programs under the Older Americans Act [42 U.S.C. 3001 et seq.].

(Pub. L. 92–574, §14, Oct. 27, 1972, 86 Stat. 1244; Pub. L. 95–609, §2, Nov. 8, 1978, 92 Stat. 3079.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Older Americans Act, referred to in subsec. (g), probably means the Older Americans Act of 1965, Pub. L. 89–73, July 14, 1965, 79 Stat. 218, which is classified generally to chapter 35 (§3001 et seq.) of this

title. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables.

CODIFICATION

In subsec. (b)(2), "section 44715 of title 49" substituted for reference to section 7 of this Act, meaning section 7 of Pub. L. 92–574, which generally amended section 611 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1431), on authority of Pub. L. 103–272, §6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation.

AMENDMENTS

1978—Pub. L. 95–609 completely revised and restructured existing provisions, inserting provisions relating to authorized use of grants and direct action, investigation of economic impact of noise, administration of Quiet Communities Program, development of noise assessment program, establishment of regional centers, technical assistance to State and local governments, and use by senior citizens of these programs.

§4914. Development of low-noise-emission products

(a) Definitions

For the purpose of this section:

(1) The term "Committee" means the Low-Noise-Emission Product Advisory Committee.

(2) The term "Federal Government" includes the legislative, executive, and judicial branches of the Government of the United States, and the government of the District of Columbia.

(3) The term "low-noise-emission product" means any product which emits noise in amounts significantly below the levels specified in noise emission standards under regulations applicable under section 4905 of this title at the time of procurement to that type of product.

(4) The term "retail price" means (A) the maximum statutory price applicable to any type of product; or (B) in any case where there is no applicable maximum statutory price, the most recent procurement price paid for any type of product.

(b) Certification of products; Low-Noise-Emission Product Advisory Committee

(1) The Administrator shall determine which products qualify as low-noise-emission products in accordance with the provisions of this section.

(2) The Administrator shall certify any product—

(A) for which a certification application has been filed in accordance with paragraph (5)(A) of this subsection;

(B) which is a low-noise-emission product as determined by the Administrator; and

(C) which he determines is suitable for use as a substitute for a type of product at that time in use by agencies of the Federal Government.

(3) The Administrator may establish a Low-Noise-Emission Product Advisory Committee to assist him in determining which products qualify as low-noise-emission products for purposes of this section. The Committee shall include the Administrator or his designee, a representative of the National Institute of Standards and Technology, and representatives of such other Federal agencies and private individuals as the Administrator may deem necessary from time to time. Any member of the Committee not employed on a full-time basis by the United States may receive the daily equivalent of the annual rate of basic pay in effect for Grade GS–18 of the General Schedule for each day such member is engaged upon work of the Committee. Each member of the Committee shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5 for persons in the Government service employed intermittently.

(4) Certification under this section shall be effective for a period of one year from the date of issuance.

(5)(A) Any person seeking to have a class or model of product certified under this section shall file a certification application in accordance with regulations prescribed by the Administrator.

(B) The Administrator shall publish in the Federal Register a notice of each application received.

(C) The Administrator shall make determinations for the purpose of this section in accordance with procedures prescribed by him by regulation.

(D) The Administrator shall conduct whatever investigation is necessary, including actual inspection of the product at a place designated in regulations prescribed under subparagraph (A).

(E) The Administrator shall receive and evaluate written comments and documents from interested persons in support of, or in opposition to, certification of the class or model of product under consideration.

(F) Within ninety days after the receipt of a properly filed certification application the Administrator shall determine whether such product is a low-noise-emission product for purposes of this section. If the Administrator determines that such product is a low-noise-emission product, then within one hundred and eighty days of such determination the Administrator shall reach a decision as to whether such product is a suitable substitute for any class or classes of products presently being purchased by the Federal Government for use by its agencies.

(G) Immediately upon making any determination or decision under subparagraph (F), the Administrator shall publish in the Federal Register notice of such determination or decision, including reasons therefor.

(c) Federal procurement of low-noise-emission products

(1) Certified low-noise-emission products shall be acquired by purchase or lease by the Federal Government for use by the Federal Government in lieu of other products if the Administrator of General Services determines that such certified products have procurement costs which are no more than 125 per centum of the retail price of the least expensive type of product for which they are certified substitutes.

(2) Data relied upon by the Administrator in determining that a product is a certified low-noise-emission product shall be incorporated in any contract for the procurement of such product.

(d) Product selection

The procuring agency shall be required to purchase available certified low-noise-emission products which are eligible for purchase to the extent they are available before purchasing any other products for which any low-noise-emission product is a certified substitute. In making purchasing selections between competing eligible certified low-noise-emission products, the procuring agency shall give priority to any class or model which does not require extensive periodic maintenance to retain its low-noise-emission qualities or which does not involve operating costs significantly in excess of those products for which it is a certified substitute.

(e) Waiver of statutory price limitations

For the purpose of procuring certified low-noise-emission products any statutory price limitations shall be waived.

(f) Tests of noise emissions from products purchased by Federal Government

The Administrator shall, from time to time as he deems appropriate, test the emissions of noise from certified low-noise-emission products purchased by the Federal Government. If at any time he finds that the noise-emission levels exceed the levels on which certification under this section was based, the Administrator shall give the supplier of such product written notice of this finding, issue public notice of it, and give the supplier an opportunity to make necessary repairs, adjustments, or replacements. If no such repairs, adjustments, or replacements are made within a period to be set by the Administrator, he may order the supplier to show cause why the product involved should be eligible for recertification.

(g) Authorization of appropriations

There are authorized to be appropriated for paying additional amounts for products pursuant to, and for carrying out the provisions of, this section, $1,000,000 for the fiscal year ending June 30,

1973, and $2,000,000 for each of the two succeeding fiscal years, $2,200,000 for the fiscal year ending June 30, 1976, $550,000 for the transition period of July 1, 1976, through September 30, 1976, and $2,420,000 for the fiscal year ending September 30, 1977.

(h) Promulgation of procedures

The Administrator shall promulgate the procedures required to implement this section within one hundred and eighty days after October 27, 1972.

(Pub. L. 92–574, §15, Oct. 27, 1972, 86 Stat. 1245; Pub. L. 94–301, §1, May 31, 1976, 90 Stat. 590; Pub. L. 100–418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433.)

EDITORIAL NOTES

AMENDMENTS

1988—Subsec. (b)(3). Pub. L. 100–418 substituted "National Institute of Standards and Technology" for "National Bureau of Standards".

1976—Subsec. (g). Pub. L. 94–301 inserted authorization of appropriations for fiscal year ending June 30, 1976, the transition period, and fiscal year ending September 30, 1977.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. A committee established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of its establishment unless in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the end of such period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 1013 of Title 5, Government Organization and Employees.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§4915. Judicial review

(a) Petition for review

A petition for review of action of the Administrator of the Environmental Protection Agency in promulgating any standard or regulation under sections 4905, 4916, or 4917 of this title or any labeling regulation under section 4907 of this title may be filed only in the United States Court of Appeals for the District of Columbia Circuit, and a petition for review of action of the Administrator of the Federal Aviation Administration in promulgating any standard or regulation under section 44715 of title 49 may be filed only in such court. Any such petition shall be filed within ninety days from the date of such promulgation, or after such date if such petition is based solely on grounds arising after such ninetieth day. Action of either Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in civil or criminal proceedings for enforcement.

(b) Additional evidence

If a party seeking review under this chapter applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the information is material and was not

available at the time of the proceeding before the Administrator of such Agency or Administration (as the case may be), the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before such Administrator, and to be adduced upon the hearing, in such manner and upon such terms and conditions as the court may deem proper. Such Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file with the court such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

(c) Stay of agency action

With respect to relief pending review of an action by either Administrator, no stay of an agency action may be granted unless the reviewing court determines that the party seeking such stay is (1) likely to prevail on the merits in the review proceeding and (2) will suffer irreparable harm pending such proceeding.

(d) Subpenas

For the purpose of obtaining information to carry out this chapter, the Administrator of the Environmental Protection Agency may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In cases of contumacy or refusal to obey a subpena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator, to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(Pub. L. 92–574, §16, Oct. 27, 1972, 86 Stat. 1247.)

EDITORIAL NOTES

CODIFICATION

In subsec. (a), "section 44715 of title 49" substituted for "section 611 of the Federal Aviation Act of 1958" on authority of Pub. L. 103–272, §6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation.

§4916. Railroad noise emission standards

(a) Regulations; standards; consultation with Secretary of Transportation

(1) Within nine months after October 27, 1972, the Administrator shall publish proposed noise emission regulations for surface carriers engaged in interstate commerce by railroad. Such proposed regulations shall include noise emission standards setting such limits on noise emissions resulting from operation of the equipment and facilities of surface carriers engaged in interstate commerce by railroad which reflect the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance. These regulations shall be in addition to any regulations that may be proposed under section 4905 of this title.

(2) Within ninety days after the publication of such regulations as may be proposed under paragraph (1) of this subsection, and subject to the provisions of section 4915 of this title, the Administrator shall promulgate final regulations. Such regulations may be revised, from time to time, in accordance with this subsection.

(3) Any standard or regulation, or revision thereof, proposed under this subsection shall be promulgated only after consultation with the Secretary of Transportation in order to assure appropriate consideration for safety and technological availability.

(4) Any regulation or revision thereof promulgated under this subsection shall take effect after

such period as the Administrator finds necessary, after consultation with the Secretary of Transportation, to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

(b) Regulations to insure compliance with noise emission standards

The Secretary of Transportation, after consultation with the Administrator, shall promulgate regulations to insure compliance with all standards promulgated by the Administrator under this section. The Secretary of Transportation shall carry out such regulations through the use of his powers and duties of enforcement and inspection authorized by subtitle V of title 49. Regulations promulgated under this section shall be subject to the provisions of sections 4909, 4910, 4911, and 4915 of this title.

(c) High-speed train noise emissions

(1) In general

The Secretary of Transportation, in consultation with the Administrator, may prescribe regulations governing railroad-related noise emission standards for trains operating on the general railroad system of transportation at speeds exceeding 160 miles per hour, including noise related to magnetic levitation systems and other new technologies not traditionally associated with railroads.

(2) Factors in rulemaking

The regulations prescribed pursuant to paragraph (1) may—

(A) consider variances in maximum pass-by noise with respect to the speed of the equipment;

(B) account for current engineering best practices; and

(C) encourage the use of noise mitigation techniques to the extent reasonable if the benefits exceed the costs.

(3) Conventional-speed trains

Railroad-related noise regulations prescribed under subsection (a) shall continue to govern noise emissions from the operation of trains, including locomotives and rail cars, when operating at speeds not exceeding 160 miles per hour.

(d) State and local standards and controls

(1) Subject to paragraph (2) but notwithstanding any other provision of this chapter, after the effective date of a regulation under this section applicable to noise emissions resulting from the operation of any equipment or facility of a surface carrier engaged in interstate commerce by railroad, no State or political subdivision thereof may adopt or enforce any standard applicable to noise emissions resulting from the operation of the same equipment or facility of such carrier unless such standard is identical to a standard applicable to noise emissions resulting from such operation prescribed by any regulation under this section.

(2) Nothing in this section shall diminish or enhance the rights of any State or political subdivision thereof to establish and enforce standards or controls on levels of environmental noise, or to control, license, regulate, or restrict the use, operation, or movement of any product if the Administrator, after consultation with the Secretary of Transportation, determines that such standard, control, license, regulation, or restriction is necessitated by special local conditions and is not in conflict with regulations promulgated under this section.

(e) "Carrier" and "railroad" defined

The terms "carrier" and "railroad" as used in this section shall have the same meaning as the term "railroad carrier" has in section 20102 of title 49.

(Pub. L. 92–574, §17, Oct. 27, 1972, 86 Stat. 1248; Pub. L. 104–287, §6(i), Oct. 11, 1996, 110 Stat. 3399; Pub. L. 117–58, div. B, title II, §22423, Nov. 15, 2021, 135 Stat. 752.)

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (b). Pub. L. 117–58, §22423(b), substituted "subtitle V of title 49" for "the Safety Appliance Acts, subtitle IV of title 49, and the Department of Transportation Act".

Subsecs. (c) to (e). Pub. L. 117–58, §22423(a), added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

1996—Subsec. (d). Pub. L. 104–287 substituted "the term 'railroad carrier' has in section 20102 of title 49" for "such terms have under the first section of the Act of February 17, 1911 (45 U.S.C. 22)".

§4917. Motor carrier noise emission standards

(a) Regulations; standards; consultation with Secretary of Transportation

(1) Within nine months after October 27, 1972, the Administrator shall publish proposed noise emission regulations for motor carriers engaged in interstate commerce. Such proposed regulations shall include noise emission standards setting such limits on noise emissions resulting from operation of motor carriers engaged in interstate commerce which reflect the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance. These regulations shall be in addition to any regulations that may be proposed under section 4905 of this title.

(2) Within ninety days after the publication of such regulations as may be proposed under paragraph (1) of this subsection, and subject to the provisions of section 4915 of this title, the Administrator shall promulgate final regulations. Such regulations may be revised from time to time, in accordance with this subsection.

(3) Any standard or regulation, or revision thereof, proposed under this subsection shall be promulgated only after consultation with the Secretary of Transportation in order to assure appropriate consideration for safety and technological availability.

(4) Any regulation or revision thereof promulgated under this subsection shall take effect after such period as the Administrator finds necessary, after consultation with the Secretary of Transportation, to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

(b) Regulations to insure compliance with noise emission standards

The Secretary of Transportation, after consultation with the Administrator shall promulgate regulations to insure compliance with all standards promulgated by the Administrator under this section. The Secretary of Transportation shall carry out such regulations through the use of his powers and duties of enforcement and inspection authorized by subtitle IV of title 49 and the Department of Transportation Act. Regulations promulgated under this section shall be subject to the provisions of sections 4909, 4910, 4911, and 4915 of this title.

(c) State and local standards and controls

(1) Subject to paragraph (2) of this subsection but notwithstanding any other provision of this chapter, after the effective date of a regulation under this section applicable to noise emissions resulting from the operation of any motor carrier engaged in interstate commerce, no State or political subdivision thereof may adopt or enforce any standard applicable to the same operation of such motor carrier, unless such standard is identical to a standard applicable to noise emissions resulting from such operation prescribed by any regulation under this section.

(2) Nothing in this section shall diminish or enhance the rights of any State or political subdivision thereof to establish and enforce standards or controls on levels of environmental noise, or to control, license, regulate, or restrict the use, operation, or movement of any product if the Administrator, after consultation with the Secretary of Transportation, determines that such standard, control, license, regulation, or restriction is necessitated by special local conditions and is not in conflict with regulations promulgated under this section.

(d) "Motor carrier" defined

For purposes of this section, the term "motor carrier" includes a motor carrier and motor private

carrier as those terms are defined in section 13102 of title 49.

(Pub. L. 92–574, §18, Oct. 27, 1972, 86 Stat. 1249.; Pub. L. 104–88, title III, §339, Dec. 29, 1995, 109 Stat. 955.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Department of Transportation Act, referred to in subsec. (b), is Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which was classified principally to sections 1651 to 1660 of former Title 49, Transportation. The Act was repealed and the provisions thereof reenacted in Title 49, Transportation, by Pub. L. 97–449, Jan. 12, 1983, 96 Stat. 2413, and Pub. L. 103–272, July 5, 1994, 108 Stat. 745. The Act was also repealed by Pub. L. 104–287, §7(5), Oct. 11, 1996, 110 Stat. 3400. For disposition of sections of former Title 49, see Table at the beginning of Title 49.

CODIFICATION

In subsec. (b), "subtitle IV of title 49" substituted for "the Interstate Commerce Act [49 U.S.C. 1 et seq.]" on authority of Pub. L. 95–473, §3(b), Oct. 17, 1978, 92 Stat. 1466, the first section of which enacted subtitle IV of Title 49, Transportation.

AMENDMENTS

1995—Subsec. (d). Pub. L. 104–88 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "For purposes of this section, the term 'motor carrier' includes a common carrier by motor vehicle, a contract carrier by motor vehicle, and a private carrier of property by motor vehicle as those terms are defined by section 10102 of title 49."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 1301 of Title 49, Transportation.

§4918. Authorization of appropriations

There are authorized to be appropriated to carry out this chapter (other than for research and development) $15,000,000 for the fiscal year ending September 30, 1979.

(Pub. L. 92–574, §19, Oct. 27, 1972, 86 Stat. 1250; Pub. L. 94–301, §2, May 31, 1976, 90 Stat. 590; Pub. L. 95–609, §6, Nov. 8, 1978, 92 Stat. 3081.)

EDITORIAL NOTES

AMENDMENTS

1978—Pub. L. 95–609 substituted provisions authorizing appropriations of $15,000,000 for 1979 for provisions authorizing appropriations for fiscal years 1973 to 1977 and struck out restriction on expenditures for research and development.

1976—Pub. L. 94–301 inserted authorization of appropriations for fiscal year ending June 30, 1976, the transition period, and fiscal year ending September 30, 1977, and provisions excepting appropriations for research and development use.

CHAPTER 66—DOMESTIC VOLUNTEER SERVICES

Sec.

4950. Volunteerism policy.

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4959. Repealed.
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4971 to 4974. Repealed.

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5021. Promotion of National Senior Service Corps.
5022. Payments; adjustments; advances or reimbursement; installments; conditions.
5023. Minority population participation.
5024. Use of locally generated contributions in National Senior Service Corps.
5025. Programs of national significance.
5026. Adjustments to Federal financial assistance.
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5028. Authority of Director.
5028a. Prohibition.

SUBCHAPTER III—NATIONAL VOLUNTEER PROGRAMS TO ASSIST SMALL BUSINESSES AND PROMOTE VOLUNTEER SERVICE BY PERSONS WITH BUSINESS EXPERIENCE

5031, 5032. Repealed.

SUBCHAPTER IV—ADMINISTRATION AND COORDINATION

5041, 5042. Repealed.
5043. Political activities.
5044. Special limitations.
5045. Repealed.

5046. Labor standards for federally assisted projects, buildings, and works.
5047. Repealed.
5048. Joint funding; single non-Federal share requirement; grant or contract requirement waiver.
5049. Prohibition of Federal control of educational institution or school system.
5050. Coordination with other programs.
5051. Performance of functions by existing departments or offices rather than new departments or offices.
5052. Suspension and termination of financial assistance; procedures; notice and hearing; emergency situations; refunding applications.
5053. Repealed.
5054. Distribution of benefits between rural and urban areas.
5055. Application of Federal law.
5056. Evaluation of programs and projects.
5057. Nondiscrimination provisions.
5058. Eligibility for other benefits.
5059. Legal expenses.
5060. Repealed.
5061. Definitions.
5062. Audit.
5063. Reduction of paperwork.
5064. Review of project renewals.
5065. Protection against improper use.
5066. Provisions under the National and Community Service Act of 1990.

SUBCHAPTER V—AUTHORIZATION OF APPROPRIATIONS

5081. National Volunteer Antipoverty Programs.
5082. National Senior Service Corps.
5083. Repealed.
5084. Administration and coordination.
5085. Availability of appropriations.

SUBCHAPTER VI—YOUTHBUILD PROJECTS

5091 to 5091n. Repealed.

§4950. Volunteerism policy

(a) Because of the long-standing importance of volunteerism throughout American history, it is the policy of the Congress to foster the tradition of volunteerism through greater involvement on the part of individuals of all ages and backgrounds.

(b) The purpose of this chapter is to foster and expand voluntary citizen service in communities throughout the Nation in activities designed to help the poor, the disadvantaged, the vulnerable, and the elderly. In carrying out this purpose, the Corporation for National and Community Service shall utilize to the fullest extent the programs authorized under this chapter, coordinate with other Federal, State, and local agencies, expand relationships with, and support for, the efforts of civic, community, and educational organizations, and utilize the energy, innovative spirit, experience, and skills of all Americans.

(Pub. L. 93–113, §2, as added Pub. L. 99–551, §2(a), Oct. 27, 1986, 100 Stat. 3071; amended Pub. L. 103–82, title IV, §405(a)(1), Sept. 21, 1993, 107 Stat. 920; Pub. L. 111–13, title II, §2002, Apr. 21, 2009, 123 Stat. 1581.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, known as the Domestic Volunteer Service Act of 1973, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–13, §2002(1), substituted "individuals of all ages and backgrounds." for "both young and older citizens."

Subsec. (b). Pub. L. 111–13, §2002(2), inserted ", expand relationships with, and support for, the efforts of civic, community, and educational organizations," after "State, and local agencies".

1993—Subsec. (b). Pub. L. 103–82 substituted "of this chapter" for "of ACTION, the Federal domestic volunteer agency," and "the Corporation for National and Community Service shall"for "ACTION shall".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–13, title VI, §6101(a), Apr. 21, 2009, 123 Stat. 1600, provided that: "This Act [see Tables for classification], and the amendments made by this Act, take effect on October 1, 2009."

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Apr. 4, 1994, see section 406(b) of Pub. L. 103–82, set out as a note under section 8332 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Pub. L. 99–551, §11, Oct. 27, 1986, 100 Stat. 3079, provided that: "Except as otherwise provided, the amendments made by this Act [enacting this section and section 4959 of this title, amending sections 4953, 4955, 4971, 4972, 4974, 4992, 5011, 5013, 5024, 5041 to 5044, 5047, 5052, 5055, 5056, 5059, 5061, 5081, 5082, and 5084 of this title, and amending provisions set out as a note under section 5041 of this title] shall take effect October 1, 1986."

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103–82, title III, §311(a), Sept. 21, 1993, 107 Stat. 898, provided that: "This subtitle [subtitle B (§§311, 392) of title III of Pub. L. 103–82, enacting sections 5028, 5028a, and 5065 of this title, amending sections 4951 to 4955, 4957, 4959, 4960, 4971 to 4973, 4992, 4993, 5000, 5001, 5011, 5013, 5021, 5024 to 5026, 5041 to 5044, 5055, 5057, 5062, 5081, 5082, and 5084 of this title and sections 8143, 8332, 8334, 8411, and 8422 of Title 5, Government Organization and Employees, repealing sections 4974, 4994, 5012, 5047, 5060, and 5091 to 5091n of this title, enacting provisions set out as notes under sections 4951 and 4952 of this title, and section 8332 of Title 5, and amending provisions set out as notes under this section and section 5001 of this title] may be cited as the 'Domestic Volunteer Service Act Amendments of 1993'."

SHORT TITLE OF 1989 AMENDMENT

Pub. L. 101–204, §1(a), Dec. 7, 1989, 103 Stat. 1806, provided that: "This Act [enacting sections 4960, 5000, 5025, 5026, and 5027 of this title, amending sections 4952 to 4955, 4958, 4959, 4971, 4974, 4992 to 4994, 5001, 5011 to 5013, 5021, 5024, 5041, 5047, 5056, 5061, 5081, 5082, 5084, 5671, 5715, 5751, 5773, 5775, 5777, 9910b, 11803, 11825, 11842, and 11851 of this title, enacting provisions set out as a note under section 4954 of this title, and amending provisions set out as a note under section 5601 of this title] may be cited as the 'Domestic Volunteer Service Act Amendments of 1989'."

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99–551, §1, Oct. 27, 1986, 100 Stat. 3071, provided that: "This Act [enacting this section and section 4959 of this title, amending sections 4953, 4955, 4971, 4972, 4974, 4992, 5011, 5013, 5024, 5041 to 5044, 5047, 5052, 5055, 5056, 5059, 5061, 5081, 5082, and 5084 of this title, enacting provisions set out as notes under this section and section 5011 of this title, and amending provisions set out as a note under section 5041 of this title] may be cited as the 'Domestic Volunteer Service Act Amendments of 1986'."

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–288, §1, May 21, 1984, 98 Stat. 189, provided: "That this Act [enacting section 5024 of this title, amending sections 4951 to 4956, 4958, 4971, 4972, 4974, 4991 to 4993, 5001, 5011, 5013, 5041 to 5044,

5047, 5052, 5056 to 5060, 5081, 5082, 5084, 9902, and 9912 of this title, repealing section 5045 of this title, and enacting provisions set out as notes under sections 5042 and 5045 of this title] may be cited as the 'Domestic Volunteer Service Act Amendments of 1984'."

SHORT TITLE OF 1979 AMENDMENT

Pub. L. 96–143, §1, Dec. 13, 1979, 93 Stat. 1074, provided: "That this Act [enacting sections 5063 and 5064 of this title, amending sections 4953, 4955, 4958, 4973, 4974, 4992, 5021, 5043, 5044, 5050, 5055, 5057, 5058, 5060, 5081, and 5084 of this title, enacting provisions set out as notes under sections 4992 and 5084 of this title, and amending provisions set out as a note under section 4955 of this title] may be cited as the 'Domestic Volunteer Service Act Amendments of 1979'."

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94–293, §1, May 27, 1976, 90 Stat. 525, provided: "That this Act [enacting sections 4958 and 4993 of this title, amending sections 4974, 4992, 5011, 5042, 5045, 5081, 5083, and 5084 of this title, repealing section 5053 of this title, and enacting provision set out as a note under section 4958 of this title] may be cited as the 'Domestic Volunteer Service Act Amendments of 1976'."

SHORT TITLE

Pub. L. 93–113, title I, §1(a), formerly §1(part), Oct. 1, 1973, 87 Stat. 394, as renumbered and amended by Pub. L. 103–82, title III, §391, Sept. 21, 1993, 107 Stat. 915, provided that: "This Act [enacting this chapter, amending section 3067 of this title and section 8332(b)(7) of Title 5, Government Organization and Employees, and repealing sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacting provisions set out as notes under this section and section 5041 of this title] may be cited as the 'Domestic Volunteer Service Act of 1973'."

SUBCHAPTER I—NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS

PART A—VOLUNTEERS IN SERVICE TO AMERICA

§4951. Congressional statement of purpose

This part provides for the Volunteers in Service to America (VISTA) program of full-time volunteer service, together with appropriate powers and responsibilities designed to assist in the development and coordination of such program. The purpose of this part is to strengthen and supplement efforts to eliminate and alleviate poverty and poverty-related problems in the United States by encouraging and enabling persons from all walks of life, all geographical areas, and all age groups, including low-income individuals, elderly and retired Americans, to perform meaningful and constructive volunteer service in agencies, institutions, and situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems and secure and increase opportunities for self-advancement by persons affected by such problems. In addition, the objectives of this part are to generate the commitment of private sector resources, to encourage volunteer service at the local level, to support efforts by local agencies and community organizations to achieve long-term sustainability of projects, and to strengthen local agencies and community organizations to carry out the objectives of this part.

(Pub. L. 93–113, title I, §101, Oct. 1, 1973, 87 Stat. 396; Pub. L. 98–288, §2, May 21, 1984, 98 Stat. 189; Pub. L. 103–82, title III, §321, Sept. 21, 1993, 107 Stat. 899; Pub. L. 111–13, title II, §2101, Apr. 21, 2009, 123 Stat. 1581.)

EDITORIAL NOTES

AMENDMENTS

2009—Pub. L. 111–13 substituted in second sentence "increase opportunities for self-advancement by persons affected by such problems." for "exploit opportunities for self-advancement by persons afflicted with such problems." and in third sentence "at the local level, to support efforts by local agencies and community organizations to achieve long-term sustainability of projects, and to strengthen local agencies and community organizations to carry out the objectives of this part." for "at the local level, and to strengthen local agencies and organizations to carry out the purpose of this part."

1993—Pub. L. 103–82 amended last sentence generally. Prior to amendment last sentence read as follows: "In addition the objective of this part is to generate the commitment of private sector resources and to encourage volunteer service at the local level to carry out the purposes set forth in this section."

1984—Pub. L. 98–288, in second sentence, inserted "and alleviate" after "eliminate", struck out "human, social, and environmental" after "poverty-related", inserted ", all geographical areas," after "all walks of life" and "low-income individuals," before "elderly", and inserted at end "In addition the objective of this part is to generate the commitment of private sector resources and to encourage volunteer service at the local level to carry out the purposes set forth in this section."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103–82, title III, §392, Sept. 21, 1993, 107 Stat. 917, provided that: "This subtitle [subtitle B (§§311–392) of title III of Pub. L. 103–82, enacting sections 5028, 5028a, and 5065 of this title, amending this section, sections 4952 to 4955, 4957, 4959, 4960, 4971 to 4973, 4992, 4993, 5000, 5001, 5011, 5013, 5021, 5024 to 5026, 5041 to 5044, 5055, 5057, 5062, 5081, 5082, and 5084 of this title, and sections 8143, 8332, 8334, 8411, and 8422 of Title 5, Government Organization and Employees, repealing sections 4974, 4994, 5012, 5047, 5060, and 5091 to 5091n of this title, enacting provisions set out as notes under sections 4950 and 4952 of this title and section 8332 of Title 5, and amending provisions set out as notes under sections 4950 and 5001 of this title] shall become effective on October 1, 1993."

§4952. Authority to operate VISTA program

This part shall be administered by one of the Assistant Directors appointed pursuant to section 12651e(d)(1)(A) of this title. Such Director may recruit, select, and train persons to serve in full-time volunteer programs consistent with the provisions and to carry out the purpose of this part.

(Pub. L. 93–113, title I, §102, Oct. 1, 1973, 87 Stat. 396; Pub. L. 98–288, §3, May 21, 1984, 98 Stat. 189; Pub. L. 101–204, title I, §101(d)(1), Dec. 7, 1989, 103 Stat. 1811; Pub. L. 103–82, title III, §322(a), Sept. 21, 1993, 107 Stat. 899.)

EDITORIAL NOTES

AMENDMENTS

1993—Pub. L. 103–82 substituted "This part shall be administered by one of the Assistant Directors appointed pursuant to section 12651e(d)(1)(A) of this title. Such Director" for "The Director".

1989—Pub. L. 101–204 struck out subsec. (a) designation before "The Director may", struck out subsec. (b) which related to replacement of applicants who become unavailable for service, and struck out subsec. (c) which related to age quotas.

1984—Subsec. (a). Pub. L. 98–288 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103–82, title III, §322(b), Sept. 21, 1993, 107 Stat. 899, provided that: "The amendments made by

subsection (a) [amending this section] shall take effect on the effective date of section 203(b)." [Section 203(b) of Pub. L. 103–82 is effective 18 months after Sept. 21, 1993, or on such earlier date as the President shall determine to be appropriate and announce by proclamation in the Federal Register, see section 203(d) of Pub. L. 103–82, set out as a note under section 12651 of this title.]

§4953. Selection and assignment of volunteers

(a) Covered projects and programs

The Director, on the receipt of applications by public or nonprofit private organizations to receive volunteers under this part, may assign volunteers selected under subsection (b) to work in appropriate projects and programs sponsored by such organizations, including work—

(1) in meeting the health, education, welfare, or related needs of Indians living on reservations or Federal trust lands, of migratory and seasonal farmworkers and their families, and of residents of the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands;

(2) in the care and rehabilitation of mentally ill, developmentally disabled, and other individuals with disabilities, especially individuals with severe disabilities;

(3) in addressing the problems of the homeless, unemployed individuals, and low-income youths;

(4) in addressing the special needs connected with alcohol and drug abuse through prevention, education, rehabilitation, treatment, and related activities, consistent with the purpose of this part;

(5) in addressing significant health care problems, including mental illness, chronic and life-threatening illnesses, and health care for homeless individuals (especially homeless children) through prevention, treatment, and community-based care activities;

(6) in connection with programs or activities authorized, supported, or of a character eligible for assistance under this chapter or the Community Service Block Grant Act [42 U.S.C. 9901 et seq.], titles VIII and X of the Economic Opportunity Act of 1964 [42 U.S.C. 2991 et seq., 2996 et seq.], the Head Start Act [42 U.S.C. 9831 et seq.], the Community Economic Development Act of 1981 [42 U.S.C. 9801 et seq.], or other similar Acts, in furtherance of the purpose of this subchapter;

(7) in strengthening, supplementing, and expanding efforts to address the problem of illiteracy throughout the United States;

(8) in assisting with the reentry and reintegration of formerly incarcerated youth and adults into society, including providing training and counseling in education, employment, and life skills;

(9) in developing and carrying out financial literacy, financial planning, budgeting, saving, and reputable credit accessibility programs in low-income communities, including those programs that educate individuals about financing home ownership and higher education;

(10) in initiating and supporting before-school and after-school programs, serving children in low-income communities, that may engage participants in mentoring, tutoring, life skills and study skills programs, service-learning, physical, nutrition, and health education programs, and other activities addressing the needs of the children;

(11) in establishing and supporting community economic development initiatives, with a priority on work on such initiatives in rural areas and the other areas where such initiatives are needed most;

(12) in assisting veterans and their family members through establishing or augmenting programs that assist such persons with access to legal assistance, health care (including mental health care), employment counseling or training, education counseling or training, affordable housing, and other support services; and

(13) in addressing the health and wellness of individuals in low-income communities and individuals in underserved communities, including programs to increase access to preventive services, insurance, and health services.

(b) Recruitment and placement procedures for local and national placement of volunteers; establishment, requirements, etc.

(1) The Director shall establish placement procedures that involve sponsoring organizations and that offer opportunities for both local and national placement of volunteers for service under this part.

(2)(A) The Director shall establish and maintain within the national headquarters of the Corporation (or any successor entity of such agency) a volunteer placement office which shall be responsible for all functions related to the recruitment and placement of volunteers under this part. Such functions and activities shall be carried out in coordination or in conjunction with recruitment and placement activities carried out under the National and Community Service Act of 1990 [42 U.S.C. 12501 et seq.].

(B) Such volunteer placement office shall develop, operate, and maintain a current and comprehensive database that provides information—

(i) to individuals, with respect to specific opportunities for service as a volunteer with approved projects or programs to which no volunteer has been assigned; and

(ii) to approved projects or programs, with respect to the availability of individuals whose applications for service as a volunteer have been approved and who are awaiting an assignment with a specific project or program.

(C) The Director shall assign or hire as necessary, such additional national, regional, and State personnel to carry out the functions described in this subsection and subsection (c) as may be necessary to ensure that such functions are carried out in a timely and effective manner. The Director shall give priority in the hiring of such additional personnel to individuals who have formerly served as volunteers under this part and to individuals who have specialized experience in the recruitment and management of volunteers.

(3) Volunteers shall be selected from among qualified individuals submitting an application for such service at such time, in such form, and containing such information as may be necessary to evaluate the suitability of each individual for such service and to determine, in accordance with paragraph (7),[1] the most appropriate assignment for each such volunteer. The Director shall approve the application of each individual who applies in conformance with this subsection and who, on the basis of the information provided in the application, is determined by the Director to be qualified to serve as a volunteer under this part.

(4) The Director shall ensure that applications for service as a volunteer under this part are available to the public on request to the Corporation (including any State or regional offices of the Agency) [2] and that an individual making such request is informed of the manner in which such application is required to be submitted. A completed application may be submitted by any interested individual to, and shall be accepted by, any office of the Corporation.

(5)(A) The Director shall provide for the assignment of each applicant approved as a volunteer under this part to a project or program that is, to the maximum extent practicable, consistent with the abilities, experiences, and preferences of such applicant that are set forth in the application described in paragraph (4) and the needs and preferences of projects or programs approved for the assignment of such volunteers.

(B) In carrying out subparagraph (A), the Director shall utilize the database established under paragraph (2)(B).

(C) A sponsoring organization of VISTA may recruit volunteers for service under this part. The Director shall give a locally recruited volunteer priority for placement in the sponsoring organization of VISTA that recruited such volunteer.

(D) A volunteer under this part shall not be assigned to any project or program without the express approval and consent of such project or program.

(E) If an applicant under this part who is recruited locally becomes unavailable for service prior to the commencement of service, the recipient of the project grant or contract that was designated to receive the services of such applicant may replace such applicant with another qualified applicant approved by the Director.

(F) If feasible and appropriate, low-income community volunteers shall be given the option of serving in the home communities of such volunteers in teams with nationally recruited specialist

volunteers. The Director shall attempt to assign such volunteers to serve in the home or nearby communities of such volunteers and shall make national efforts to attract other individuals to serve in the VISTA program. The Director shall also, in the assignment of volunteers under this subparagraph, recognize that community-identified needs that cannot be met in the local area and the individual desires of VISTA volunteers in regard to the service in various geographical areas of the United States should be taken into consideration.

(c) Public awareness and recruit activities; dissemination of information; reimbursement of costs; coordination; obligation of funds

(1) The Director, in conjunction with the personnel described in subsection (b)(2)(C), shall engage in public awareness and recruitment activities. Such activities may include—

(A) public service announcements through the Internet and related technologies, radio, television, and the print media;

(B) advertising through the Internet and related technologies, print media, direct mail, and other means;

(C) disseminating information about opportunities for service as a volunteer under this part to relevant entities including institutions of higher education and other educational institutions (including libraries), professional associations, community-based agencies, youth service and volunteer organizations, business organizations, labor unions, senior citizens organizations, State or local offices of economic development, State employment security agencies, employment offices, and other institutions and organizations from or through which potential volunteers may be recruited;

(D) disseminating such information through presentations made personally by employees of the Corporation or other designees of the Director, to students and faculty at institutions of higher education and to other entities described in subparagraph (C), including presentations made at the facilities, conventions, or other meetings of such entities;

(E) publicizing the student loan deferment and forgiveness opportunities available to VISTA volunteers under parts B and E of title IV of the Higher Education Act of 1965 [20 U.S.C. 1071 et seq., 1087aa et seq.] and including such information in all applications and recruitment materials;

(F) publicizing national service educational awards available under the National and Community Service Act of 1990 [42 U.S.C. 12501 et seq.];

(G) providing, on request, technical assistance with the recruitment of volunteers under this part to programs and projects receiving assistance under this part; and

(H) maintaining and publicizing a national toll-free telephone number through which individuals may obtain information about opportunities for service as a volunteer under this part and request and receive an application for such service.

(2) In designing and implementing the activities authorized under this section, the Director shall seek to involve individuals who have formerly served as volunteers under this part to assist in the dissemination of information concerning the program established under this part. The Director may reimburse the costs incurred by such former volunteers for such participation, including expenses incurred for travel.

(3) The Director shall consult with the Director of the Peace Corps to coordinate the recruitment and public awareness activities carried out under this subsection with those of the Peace Corps and to develop joint procedures and activities for the recruitment of volunteers to serve under this part.

(d) Provision of plans to volunteers for job advancement; coordination with private industry councils or local workforce investment boards

The Director shall provide each low-income community volunteer with an individual plan for job advancement or for transition to a situation leading to gainful employment. Whenever feasible, such efforts shall be coordinated with an appropriate local workforce development board established under section 3122 of title 29.

(e) Educational and vocational counseling for volunteers; Director to provide

The Director may provide or arrange for educational and vocational counseling of volunteers and recent former volunteers under this part to (1) encourage them to use, in the national interest, the skills and experience which they have derived from their training and service, particularly working in combating poverty as members of the helping professions, and (2) promote the development of appropriate opportunities for the use of such skills and experience, and the placement therein of such volunteers.

(f) Terms and conditions; restrictions on political activities; place of service

Except as provided in subsection (e), the assignment of volunteers under this section shall be on such terms and conditions (including restrictions on political activities that appropriately recognize the special status of volunteers living among the persons or groups served by programs to which they have been assigned) as the Director may determine, including work assignments in their own or nearby communities.

(g) Program or project submittal to Governor; commencement and termination of service

Volunteers under this part shall not be assigned to work in a program or project in any community unless the application for such program or project contains evidence of local support and has been submitted to the Governor or other chief executive officer of the State concerned. In the event of a timely request in writing, supported by a statement of reasons, by the Governor or other chief executive officer of the State concerned, the Director shall terminate a program or project or the assignment of a volunteer to a program or project not later than 30 days after the date such request is received by the Director, or at such later date as is agreed upon by the Director and such Governor or other chief executive officer.

(h) Interagency agreements

The Director is encouraged to enter into agreements with other Federal agencies to use VISTA volunteers in furtherance of program objectives that are consistent with the purposes described in section 4951 of this title.

(i) Agreements with nonprofit organizations

The Director may enter into agreements under which public and private nonprofit organizations, with sufficient financial capacity and size, pay for all or a portion of the costs of supporting the service of volunteers under this part.

(Pub. L. 93–113, title I, §103, Oct. 1, 1973, 87 Stat. 396; Pub. L. 96–143, §2, Dec. 13, 1979, 93 Stat. 1074; Pub. L. 98–288, §4(a)–(c)(1), (d), May 21, 1984, 98 Stat. 189, 190; Pub. L. 99–551, §3(a), Oct. 27, 1986, 100 Stat. 3071; Pub. L. 101–204, title I, §101(a), (b), (d)(2), title VII, §701, Dec. 7, 1989, 103 Stat. 1807, 1809, 1811, 1820; Pub. L. 103–82, title III, §323, title IV, §405(a)(2)–(4), Sept. 21, 1993, 107 Stat. 899, 920; Pub. L. 103–304, §3(b)(7), (8), Aug. 23, 1994, 108 Stat. 1568; Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(36)(A), (f)(28)(A)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–427, 2681–434; Pub. L. 111–13, title II, §2102, Apr. 21, 2009, 123 Stat. 1582; Pub. L. 113–128, title V, §512(h), July 22, 2014, 128 Stat. 1708.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(6), was in the original "this Act", meaning Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, known as the Domestic Volunteer Service Act of 1973, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

The Community Service Block Grant Act, referred to in subsec. (a)(6), probably means the Community Services Block Grant Act, which is subtitle B (§671 et seq.) of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 511, which is classified generally to chapter 106 (§9901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9901 of this title and Tables.

The Economic Opportunity Act of 1964, referred to in subsec. (a)(6), is Pub. L. 88–452, Aug. 20, 1964, 78 Stat. 508. Titles VIII and X of the Act are classified generally to subchapters VIII (§2991 et seq.) and X

(§2996 et seq.), respectively, of chapter 34 of this title. For complete classification of this Act to the Code, see Tables.

The Head Start Act, referred to in subsec. (a)(6), is subchapter B (§§635–657) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of this title and Tables.

The Community Economic Development Act of 1981, referred to in subsec. (a)(6), is subchapter A (§§611–633) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 489, which is classified generally to subchapter I (§9801 et seq.) of chapter 105 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of this title and Tables.

The National and Community Service Act of 1990, referred to in subsecs. (b)(2)(A) and (c)(1)(F), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, which is classified principally to chapter 129 (§12501 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of this title and Tables.

The Higher Education Act of 1965, referred to in subsec. (c)(1)(E), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219. Parts B and E of title IV of the Higher Education Act of 1965 are classified to parts B (§1071 et seq.) and E (§1087aa et seq.), respectively, of subchapter IV of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

AMENDMENTS

2014—Subsec. (d). Pub. L. 113–128 substituted "employment. Whenever feasible, such efforts shall be coordinated with an appropriate local workforce development board established under section 3122 of title 29." for "employment. Whenever feasible, such efforts shall be coordinated with an appropriate local workforce investment board established under section 2832 of title 29."

2009—Subsec. (a)(1). Pub. L. 111–13, §2102(1)(A), inserted "the Commonwealth of the Northern Mariana Islands," after "American Samoa,".

Subsec. (a)(2). Pub. L. 111–13, §2102(1)(B), substituted "individuals with disabilities, especially individuals with severe disabilities;" for "handicapped individuals, especially those with severe handicaps;".

Subsec. (a)(3). Pub. L. 111–13, §2102(1)(C), substituted "unemployed individuals," for "the jobless, the hungry,".

Subsec. (a)(4). Pub. L. 111–13, §2102(1)(D), substituted "through prevention, education, rehabilitation, treatment," for "prevention, education,".

Subsec. (a)(5). Pub. L. 111–13, §2102(1)(E), substituted "mental illness, chronic and life-threatening illnesses," for "chronic and life-threatening illnesses".

Subsec. (a)(6). Pub. L. 111–13, §2102(1)(F)(i), which directed substitution of "Head Start Act" for "Headstart act", was executed by making the substitution for "Headstart Act" to reflect the probable intent of Congress.

Subsec. (a)(8) to (13). Pub. L. 111–13, §2102(1)(F)(ii)–(H), added pars. (8) to (13).

Subsec. (b)(1). Pub. L. 111–13, §2102(2)(A), substituted "placement procedures that involve sponsoring organizations and" for "recruitment and placement procedures".

Subsec. (b)(2)(A). Pub. L. 111–13, §2102(2)(B)(i), substituted "Community Service Act of 1990." for "Community Service Trust Act of 1993. Upon the transfer of the functions of the ACTION Agency to the Corporation for National and Community Service, the office established under this subparagraph shall be merged with the recruitment office of such Corporation. At no time after such transfer of functions shall more than one office responsible primarily for recruitment exist within the Corporation."

Subsec. (b)(2)(B). Pub. L. 111–13, §2102(2)(B)(ii), substituted "database that provides" for "central information system that shall, on request, promptly provide" in introductory provisions.

Subsec. (b)(2)(C). Pub. L. 111–13, §2102(2)(B)(iii), inserted "and management" after "the recruitment" in second sentence.

Subsec. (b)(5)(B). Pub. L. 111–13, §2102(2)(C), substituted "database" for "information system".

Subsec. (c)(1)(A). Pub. L. 111–13, §2102(3)(A)(i), inserted "the Internet and related technologies," before "radio,".

Subsec. (c)(1)(B). Pub. L. 111–13, §2102(3)(A)(ii), inserted "Internet and related technologies," before "print media,".

Subsec. (c)(1)(C). Pub. L. 111–13, §2102(3)(A)(iii), inserted "State or local offices of economic development, State employment security agencies, employment offices," before "and other institutions".

Subsec. (c)(1)(F). Pub. L. 111–13, §2102(3)(A)(iv), substituted "Community Service Act of 1990" for

"Community Service Trust Act of 1993".

Subsec. (c)(4). Pub. L. 111–13, §2102(3)(B), struck out par. (4) which read as follows: "Beginning in fiscal year 1991 and for each fiscal year thereafter, for the purpose of carrying out this subsection, the Director shall obligate not less than 1.5 percent of the amounts appropriated for each fiscal year under section 5081(a) of this title."

Subsec. (d). Pub. L. 111–13, §2102(4), struck out "private industry council established under the Job Training Partnership Act or" after "coordinated with an appropriate". See 1998 Amendment note below.

Subsec. (g). Pub. L. 111–13, §2102(5), struck out ", and such Governor or other chief executive officer has not, within 45 days of the date of such submission, notified the Director in writing, supported by a statement of reasons, that such Governor or other chief executive officer disapproves such program or project" before period at end of first sentence.

Subsec. (i). Pub. L. 111–13, §2102(6), added subsec. (i).

1998—Subsec. (d). Pub. L. 105–277, §101(f) [title VIII, §405(f)(28)(A)], which directed amendment of the second sentence to read "private industry council established under the Job Training Partnership Act or", was not executed, to reflect the probable intent of Congress and subsequent amendment by Pub. L. 111–13, §2102(4).

Pub. L. 105–277, §101(f) [title VIII, §405(d)(36)(A)], substituted "Whenever feasible, such efforts shall be coordinated with an appropriate private industry council established under the Job Training Partnership Act or local workforce investment board established under section 2832 of title 29." for "Whenever feasible, such efforts shall be coordinated with an appropriate private industry council under the Job Training Partnership Act."

1994—Subsec. (b)(5), (6). Pub. L. 103–304, §3(b)(7), redesignated par. (6) as (5).

Subsec. (c)(1)(F). Pub. L. 103–304, §3(b)(8), realigned margin.

1993—Subsec. (a). Pub. L. 103–82, §323(a)(1), substituted "public" for "a public" in introductory provisions.

Subsec. (a)(2). Pub. L. 103–82, §323(a)(2), directed amendment of par. (2) by striking "and" at end. See 1984 Amendment note below.

Subsec. (a)(3). Pub. L. 103–82, §323(a)(3), struck out "illiterate or functionally illiterate youth and other individuals," after "the hungry,".

Subsec. (a)(5). Pub. L. 103–82, §323(a)(4), struck out "and" at end.

Subsec. (a)(6). Pub. L. 103–82, §323(a)(5), struck out "or" before "the Community Economic", inserted "or other similar Acts," before "in furtherance of", and substituted "; and" for period at end.

Subsec. (a)(7). Pub. L. 103–82, §323(a)(6), added par. (7).

Subsec. (b)(2)(A). Pub. L. 103–82, §405(a)(2), substituted "the Corporation (or any" for "the ACTION Agency (or any".

Pub. L. 103–82, §323(b)(1)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "The Director shall establish and maintain within the national headquarters of the ACTION Agency a volunteer placement office. The office shall be headed by an individual designated by the Director to be the national Administrator of Recruitment and Placement, who shall be responsible for carrying out the functions described in this subsection and subsection (c) and all other functions delegated by the Director relating to the recruitment and placement of volunteers under this part."

Subsec. (b)(2)(C), (D). Pub. L. 103–82, §323(b)(1)(B), (C), redesignated subpar. (D) as (C) and struck out former subpar. (C) which read as follows: "The Director shall, at a minimum, designate one employee of the ACTION Agency in each region of the United States whose primary duties and responsibilities shall be to assist the Administrator in carrying out the functions described in this subsection and subsection (c)."

Subsec. (b)(4). Pub. L. 103–82, §405(a)(3), substituted "the Corporation" for "the ACTION Agency" in two places.

Pub. L. 103–82, §323(b)(2), (3), redesignated par. (5) as (4) and struck out former par. (4) which read as follows: "Each application for service as a volunteer under this part shall—

"(A) indicate the period of time during which the applicant is available to serve as a volunteer under this part;

"(B) describe the previous education, training, military and work experience, and any other relevant skills or interests of the applicant;

"(C) specify the State or geographic region in which the applicant prefers to be assigned; and

"(D) specify—

"(i) the type of project or program to which the applicant prefers to be assigned; or

"(ii) the particular project or program to which the applicant prefers to be assigned."

Subsec. (b)(5) to (7). Pub. L. 103–82, §323(b)(2), (3), redesignated pars. (5) and (7) as (4) and (6),

respectively, and struck out former par. (6) which read as follows: "Completed applications received by the ACTION Agency shall be forwarded to the regional ACTION office representing the State in which such applicant resides. The regional or State employees designated in subparagraphs (C) and (D) of paragraph (2) shall assist in evaluating such applications and, to the extent feasible and appropriate, interviewing applicants."

Subsec. (c)(1). Pub. L. 103–82, §323(c)(1)(A), (B), in introductory provisions, substituted "personnel described in subsection (b)(2)(C)" for "regional or State employees designated in subparagraphs (C) and (D) of subsection (b)(2)" and "Such activities may include" for "Such activities shall include".

Subsec. (c)(1)(D). Pub. L. 103–82, §405(a)(4), substituted "the Corporation" for "the ACTION Agency".

Subsec. (c)(1)(F) to (H). Pub. L. 103–82, §323(c)(1)(C), (D), added subpar. (F) and redesignated former subpars. (F) and (G) as (G) and (H), respectively.

Subsec. (c)(4) to (6). Pub. L. 103–82, §323(c)(2), (3), redesignated par. (6) as (4) and struck out former par. (4) which required Director to develop annual plan for recruitment of volunteers under this part and former par. (5) which required that at least 20 percent of volunteers under this part be between ages 18 and 27 and that at least 20 percent be 55 or older.

Subsec. (h). Pub. L. 103–82, §323(d), added subsec. (h).

1989—Pub. L. 101–204, §101(d)(2)(A), substituted "Selection and assignment" for "Assignment" in section catchline.

Subsec. (a). Pub. L. 101–204, §101(d)(2)(B), inserted introductory provisions and struck out former introductory provisions which read as follows: "The Director, upon request of Federal, State, or local agencies, or private nonprofit organizations, may assign such volunteers to work in the several States in the local communities in which the volunteers were recruited in appropriate projects and programs, including work—".

Subsec. (a)(5), (6). Pub. L. 101–204, §701, added par. (5) and redesignated former par. (5) as (6).

Subsec. (b). Pub. L. 101–204, §101(a), amended subsec. (b) generally. Prior to amendment subsec. (b) read as follows: "The Director shall establish, at a cost not to exceed $250,000, procedures to recruit and place individuals from all walks of life, age groups, economic levels, and geographic areas to serve as VISTA volunteers. The procedures shall include an information system to ensure that potential applicants are made aware of the broad range of VISTA volunteer opportunities and a system to identify and place qualified volunteers where their skills are most needed. The Director shall also establish procedures for national and local recruitment, media and public awareness efforts, and specialized campaigns designed to recruit recent college graduates, special skilled volunteers, and individuals 55 years of age and older. The Director, wherever feasible and appropriate, shall assign low-income community volunteers to serve in their home communities in teams with nationally recruited specialist volunteers. The Director shall make efforts to assign volunteers to serve in their home or nearby communities and shall make national efforts to attract other volunteers to serve in the VISTA program. The Director shall also, in the assignment of volunteers, recognize that the community identified needs which cannot be met in the local area, and the individual desires of VISTA volunteers in regard to placement in various geographic areas of the Nation, should be taken into consideration."

Subsecs. (c) to (e). Pub. L. 101–204, §101(b), added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

Subsec. (f). Pub. L. 101–204, §101(b)(1), (d)(2)(C), redesignated subsec. (e) as (f) and substituted reference to subsec. (e) of this section for reference to subsec. (d) of this section. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 101–204, §101(b)(1), redesignated former subsec. (f) as (g).

1986—Subsec. (b). Pub. L. 99–551 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "The Director, wherever feasible and appropriate, shall assign low-income community volunteers to serve in their home communities in teams with nationally recruited specialist volunteers. The Director shall make efforts to assign volunteers to serve in their home communities or in nearby communities and shall make national efforts to attract other volunteers to serve in the VISTA program."

1984—Subsec. (a). Pub. L. 98–288, §4(a)(1), inserted "in the local communities in which the volunteers were recruited" and inserted ", including work" in provisions before par. (1).

Subsec. (a)(2). Pub. L. 98–288, §4(a)(2), which directed substitution of a semicolon for ", under the supervision of nonprofit institutions or facilities, and", was executed by making the substitution for ", under the supervision of nonprofit institutions or facilities; and" to reflect the probable intent of Congress.

Subsec. (a)(3), (4). Pub. L. 98–288, §4(a)(4), added pars. (3) and (4). Former par. (3) redesignated (5).

Subsec. (a)(5). Pub. L. 98–288, §4(a)(3), (4), redesignated par. (3) as (5), and substituted "the Community Service Block Grant Act, titles VIII and X of the Economic Opportunity Act of 1964, the Headstart Act, or the Community Economic Development Act of 1981," for "the Economic Opportunity Act of 1964, as amended".

Subsec. (b). Pub. L. 98–288, §4(b), substituted "The Director shall make efforts to assign volunteers to serve in their home communities or in nearby communities and shall make national efforts to attract other volunteers to serve in the VISTA program" for "Not later than 30 days after the assignment of any such community volunteer, the Director shall insure that each such volunteer is provided an individual plan designed to provide an opportunity for job advancement or for transition to a situation leading to gainful employment. One hundred and twenty days prior to the completion of such community volunteer's term of service, the Director shall insure that such plan is updated and reviewed with the volunteer. The Director shall offer to provide each volunteer enrolled for a period of full-time service of not less than one year under this subchapter, and, upon the request of such volunteer, provide such volunteer with an individual and updated plan as described in the preceding two sentences".

Subsecs. (c), (d). Pub. L. 98–288, §4(c)(1)(B), added subsecs. (c) and (d). Former subsecs. (c) and (d) redesignated subsecs. (e) and (f), respectively.

Subsec. (e). Pub. L. 98–288, §4(c)(1)(A), redesignated subsec. (c) as (e).

Subsec. (f). Pub. L. 98–288, §4(c)(1)(A), (d), redesignated subsec. (d) as (f), and substituted "work in a program or project in any community unless the application for such program or project contains evidence of local support and" for "duties or work in a program or project in any State unless such program or project".

1979—Subsec. (b). Pub. L. 96–143, §2(a), substituted "Not later than 30 days after" for "Prior to" and inserted provisions that the Director offer to provide each volunteer enrolled for a period of full-time service of not less than one year under this subchapter, and, upon the request of such volunteer, provide such volunteer with an individual and updated plan as described in the preceding two sentences.

Subsec. (d). Pub. L. 96–143, §2(b), inserted "in a program or project" after "work" and "or project" after "program" and inserted provisions requiring notification by a Governor or other chief executive officer to the Director that such Governor or other chief executive officer has disapproved a program or project under this section and requiring the Director to terminate a program or project under this section in the event of a timely request by the Governor or other chief executive officer not later than 30 days after the date such request is received or at such date agreed upon by the Director and such Governor or other chief executive officer.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 101(f) [title VIII, §405(d)(36)(A)] of Pub. L. 105–277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, §405(f)(28)(A)] of Pub. L. 105–277 effective July 1, 2000, see section 101(f) [title VIII, §405(g)(1), (2)(B)] of Pub. L. 105–277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–304, §3(b)(10), Aug. 23, 1994, 108 Stat. 1568, provided that:

"(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection [amending this section and sections 5024, 12591, 12602, 12615, 12619, 12622, 12651d, 12653, and 12655n of this title] shall take effect on the date of the enactment of this Act [Aug. 23, 1994].

"(B) RETROACTIVE EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) [amending sections 12651d and 12655n of this title] shall take effect as of October 1, 1993."

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 323 of Pub. L. 103–82 effective Oct. 1, 1993, see section 392 of Pub. L. 103–82, set out as a note under section 4951 of this title.

Amendment by section 405(a)(2) to (4) of Pub. L. 103–82 effective Apr. 4, 1994, see section 406(b) of Pub. L. 103–82, set out as a note under section 8332 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–551 effective Oct. 1, 1986, except as otherwise provided, see section 11 of Pub. L. 99–551, set out as an Effective Date note under section 4950 of this title.

[1] *So in original. Probably should be paragraph "(5)".*

[2] *So in original. Probably should be "the Corporation)".*

§4954. Terms and periods of service

(a) Personal commitment; scope of commitment

Volunteers serving under this part shall be required to make a full-time personal commitment to combating poverty and poverty-related problems. To the maximum extent practicable, the requirement for full-time commitment shall include a commitment to live among and at the economic level of the people served, and to remain available for service without regard to regular working hours, at all times during their periods of service, except for authorized periods of leave.

(b) Minimum period of service; critical scarce-skill needs exception; reenrollment; limitation

(1) Volunteers serving under this part may be enrolled initially for periods of service of not less than 1 year, nor more than 2 years, except as provided in paragraph (2) or subsection (e).

(2) Volunteers serving under this part may be enrolled for periods of service of less than 1 year if the Director determines, on an individual basis, that a period of service of less than 1 year is necessary to meet a critical scarce skill need.

(3) Volunteers serving under this part may be reenrolled for periods of service in a manner to be determined by the Director. No volunteer shall serve for more than a total of 5 years under this part.

(c) Oath or affirmation

Volunteers under this part shall, upon enrollment, take the oath of office as prescribed for persons appointed to any office of honor or profit by section 3331 of title 5, and shall swear (or affirm) that the volunteer does not advocate the overthrow of the constitutional form of government of the United States and that the volunteer is not a member of an organization that advocates the overthrow of the constitutional form of government of the United States, knowing that such organization so advocates, except that persons legally residing within a State but who are not citizens or nationals of the United States, may serve under this part without taking or subscribing to such oath, if the Director determines that the service of such persons will further the interests of the United States. Such persons shall take such alternative oath or affirmation as the Director shall deem appropriate.

(d) Grievance and personal view presentation procedure; notice and hearing; information

The Director shall establish a procedure, including notice and opportunity to be heard, for volunteers under this part to present and obtain resolution of grievances and to present their views in connection with the terms and conditions of their service. The Director shall promptly provide to each volunteer in service on October 1, 1973, and to each such volunteer beginning service thereafter, information regarding such procedure and the terms and conditions of their service.

(e) Summer associates

(1) Notwithstanding any other provision of this part, the Director may enroll full-time VISTA summer associates in a program for the summer months only, under such terms and conditions as the Director shall determine to be appropriate. Such individuals shall be assigned to projects that meet the criteria set forth in section 4953(a) of this title.

(2) In preparing reports relating to programs under this chapter, the Director shall report on participants, costs, and accomplishments under the summer program separately.

(3) The limitation on funds appropriated for grants and contracts, as contained in section 4958 of this title, shall not apply to the summer program.

(Pub. L. 93–113, title I, §104, Oct. 1, 1973, 87 Stat. 397; Pub. L. 98–288, §5, May 21, 1984, 98 Stat.

190; Pub. L. 101–204, title VII, §702, Dec. 7, 1989, 103 Stat. 1821; Pub. L. 103–82, title III, §324, Sept. 21, 1993, 107 Stat. 900.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (e)(2), was in the original "this Act", meaning Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, known as the Domestic Volunteer Service Act of 1973, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–82, §324(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "Volunteers serving under this part may be enrolled for periods of service not exceeding two years, but for not less than one-year periods of service, except that volunteers serving under this part may be enrolled for periods of service of less than one year when the Director determines, on an individual basis, that a period of service of less than one year is necessary to meet a critical scarce-skill need. Volunteers serving under this part may be reenrolled for periods of service totaling not more than two years. No volunteer shall serve for more than a total of five years under this part."

Subsec. (e). Pub. L. 103–82, §324(b), added subsec. (e).

1989—Subsec. (c). Pub. L. 101–204 substituted "for persons appointed to any office of honor or profit by section 3331 of title 5, and shall swear (or affirm) that the volunteer does not advocate the overthrow of the constitutional form of government of the United States and that the volunteer is not a member of an organization that advocates the overthrow of the constitutional form of government of the United States, knowing that such organization so advocates, except" for "in section 2504(j) of title 22, except".

1984—Subsec. (a). Pub. L. 98–288 struck out "human, social, and environmental" in first sentence after "poverty-related", and substituted "the requirement for full-time commitment" for "this" in second sentence.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 392 of Pub. L. 103–82, set out as a note under section 4951 of this title.

TEMPORARY AUTHORITY FOR EXTENSIONS OF PERIOD OF SERVICE

Pub. L. 101–204, title I, §101(c), Dec. 7, 1989, 103 Stat. 1810, as amended by Pub. L. 103–82, title IV, §405(h), Sept. 21, 1993, 107 Stat. 921, provided that:

"(1) IN GENERAL.—Notwithstanding the limitations established in section 104(b) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4954(b)) for the maximum period of service as a volunteer under part A of title I of such Act (42 U.S.C. 4951 et seq.), the Chief Executive Officer of the Corporation for National and Community Service may, subject to paragraphs (2) and (3), extend beyond such maximum the period of service for such volunteer in any case in which—

"(A) such extension is requested by the project or program to which such volunteer involved is assigned; and

"(B) such Director determines that such extension is appropriate with respect to meeting the goals of such project or program.

"(2) LIMITATIONS ON EXTENSIONS.—With respect to extensions under paragraph (1) for volunteers described in such paragraph—

"(A) such an extension shall not exceed a 1-year period;

"(B) not more than two of such extensions may be made for any one volunteer; and

"(C) not more than 1 percent of the total number of such volunteers serving for the fiscal year involved may receive such extensions.

"(2) [probably should be (3)] DURATION OF AUTHORITY.—The authority established in paragraph (1) shall be effective only for fiscal years 1990 through 1993."

§4955. Support services

(a) Stipend; limitation; volunteer leaders; payment upon completion of term; advancement of accrued stipend; beneficiary of deceased volunteer

(1)(A) The Director may provide a stipend to volunteers, while they are in training and during their assignments, enrolled for periods of service of not less than one year under this part, except that the Director may, on an individual basis, make an exception to provide a stipend to a volunteer enrolled under this part for an extended period of service not totaling one year.

(B) Such stipend shall be set at a rate that is not less than a minimum of $125 per month and not more than a maximum of $150 per month, subject to the availability of funds to provide such a maximum rate. The Director may provide a stipend set at a rate that is not more than a maximum of $250 per month in the case of persons who have served as volunteers under this part for at least 1 year and who, in accordance with standards established in such regulations as the Director shall prescribe, have been designated volunteer leaders on the basis of experience and special skills and a demonstrated leadership among volunteers.

(C) The Director shall not provide a stipend under this subsection to an individual who elects to receive a national service educational award under subtitle D of title I of the National and Community Service Act of 1990 [42 U.S.C. 12601 et seq.].

(2) Stipends shall be payable only upon completion of a period of service, except that under such circumstances as the Director shall determine, in accordance with regulations which the Director shall prescribe, the accrued stipend, or any part of the accrued stipend, may be paid to the volunteer, or, on behalf of the volunteer, to members of the volunteer's family or others during the period of the volunteer's service. In the event of the death of a volunteer during service, the amount of any unpaid stipend shall be paid in accordance with the provisions of section 5582 of title 5.

(b) Description of allowances and support services; determination of allowance; adjustments; methodology

(1) The Director shall also provide volunteers such living, travel (including travel to and from places of training and to and from locations to which volunteers are assigned during periods of service) and leave allowances, and such housing, supplies, equipment, subsistence, clothing, health and dental care, transportation, supervision, pre-service training and where appropriate in-service training, technical assistance, and such other support as the Director deems necessary and appropriate to carry out the purpose and provisions of this part, and shall insure that each such volunteer has available such allowances and support as will enable the volunteer to carry out the purpose and provisions of this part and to effectively perform the work to which such volunteer is assigned.

(2) The Director shall set the subsistence allowance for volunteers under paragraph (1) for each fiscal year so that—

(A) the minimum allowance is not less than an amount equal to 95 percent of such poverty line (as defined in section 9902(2) of this title) for a single individual as expected for each fiscal year; and

(B) the average subsistence allowance, excluding allowances for Hawaii, Guam, American Samoa, and Alaska, is no less than 105 percent of such poverty line.

(3) The Director shall adjust the subsistence allowances for volunteers serving in areas that have a higher cost of living than the national average to reflect such higher cost. The Director shall review such adjustments on an annual basis to ensure that the adjustments are current.

(c) Child care

(1) The Director shall—

(A) make child care available for children of each volunteer enrolled under this part who need such child care in order to participate as volunteers; or

(B) provide a child care allowance to each such volunteer who needs such assistance in order to participate as volunteers.

(2) The Corporation shall establish guidelines regarding the circumstances under which child care shall be made available under this subsection and the value of any child care allowance to be provided.

(Pub. L. 93–113, title I, §105, Oct. 1, 1973, 87 Stat. 398; Pub. L. 94–130, §5(a), Nov. 14, 1975, 89 Stat. 684; Pub. L. 96–143, §3, Dec. 13, 1979, 93 Stat. 1074; Pub. L. 98–288, §6, May 21, 1984, 98 Stat. 191; Pub. L. 99–551, §10(i)(1), Oct. 27, 1986, 100 Stat. 3078; Pub. L. 101–204, title I, §102, Dec. 7, 1989, 103 Stat. 1811; Pub. L. 103–82, title III, §325, Sept. 21, 1993, 107 Stat. 901; Pub. L. 111–13, title II, §2103, Apr. 21, 2009, 123 Stat. 1583.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National and Community Service Act of 1990, referred to in subsec. (a)(1)(C), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127. Subtitle D of title I of the Act is classified generally to division D (§12601 et seq.) of subchapter I of chapter 129 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of this title and Tables.

AMENDMENTS

2009—Subsec. (a)(1)(B). Pub. L. 111–13 substituted "Such stipend shall be set at a rate that is not less than a minimum of $125 per month and not more than a maximum of $150 per month, subject to the availability of funds to provide such a maximum rate." for "Such stipend shall not exceed $95 per month in fiscal year 1994, but shall be set at a minimum of $100 per month, and a maximum of $125 per month assuming the availability of funds to accomplish such maximum, during the service of the volunteer after October 1, 1994." and "stipend set at a rate that is not more than a maximum of $250 per month" for "stipend of a maximum of $200 per month".

1993—Subsec. (a)(1). Pub. L. 103–82, §325(a), designated first sentence as subpar. (A), added subpars. (B) and (C), and struck out former second sentence which read as follows: "Such stipend shall not exceed $75 per month in fiscal year 1990, $90 per month in fiscal year 1991, and $95 per month in subsequent fiscal years during the volunteer's service, except that the Director may provide a stipend not to exceed $75 per month in fiscal year 1990, $90 per month in fiscal year 1991, and $95 per month in subsequent fiscal years in the case of persons who have served for at least one year and who, in accordance with standards established in regulations which the Director shall prescribe, have been designated volunteer leaders on the basis of experience and special skills and a demonstrated leadership among volunteers."

Subsec. (b)(3). Pub. L. 103–82, §325(b)(1), struck out subpar. (A), struck out subpar. (B) designation before "The Director shall adjust", and inserted at end: "The Director shall review such adjustments on an annual basis to ensure that the adjustments are current.". Prior to amendment, subpar. (A) read as follows: "The Director shall consult with regional and State offices of the ACTION Agency to make a determination of the cost of living within each State and whether there are significant local price differentials within the State."

Subsec. (b)(4). Pub. L. 103–82, §325(b)(2), struck out par. (4) which read as follows: "The Director, in coordination with regional and State offices of the ACTION Agency and taking into account paragraphs (2) and (3), shall establish a method for setting subsistence allowances. The Director shall submit a report on such methods to the appropriate authorizing committees of Congress not later than 90 days after the date of enactment of the fiscal year 1990 appropriation."

Subsec. (c). Pub. L. 103–82, §325(c), added subsec. (c).

1989—Subsec. (a)(1). Pub. L. 101–204, §102(1), substituted "$75 per month in fiscal year 1990, $90 per month in fiscal year 1991, and $95 per month in subsequent fiscal years" for "$75 per month" in two places.

Subsec. (b). Pub. L. 101–204, §102(2), designated existing provisions as par. (1), substituted "places of training and to and from locations to which volunteers are assigned during periods of service)" for "places of training),", and added pars. (2) to (4).

1986—Subsec. (b). Pub. L. 99–551 substituted "the Director" for "he" before "deems".

1984—Subsec. (b). Pub. L. 98–288 inserted "pre-service training and where appropriate in-service training,".

1979—Subsec. (a)(2). Pub. L. 96–143 substituted "under such circumstances as the Director shall determine, in accordance with regulations which the director shall prescribe, the accrued stipend, or any part of the accrued stipend, may be paid to the volunteer, or, on behalf of the volunteer, to members of the

volunteer's family or others during the period of the volunteer's service" for "in extraordinary circumstances the Director may from time to time advance all or a portion of the accrued stipend to or on behalf of a volunteer".

1975—Subsec. (a)(1). Pub. L. 94–130 substituted "shall not exceed $75" for "shall not exceed $50".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 392 of Pub. L. 103–82, set out as a note under section 4951 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–551 effective Oct. 1, 1986, except as otherwise provided, see section 11 of Pub. L. 99–551, set out as an Effective Date note under section 4950 of this title.

ADDITIONAL APPROPRIATIONS AUTHORIZATION

Pub. L. 94–130, §5(b), Nov. 14, 1975, 89 Stat. 684, as amended by Pub. L. 96–143, §17, Dec. 13, 1979, 93 Stat. 1082, authorized additional appropriations, beyond those authorized pursuant to section 5081 of this title, to carry out the amendment made to this section by section 5(a) of Pub. L. 94–130.

§4956. Participation of program beneficiaries

To the maximum extent practicable, the people of the communities to be served by volunteers under this subchapter shall participate in planning, developing, and implementing programs thereunder, and the Director, after consultation with sponsoring agencies (including volunteers assigned to them) and the people served by such agencies, shall establish in regulations, a continuing mechanism for the meaningful participation of such program beneficiaries.

(Pub. L. 93–113, title I, §106, Oct. 1, 1973, 87 Stat. 398; Pub. L. 98–288, §7, May 21, 1984, 98 Stat. 191.)

EDITORIAL NOTES

AMENDMENTS

1984—Pub. L. 98–288 substituted "establish in regulations" for "take all necessary steps to establish, in regulations he shall prescribe".

§4957. Participation of younger and older persons

In carrying out this part and part C, the Director shall take necessary steps, including the development of special projects, where appropriate, to encourage the fullest participation of individuals 18 through 27 years of age, and individuals 55 years of age and older, in the various programs and activities authorized under such parts.

(Pub. L. 93–113, title I, §107, Oct. 1, 1973, 87 Stat. 399; Pub. L. 103–82, title III, §326, Sept. 21, 1993, 107 Stat. 901.)

EDITORIAL NOTES

AMENDMENTS

1993—Pub. L. 103–82 amended section generally. Prior to amendment, section read as follows: "In

carrying out this part and part C of this subchapter, the Director shall take necessary steps, including the development of special projects, where appropriate, to encourage the fullest participation of older persons and older persons membership groups as volunteers and participant agencies in the various programs and activities authorized under such parts and, because of the high proportion of older persons within the poverty group, shall encourage the development of a variety of volunteer services to older persons, including special projects, to assure that such persons are served in proportion to their need."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 392 of Pub. L. 103–82, set out as a note under section 4951 of this title.

§4958. Limitation on funds appropriated for grants and contracts for direct cost of supporting volunteers in programs or projects

(a) Of funds appropriated for the purpose of this part under section 5081 of this title, not more than 30 percent for the fiscal year ending September 30, 1984, and for each fiscal year thereafter, may be obligated for the direct cost of supporting volunteers in programs or projects carried out pursuant to grants and contracts made under section 5042(12) [1] of this title.

(b) No funds shall be obligated under this part pursuant to grants or contracts made after December 13, 1979, for new projects for the direct cost of supporting volunteers unless the recipient of each such grant or contract has been selected through a competitive process which includes—

(1) public announcements of the availability of funds for such grants or contracts, general criteria for the selection of new recipients, and a description of the application process and the application review process; and

(2) a requirement that each applicant for any such grant or contract identify, with sufficient particularity to assure that the assignments of volunteers under such grants and contracts will carry out the purpose of this part, the particular poverty or poverty-related problems on which the grant or contract will focus, and any such grant or contract shall specifically so identify such problems.

(Pub. L. 93–113, title I, §108, as added Pub. L. 94–293, §4(a)(1), May 27, 1976, 90 Stat. 525; amended Pub. L. 96–143, §4, Dec. 13, 1979, 93 Stat. 1075; Pub. L. 98–288, §8, May 21, 1984, 98 Stat. 191; Pub. L. 101–204, title VII, §703, Dec. 7, 1989, 103 Stat. 1821.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 5042 of this title, referred to in subsec. (a), was repealed by Pub. L. 103–82, title II, §203(b), Sept. 21, 1993, 107 Stat. 892.

AMENDMENTS

1989—Subsec. (a). Pub. L. 101–204 substituted "30 percent" for "16 per centum".

1984—Subsec. (a). Pub. L. 98–288, §8(1), (2), substituted "1984" for "1977", and struck out "During the fiscal year ending September 30, 1980—(1) in no event may in excess of $5,800,000 be used pursuant to grants and contracts under this part for the direct cost of supporting such volunteers; and (2) funds obligated pursuant to such grants and contracts for such cost may be used to support no greater number of years of volunteer service than the number of such years supported during the fiscal year ending September 30, 1979, pursuant to grants and contracts for such cost."

Subsec. (b)(2). Pub. L. 98–288, §8(3), struck out "human, social, or environmental" after "poverty-related".

1979—Subsec. (a). Pub. L. 96–143, §4, designated existing provisions as subsec. (a) and, in subsec. (a) as so designated, substituted "16" for "20", inserted "During the fiscal year ending September 30, 1980", and added pars. (1) and (2).

Subsec. (b). Pub. L. 96–143, §4(b), added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 94–293, §4(c), May 27, 1976, 90 Stat. 526, provided that: "The amendments made by subsection (a) and subsection (b) of this section [enacting this section and amending section 5042 of this title] shall be effective on October 1, 1976, and shall not apply to any agreement for the assignment of volunteers entered into before such date during the period of any such agreement."

[1] *See References in Text note below.*

§4959. Repealed. Pub. L. 111–13, title II, §2104, Apr. 21, 2009, 123 Stat. 1583

Section, Pub. L. 93–113, title I, §109, as added Pub. L. 99–551, §4(a), Oct. 27, 1986, 100 Stat. 3072; amended Pub. L. 101–204, title VI, §601, Dec. 7, 1989, 103 Stat. 1819; Pub. L. 103–82, title III, §327, Sept. 21, 1993, 107 Stat. 902; Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(36)(B), (f)(28)(B)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–427, 2681–434, related to the VISTA Literacy Corps.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

§4960. Applications for assistance

In reviewing an application for assistance under this part, the Director shall not deny such assistance to any project or program, or any public or private nonprofit organization, solely on the basis of the duration of the assistance such project, program, or organization has received under this part prior to the date of submission of the application. The Director shall grant assistance under this part on the basis of merit and to accomplish the goals of the VISTA program, and shall consider the needs and requirements of projects in existence on such date as well as potential new projects.

(Pub. L. 93–113, title I, §109, formerly §110, as added Pub. L. 101–204, title I, §103, Dec. 7, 1989, 103 Stat. 1812; amended Pub. L. 103–82, title III, §328, Sept. 21, 1993, 107 Stat. 902; renumbered §109, Pub. L. 111–13, title II, §2105, Apr. 21, 2009, 123 Stat. 1583.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 109 of Pub. L. 93–113 was classified to section 4959 of this title, prior to repeal by Pub. L. 111–13, title II, §2104, Apr. 21, 2009, 123 Stat. 1583, effective Oct. 1, 2009.

AMENDMENTS

1993—Pub. L. 103–82 amended section generally, substituting present provisions for provisions which related to: in subsec. (a), duration; in subsec. (b), consideration of application; in subsec. (c), new project or program; in subsec. (d), renewal of assistance; in subsec. (e), eligibility; and in subsec. (f), notice.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 392 of Pub. L. 103–82, set out as a note under section 4951 of this title.

PART B—UNIVERSITY YEAR FOR VISTA

§4971 to 4973. Repealed. Pub. L. 111–13, title II, §2121, Apr. 21, 2009, 123 Stat. 1584

Section 4971, Pub. L. 93–113, title I, §111, Oct. 1, 1973, 87 Stat. 399; Pub. L. 98–288, §9, May 21, 1984, 98 Stat. 191; Pub. L. 99–551, §5, Oct. 27, 1986, 100 Stat. 3073; Pub. L. 101–204, title II, §201(2), Dec. 7, 1989, 103 Stat. 1813; Pub. L. 103–82, title III, §330(a)(2), (3), Sept. 21, 1993, 107 Stat. 902, set forth the congressional statement of purpose for the University Year for VISTA program of full-time volunteer service by students enrolled in institutions of higher education.

Section 4972, Pub. L. 93–113, title I, §112, Oct. 1, 1973, 87 Stat. 399; Pub. L. 98–288, §30(b)(1), May 21, 1984, 98 Stat. 197; Pub. L. 99–551, §10(i)(2), Oct. 27, 1986, 100 Stat. 3078; Pub. L. 103–82, title III, §330(a)(4), Sept. 21, 1993, 107 Stat. 902, provided the Director with authority to operate University Year for VISTA program.

Section 4973, Pub. L. 93–113, title I, §113, Oct. 1, 1973, 87 Stat. 399; Pub. L. 96–143, §5, Dec. 13, 1979, 93 Stat. 1075; Pub. L. 97–35, title VI, §608(f)(1), Aug. 13, 1981, 95 Stat. 488; Pub. L. 103–82, title III, §330(a)(2), (3), (b), Sept. 21, 1993, 107 Stat. 902, set out special conditions related to the University Year for VISTA program.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

§4974. Repealed. Pub. L. 103–82, title III, §329, Sept. 21, 1993, 107 Stat. 902

Section, Pub. L. 93–113, title I, §114, Oct. 1, 1973, 87 Stat. 400; Pub. L. 94–293, §2, May 27, 1976, 90 Stat. 525; Pub. L. 96–143, §6, Dec. 13, 1979, 93 Stat. 1075; Pub. L. 97–35, title VI, §608(a), Aug. 13, 1981, 95 Stat. 487; Pub. L. 98–288, §10, May 21, 1984, 98 Stat. 191; Pub. L. 99–551, §10(i)(3), Oct. 27, 1986, 100 Stat. 3078; Pub. L. 101–204, title II, §201(3), Dec. 7, 1989, 103 Stat. 1813, related to student community service programs.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1993, see section 392 of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 4951 of this title.

PART C—SPECIAL VOLUNTEER PROGRAMS

§4991. Congressional statement of purpose

This part provides for special emphasis and demonstration volunteer programs, together with appropriate powers and responsibilities designed to assist in the development and coordination of such programs. The purpose of this part is to strengthen and supplement efforts to meet a broad range of needs, particularly those related to poverty, by encouraging and enabling persons from all walks of life and from all age groups to perform meaningful and constructive volunteer service in agencies, institutions, and organizations where the application of human talent and dedication may help to meet such needs. It is the further purpose of this part to provide technical and financial

assistance to encourage voluntary organizations and volunteer efforts at the national, State, and local level.

(Pub. L. 93–113, title I, §121, Oct. 1, 1973, 87 Stat. 400; Pub. L. 98–288, §11, May 21, 1984, 98 Stat. 191; Pub. L. 111–13, title II, §2131, Apr. 21, 2009, 123 Stat. 1584.)

EDITORIAL NOTES

AMENDMENTS

2009—Pub. L. 111–13 substituted "organizations" for "situations" in second sentence.

1984—Pub. L. 98–288 struck out "human, social, and environmental" after "broad range of", and inserted at end "It is the further purpose of this part to provide technical and financial assistance to encourage voluntary organizations and volunteer efforts at the national, State, and local level."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

§4992. Authority to establish and operate special volunteer and demonstration programs

(a) In general

The Director is authorized to conduct special volunteer programs for demonstration programs, or award grants to or enter into contracts with public or nonprofit organizations to carry out such programs. Such programs shall encourage wider volunteer participation on a full-time, part-time, or short-term basis to further the purpose of this part, and identify particular segments of the poverty community that could benefit from volunteer and other antipoverty efforts.

(b) Assignment and support of volunteers

The assignment of volunteers under this section, and the provision of support for such volunteers, including any subsistence allowances and stipends, shall be on such terms and conditions as the Director shall determine to be appropriate, but shall not exceed the level of support provided under section 4955 of this title. Projects using volunteers who do not receive stipends may also be supported under this section.

(c) Criteria and priorities

In carrying out this section and section 4993 of this title, the Director shall establish criteria and priorities for awarding grants and entering into contracts under this part in each fiscal year. No grant or contract exceeding $100,000 shall be made under this part unless the recipient of the grant or contractor has been selected by a competitive process that includes public announcement of the availability of funds for such grant or contract, general criteria for the selection of recipients or contractors, and a description of the application process and application review process.

(Pub. L. 93–113, title I, §122, Oct. 1, 1973, 87 Stat. 401; Pub. L. 94–293, §3(a), May 27, 1976, 90 Stat. 525; Pub. L. 96–143, §7(a)–(c), Dec. 13, 1979, 93 Stat. 1075, 1076; Pub. L. 98–288, §§12, 30(b)(2), May 21, 1984, 98 Stat. 192, 197; Pub. L. 99–551, §§6(a), 10(d), (i)(4), Oct. 27, 1986, 100 Stat. 3074, 3077, 3078; Pub. L. 101–204, title III, §301, Dec. 7, 1989, 103 Stat. 1813; Pub. L. 103–82, title III, §331, Sept. 21, 1993, 107 Stat. 903.)

EDITORIAL NOTES

AMENDMENTS

1993—Pub. L. 103–82 amended section generally, substituting present provisions for provisions which related to: in subsec. (a), youthful offender incarceration alternatives, veterans educational opportunities, drug abusers counseling, assistance to victims of domestic violence, periods of service, and identification of segments of poverty community which could benefit from volunteer and other antipoverty efforts; in subsec. (b), assignment of volunteers, and terms and conditions; in subsec. (c), allowances, supports, services, and stipends for part-time and full-time volunteers; in subsec. (d), establishment of criteria for grants and contracts, competitive process, maximum amount, and multiple grants or contracts; and in subsec. (e), prohibition on use of funds for certain State offices.

1989—Subsec. (d)(3), (4). Pub. L. 101–204, §301(a), added par. (3) and redesignated former par. (3) as (4).

Subsec. (e). Pub. L. 101–204, §301(b), added subsec. (e).

1986—Subsec. (a)(1). Pub. L. 99–551, §§6(a), 10(d), inserted "(including Indian reservations)" and substituted "offenders, a program" and "veterans, a program" for "offenders; a program" and "veterans; a program", respectively.

Subsec. (b). Pub. L. 99–551, §10(i)(4), substituted "the Director" for "he" before "shall prescribe".

1984—Subsec. (c)(2)(B). Pub. L. 98–288, §30(b)(2), substituted "4953(f)" for "4953(d)".

Subsec. (d). Pub. L. 98–288, §12, added subsec. (d).

1979—Subsec. (a). Pub. L. 96–143, §7(a), (b), designated existing provisions as par. (1), inserted "in urban and rural areas" after "volunteer programs" and ", a program of assistance to victims of domestic violence, a program to provide technical and management assistance to distressed communities, a program designed to provide personal and group financial counseling to low-income and fixed-income individuals (utilizing volunteers with specialized or technical expertise), and a Helping Hand program" after "drug abusers", inserted provisions authorizing the Director to provide for the recruitment, selection, and training of volunteers in carrying out programs authorized by this part, and added par. (2).

Subsec. (c). Pub. L. 96–143, §7(c), inserted provisions permitting support payments to part-time volunteers enrolled for at least 20 hours of service per week for at least 26 consecutive weeks and provisions applying sections 4953(b), (d), 4954(d), and 4955(a) of this title to full-time full-year volunteers whose service is similar in character to that of VISTA volunteers.

1976—Subsec. (c). Pub. L. 94–293 inserted provision authorizing the Director to undertake and support volunteer service programs, and recruit, etc., volunteers to carry out this part.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 392 of Pub. L. 103–82, set out as a note under section 4951 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–551 effective Oct. 1, 1986, except as otherwise provided, see section 11 of Pub. L. 99–551, set out as an Effective Date note under section 4950 of this title.

REPORT ON PROGRAMS, ACTIVITIES, GRANTS, AND CONTRACTS RESULTING FROM AMENDMENT BY SECTION 7 OF PUB. L. 96–143

Pub. L. 96–143, §7(d), Dec. 13, 1979, 93 Stat. 1076, directed Director of ACTION Agency, not later than 18 months after funds were first made available to carry out activities under the amendments to this part made by section 7 of Pub. L. 96–143, to submit to appropriate committees of Congress a report on programs, activities, grants, and contracts so carried out.

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 12034

Ex. Ord. No. 12034, Jan. 10, 1978, 43 F.R. 1917, which provided for appointment of ACTION Community Volunteers to the Civilian Career Service, was revoked by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617.

§4993. Technical and financial assistance

The Director may provide technical and financial assistance to Federal agencies, State and local

governments and agencies, private nonprofit organizations, employers, and other private organizations that utilize or desire to utilize volunteers in carrying out the purpose of this part.

(Pub. L. 93–113, title I, §123, as added Pub. L. 94–293, §3(b)(1), May 27, 1976, 90 Stat. 525; amended Pub. L. 98–288, §13, May 21, 1984, 98 Stat. 192; Pub. L. 101–204, title VI, §602, Dec. 7, 1989, 103 Stat. 1820; Pub. L. 103–82, title III, §332, Sept. 21, 1993, 107 Stat. 903.)

EDITORIAL NOTES

AMENDMENTS

1993—Pub. L. 103–82 amended section generally, substituting single sentence authorizing technical and financial assistance for former subsecs. (a) and (b) which contained similar general authority and provisions detailing use of the general authority.

1989—Pub. L. 101–204 designated existing provisions as subsec. (a) and added subsec. (b).

1984—Pub. L. 98–288 substituted "(2) technical assistance and training programs, including the creation or expansion of private capabilities where possible and the development of voluntary organizations, with particular emphasis on low-income, minority, and community-based groups, or (3)" for "or (2)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 392 of Pub. L. 103–82, set out as a note under section 4951 of this title.

§4994. Repealed. Pub. L. 103–82, title III, §333(1), Sept. 21, 1993, 107 Stat. 903

Section, Pub. L. 93–113, title I, §124, as added Pub. L. 99–570, title IV, §4301(1), Oct. 27, 1986, 100 Stat. 3207–152; amended Pub. L. 100–690, title III, §3401(a)(1), Nov. 18, 1988, 102 Stat. 4252; Pub. L. 101–204, title III, §302, title VI, §603, Dec. 7, 1989, 103 Stat. 1813, 1820, related to drug abuse education and prevention services and activities.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1993, see section 392 of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 4951 of this title.

§4995. Repealed. Pub. L. 111–13, title II, §2132, Apr. 21, 2009, 123 Stat. 1584

Section, Pub. L. 93–113, title I, §124, formerly §125, as added Pub. L. 102–73, title VII, §701(a)(1), July 25, 1991, 105 Stat. 358; renumbered §124 and amended Pub. L. 103–82, title III, §333(2), title IV, §405(a)(5), Sept. 21, 1993, 107 Stat. 903, 920, authorized the Director to award literacy challenge grants to eligible public agencies and private organizations.

A prior section 124 of Pub. L. 93–113 was classified to section 4994 of this title prior to repeal by Pub. L. 103–82.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

SUBCHAPTER II—NATIONAL SENIOR SERVICE CORPS

EDITORIAL NOTES

CODIFICATION

Pub. L. 111–13, title II, §2141, Apr. 21, 2009, 123 Stat. 1584, substituted "SERVICE" for "VOLUNTEER" in heading.

§5000. Statement of purpose

It is the purpose of this subchapter to provide—

(1) opportunities for senior service to meet unmet local, State, and national needs in the areas of education, public safety, emergency and disaster preparedness, relief, and recovery, health and human needs, and the environment;

(2) for the National Senior Service Corps, comprised of the Retired and Senior Volunteer Program, the Foster Grandparent Program, and the Senior Companion Program, and demonstration and other programs, to empower people 55 years of age or older to contribute to their communities through service, enhance the lives of those who serve and those whom they serve, and provide communities with valuable services;

(3) opportunities for people 55 years of age or older, through the Retired and Senior Volunteer Program, to share their knowledge, experiences, abilities, and skills for the betterment of their communities and themselves;

(4) opportunities for low-income people 55 years of age or older, through the Foster Grandparents Program, to have a positive impact on the lives of children in need; and

(5) opportunities for low-income people 55 years of age or older, through the Senior Companion Program, to provide support services and companionship to other older individuals through volunteer service.

(Pub. L. 93–113, title II, §200, as added Pub. L. 101–204, title V, §501, Dec. 7, 1989, 103 Stat. 1815; amended Pub. L. 103–82, title III, §§341(b)(1), 342(b), Sept. 21, 1993, 107 Stat. 904; Pub. L. 111–13, title II, §2142, Apr. 21, 2009, 123 Stat. 1584.)

EDITORIAL NOTES

AMENDMENTS

2009—Pub. L. 111–13 amended section generally. Prior to amendment, section set forth a statement of purposes regarding the National Senior Volunteer Corps.

1993—Par. (1). Pub. L. 103–82, §§341(b)(1), 342(b), substituted "National Senior Volunteer Corps" for "Older American Volunteer Programs" and "Retired and Senior Volunteer Program" for "retired senior volunteer program".

Par. (2). Pub. L. 103–82, §342(b), substituted "Retired and Senior Volunteer Program" for "retired senior volunteer program".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 392 of Pub. L. 103–82, set out as a note under section 4951 of this title.

PART A—RETIRED AND SENIOR VOLUNTEER PROGRAM

§5001. Grants and contracts for volunteer service projects

(a) Approval of projects; rules and regulations

In order to help retired individuals and working older individuals to share their experiences, abilities, and skills to improve their communities and themselves through service in their communities, the Director is authorized to make grants to State agencies (established or designated pursuant to section 3025(a)(1) of this title) or grants to or contracts with other public and nonprofit private agencies and organizations to pay part or all of the costs for the development or operation, or both, of volunteer service projects under this section, if the Director determines, in accordance with regulations the Director shall prescribe, that—

(1) volunteers will not be reimbursed for other than transportation, meals, and other out-of-pocket expenses incident to the provision of services under this part;

(2) only individuals 55 years of age or older will be enrolled as volunteers to provide services under this part (except for administrative purposes), and such services will be performed in the community where such individuals reside or in nearby communities either (A) on publicly owned and operated facilities or projects, or (B) on local projects sponsored by private nonprofit organizations (other than political parties), other than projects involving the construction, operation, or maintenance of so much of any facility used or to be used for sectarian instruction or as a place for religious worship;

(3) the project includes such short-term training as may be necessary to make the most effective use of the skills and talents of participating volunteers and individuals, and provide for the payment of the reasonable expenses of such volunteers while undergoing such training; and

(4) the project is being designed and implemented with the advice of persons competent in the field of service to be provided, as well as persons who have expertise in the management of volunteers and the needs of older individuals.

(b) Proportion of required local contribution; exceptions

In no event shall the required proportion of the local contribution (including in-kind contributions) for a grant or contract made under this section be more than 10 per centum in the first year of assistance under this section, 20 per centum in the second such year, and 30 per centum in any subsequent such years: *Provided, however*, That the Director may make exceptions in cases of demonstrated need, determined (in accordance with regulations which the Director shall prescribe) on the basis of the financial capability of a particular recipient of assistance under this section, to permit a lesser local contribution proportion than any required contribution proportion established by the Director in generally applicable regulations.

(c) Conditions upon award of grant or contract

The Director shall not award any grant or contract under this part for a project in any State to any agency or organization unless, if such State has a State agency established or designated pursuant to section 3025(a)(1) of this title, such agency itself is the recipient of the award or such agency has been afforded at least forty-five days in which to review the project application and make recommendations thereon.

(d) Volunteer service as employment

Notwithstanding any other provision of law, volunteer service under this part shall not be deemed employment for any purpose which the Director finds is not fully consistent with the provisions and in furtherance of the purpose of this part.

(e) Duration of grant or contract; competitive process

(1) Beginning with fiscal year 2013 and for each fiscal year thereafter, each grant or contract awarded under this section, for such a year, shall be—

(A) awarded for a period of 3 years, with an option for a grant renewal of 3 years if the grantee meets the performances [1] measures established under subsection (g); and

(B) awarded through a competitive process described in paragraph (2).

(2)(A) The Corporation shall promulgate regulations establishing the competitive process required under paragraph (1)(B), and make such regulations available to the public, not later than 18 months after April 21, 2009. The Corporation shall consult with the directors of programs receiving grants under this section during the development and implementation of the competitive process.

(B) The competitive process required by subparagraph (A) shall—

(i) include the use of a peer review panel, including members with expertise in senior service and aging, to review applications;

(ii) include site inspections of programs assisted under this section, as appropriate;

(iii) in the case of an applicant who has previously received a grant or contract for a program under this section, include an evaluation of the program conducted by a review team, as described in subsection (f);

(iv) ensure that—

(I) the grants or contracts awarded under this section through the competitive process for a grant or contract cycle support an aggregate number of volunteer service years for a given geographic service area that is not less than the aggregate number of volunteer service years supported under this section for such service area for the previous grant or contract cycle;

(II) the grants or contracts awarded under this section through the competitive process for a grant or contract cycle maintain a similar program distribution, as compared to the program distribution for the previous grant or contract cycle; and

(III) every effort is made to minimize the disruption to volunteers; and

(v) include the use of performance measures, outcomes, and other criteria established under subsection (g).

(f) Evaluation process

(1) Notwithstanding section 5052 of this title, and effective beginning 180 days after April 21, 2009, each grant or contract under this section that expires in fiscal year 2011, 2012, or 2013 shall be subject to an evaluation process conducted by a review team described in paragraph (4). The evaluation process shall be carried out, to the maximum extent practicable, in fiscal year 2010, 2011, and 2012, respectively.

(2) The Corporation shall promulgate regulations establishing the evaluation process required under paragraph (1), and make such regulations available to the public, not later than 18 months after April 21, 2009. The Corporation shall consult with the directors of programs receiving grants under this section during the development and implementation of the evaluation process.

(3) The evaluation process required under paragraph (1) shall—

(A) include performance measures, outcomes, and other criteria established under subsection (g); and

(B) evaluate the extent to which the recipient of the grant or contract meets or exceeds such performance measures, outcomes, and other criteria through a review of the recipient.

(4) To the maximum extent practicable, the Corporation shall provide that each evaluation required by this subsection is conducted by a review team that—

(A) includes individuals who are knowledgeable about programs assisted under this section;

(B) includes current or former employees of the Corporation who are knowledgeable about programs assisted under this section;

(C) includes representatives of communities served by volunteers of programs assisted under this section; and

(D) shall receive periodic training to ensure quality and consistency across evaluations.

(5) The findings of an evaluation described in this subsection of a program described in paragraph (1) shall—

(A) be presented to the recipient of the grant or contract for such program in a timely, transparent, and uniform manner that conveys information of program strengths and weaknesses and assists with program improvement; and

(B) be used as the basis for program improvement, and for the provision of training and technical assistance.

(g) Performance measures, outcomes, and other criteria

(1) The Corporation shall, with particular attention to the different needs of rural and urban programs assisted under this section, develop performance measures, outcomes, and other criteria for programs assisted under this section that—

(A) include an assessment of the strengths and areas in need of improvement of a program assisted under this section;

(B) include an assessment of whether such program has adequately addressed population and community-wide needs;

(C) include an assessment of the efforts of such program to collaborate with other community-based organizations, units of government, and entities providing services to seniors, taking into account barriers to such collaboration that such program may encounter;

(D) include a protocol for fiscal management that shall be used to assess such program's compliance with the program requirements for the appropriate use of Federal funds;

(E) include an assessment of whether the program is in conformity with the eligibility, outreach, enrollment, and other requirements for programs assisted under this section; and

(F) contain other measures of performance developed by the Corporation, in consultation with the review teams described in subsection (f)(4).

(2)(A) The performance measures, outcomes, and other criteria established under this subsection may be updated or modified as necessary, in consultation with directors of programs under this section, but not earlier than fiscal year 2014.

(B) For each fiscal year preceding fiscal year 2014, the Corporation may, after consulting with directors of the programs under this section, determine that a performance measure, outcome, or criterion established under this subsection is operationally problematic, and may, in consultation with such directors and after notifying the authorizing committees—

(i) eliminate the use of that performance measure, outcome or criterion; or

(ii) modify that performance measure, outcome, or criterion as necessary to render it no longer operationally problematic.

(3) In the event that a program does not meet one or more of the performance measures, outcome, or criteria established under this subsection, the Corporation shall initiate procedures to terminate the program in accordance with section 5052 of this title.

(h) Training and technical assistance

The Chief Executive Officer shall develop procedures by which programs assisted under this section may receive training and technical assistance, which may include regular monitoring visits to assist programs in meeting the performance measures, outcomes, and criteria.

(i) Temporary continuation of programs that fail to meet performance measures

(1) Notwithstanding subsection (g)(3) or section 5052 of this title, the Corporation shall continue to fund a program assisted under this section that has failed to meet or exceed the performance measures, outcomes, and other criteria established under this subsection for not more than 12 months if the competitive process established under subsection (e) does not result in a successor grant or contract for such program, in order to minimize the disruption to volunteers and the disruption of services.

(2) In the case where a program is continued under paragraph (1), the Corporation shall conduct

outreach regarding the availability of a grant under this section for the area served by such program and establish a new competition for awarding the successor program to the continued program. The recipient operating the continued program shall remain eligible for the new competition.

(3) The Corporation may monitor the recipient of a grant or contract supporting a program continued under paragraph (1) during this period and may provide training and technical assistance to assist such recipient in meeting the performance measures for such program.

(j) Online resource guide

The Corporation shall develop and disseminate an online resource guide for programs under this section not later than 180 days after April 21, 2009, which shall include—

(1) examples of high-performing programs assisted under this section;

(2) corrective actions for underperforming programs; and

(3) examples of meaningful outcome-based performance measures, outcomes, and criteria that capture a program's mission and priorities.

(Pub. L. 93–113, title II, §201, Oct. 1, 1973, 87 Stat. 401; Pub. L. 93–351, §4, July 12, 1974, 88 Stat. 357; Pub. L. 95–478, title IV, §402(a), Oct. 18, 1978, 92 Stat. 1556; Pub. L. 98–288, §14(a), (b), May 21, 1984, 98 Stat. 192; Pub. L. 101–204, title IX, §902(2), Dec. 7, 1989, 103 Stat. 1826; Pub. L. 103–82, title III, §343, Sept. 21, 1993, 107 Stat. 904; Pub. L. 111–13, title II, §2143, Apr. 21, 2009, 123 Stat. 1584.)

EDITORIAL NOTES

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–13, §2143(1)(A), substituted "share their experiences, abilities, and skills to improve their communities and themselves through service in their communities," for "avail themselves of opportunities for volunteer service in their community," in introductory provisions.

Subsec. (a)(2). Pub. L. 111–13, §2143(1)(B), struck out ", and individuals 60 years of age or older will be given priority for enrollment," before "as volunteers".

Subsec. (a)(4). Pub. L. 111–13, §2143(1)(C), substituted "designed and implemented" for "established and will be carried out" and "field of service to be provided, as well as persons who have expertise in the management of volunteers and the needs of older individuals." for "field of service involved, and of persons with interest in and knowledge of the needs of older persons."

Subsecs. (e) to (j). Pub. L. 111–13, §2143(2), added subsecs. (e) to (j).

1993—Subsec. (a). Pub. L. 103–82, §343(1), substituted "retired individuals and working older individuals" for "retired persons" in introductory provisions.

Subsec. (a)(2). Pub. L. 103–82, §343(2), substituted "55 years of age or older" for "aged sixty or over" and inserted ", and individuals 60 years of age or older will be given priority for enrollment," after "will be enrolled".

1989—Subsec. (a). Pub. L. 101–204, §902(2)(A), substituted "projects" for "programs" in introductory provisions.

Subsec. (a)(3), (4). Pub. L. 101–204, §902(2)(B), substituted "project" for "program".

1984—Subsec. (a). Pub. L. 98–288, §14(a), substituted "the Director" for "he" in two places in provisions before par. (1).

Subsec. (b). Pub. L. 98–288, §14(b), substituted "and 30 per centum in any subsequent such years" for "30 per centum in the third such year, 40 per centum in the fourth such year, and 50 per centum in any subsequent such years".

1978—Subsec. (a). Pub. L. 95–478, §402(a)(1), substituted reference to section "3025(a)(1)" for "3024(a)(1)" of this title.

Subsec. (c). Pub. L. 95–478, §402(a)(1), (2), substituted reference to section "3025(a)(1)" for "3024(a)(1)" of this title and decreased period for review to "forty-five" from "sixty" days.

Subsec. (d). Pub. L. 95–478, §402(a)(3), added subsec. (d).

1974—Subsecs. (b), (c). Pub. L. 93–351 added subsec. (b) and redesignated former subsec. (b) as (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 392 of Pub. L. 103–82, set out as a note under section 4951 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–478 effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95–478, set out as a note under section 3001 of this title.

AGING RESOURCE SPECIALISTS FOR COORDINATION OF NATIONAL OLDER AMERICAN VOLUNTEER PROGRAMS WITH STATE AND COMMUNITY PROGRAMS ON AGING AND NUTRITION PROGRAMS FOR ELDERLY; DESIGNATION; DUTIES; DEFINITIONS

Pub. L. 94–135, title II, §205(c), Nov. 28, 1975, 89 Stat. 727, as amended by Pub. L. 103–82, title III, §341(b)(4), title IV, §405(i), Sept. 21, 1993, 107 Stat. 904, 921, provided that:

"(1) In order to provide maximum coordination between programs carried out under title III and title VII of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq.; 42 U.S.C. 3045 et seq.) and National Senior Volunteer Corps [now National Senior Service Corps] programs carried out under title II of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5001 et seq.) [42 U.S.C. 5000 et seq.], in order to enhance the effectiveness of the support provided to such National Senior Volunteer Corps programs by the Corporation for National and Community Service, the Chief Executive Officer of the Corporation shall designate an aging resource specialist with respect to programs carried out in each State under title II of the Domestic Volunteer Service Act of 1973 [this subchapter].

"(2)(A) Each aging resource specialist designated under paragraph (1) shall be qualified to serve in such capacity by appropriate experience and training, and shall be stationed in a State office of the Corporation.

"(B) The primary responsibility of each aging resource specialist shall be—

"(i) to support programs carried out under title II of the Domestic Volunteer Service Act of 1973 [this subchapter] in any State or other jurisdiction served by the State office involved; and

"(ii) to seek to coordinate such programs with programs carried out under title III and title VII of the Older Americans Act of 1965 [sections 3021 et seq. and 3045 et seq. of this title] in any such State or other jurisdiction.

"(3) For purposes of this subsection—

"(A) the term 'Corporation' means the Corporation for National and Community Service established by section 191 of the National and Community Service Act of 1990 [42 U.S.C. 12651].[;]

"(B) the term 'primary responsibility' means the devotion of more than one-half of regular working hours to the performance of duties described in paragraph (2)(B); and

"(C) the term 'State' means the several States, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands."

[For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.]

[1] *So in original. Probably should be "performance".*

PART B—FOSTER GRANDPARENT PROGRAM

§5011. Grants and contracts for individual service projects

(a) Foster Grandparent projects; amount

The Director is authorized to make grants to or contracts with public and nonprofit private agencies and organizations to pay part or all of the cost of development and operation of projects (including direct payments to individuals serving under this part) designed for the purpose of providing opportunities for low-income persons age 55 or over to provide supportive

person-to-person services in health, education, welfare, and related settings to children having special or exceptional needs or circumstances identified as limiting their academic, social, or emotional development. Such services may include services by individuals serving as foster grandparents to children who are individuals with disabilities, who have chronic health conditions, who are receiving care in hospitals, who are residing in homes for dependent and neglected children, or who are receiving services provided by day care centers, schools, early intervention programs under part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.), Head Start agencies under the Head Start Act [42 U.S.C. 9831 et seq.], or other programs, establishments, and institutions providing services for children having special or exceptional needs or circumstances identified as limiting their academic, social, or emotional development. Individual foster grandparents may provide person-to-person services to one or more children, depending on the needs of the project and local site. The Director may approve assistance in excess of 90 per centum of the costs of the development and operation of such projects only if the Director determines, in accordance with regulations the Director shall prescribe establishing objective criteria, that such action is required in furtherance of the purpose of this section. Provision for such assistance shall be effective as of September 19, 1972. In the case of any project with respect to which, prior to such date, a grant or contract has been made under section 3044b(a) [1] of this title or with respect to any project under the Foster Grandparent program in effect prior to September 17, 1969, contributions in cash or in kind from the Bureau of Indian Affairs, Department of the Interior, toward the cost of the project may be counted as part of the cost thereof which is met from non-Federal sources.

(b) Person-to-person services to children in an individual service project by public or private nonprofit agency; authority and criteria for determinations; mutual agreements between parties

(1) Any public or private nonprofit agency or organization responsible for providing person-to-person services to a child in a project carried out under subsection (a) of this section may determine—

(A) which children may receive supportive person-to-person services under such project;

(B) the period of time during which such services shall be continued in the case of each individual child; and

(C) whether it is in the best interest of the child receiving, and the particular foster grandparent providing, services in such a project, to continue the relationship between the child and the grandparent under this part after the child reaches the age of 21, if such child is an individual with a disability who was receiving such services prior to attaining the age of 21.

(2) If an assignment of a foster grandparent under this part is suspended or discontinued, the replacement of that foster grandparent shall be determined in a manner consistent with paragraph (3).

(3) Any determination made by a public or nonprofit private agency or organization under paragraphs (1) and (2) of this subsection shall be made through mutual agreement by all parties involved with respect to the provision of services to the child involved.

(c) "Child" and "children" defined

For the purposes of this section, the terms "child" and "children" mean any individual or individuals who are less than 21 years of age.

(d) Domestic Volunteer Service; allowances, stipends, and other support

The Director, in accordance with regulations the Director shall prescribe, may provide to low-income persons serving as volunteers under this part, such allowances, stipends, and other support as the Director determines are necessary to carry out the purpose of this part. Any stipend or allowance provided under this section shall not be less than $3.00 per hour, except that (1) such stipend or allowance shall not be increased as a result of an amendment made to this sentence unless the funds appropriated for carrying out this part are sufficient to maintain for the fiscal year in question a number of participants to serve under this part at least equal to the number of such participants serving during the preceding fiscal year, and (2) in the event that sufficient

appropriations for any fiscal year are not available to increase any such stipend or allowance provided to the minimum hourly rate specified in this sentence, the Director shall increase the stipend or allowance to such amount as appropriations for such year permit consistent with clause (1) of this exception. In establishing the amount of, and the effective date for, such adjustment, the Director, in consultation with the State Commissions on National and Community Service (as established under section 12638 of this title) and the heads of the State offices established under section 12651f of this title, shall consider the effect such adjustment will have on the ability of non-federally funded volunteer programs similar to the programs under this subchapter to maintain their current level of volunteer hours.

(e) "Low-income person" and "person of low income" defined

For purposes of this part, the terms "low-income person" and "person of low income" mean—

(1) any person whose income is not more than 200 percent of the poverty line defined in section 9902(2) of this title and adjusted by the Director in the manner described in such section; and

(2) any person whose income is not more than 100 percent of such poverty line, as so adjusted and determined by the Director after taking into consideration existing poverty guidelines as appropriate to local situations.

Persons described in paragraph (2) shall be given special consideration for participation in projects under this part.

(f) Persons entitled to serve as volunteers; application of regulations to volunteers; equal treatment to all volunteers by recipients of grants; conditions of grants; use of funds; payment of costs

(1)(A) Except as provided in subparagraph (B), individuals who are not low-income persons may serve as volunteers under this part, in accordance with such regulations as the Director shall issue, if such individuals serve without receiving any allowance, stipend, or other financial support under this part except reimbursement for transportation, meals, and out-of-pocket expenses incident to serving under this part.

(B) The regulations issued by the Director to carry out this part (other than any regulations relating to allowances, stipends, and other financial support authorized by subsection (d) to be paid under this part to low-income persons) shall apply to all volunteers under this part, without regard to whether such volunteers are eligible to receive a stipend under subsection (d).

(2)(A) Except as provided in subparagraph (B), each recipient of a grant or contract to carry out a project under this part shall give equal treatment to all volunteers who participate in such project, without regard to whether such volunteers are eligible to receive a stipend under subsection (d).

(B) An individual who is not a low-income person may not become a volunteer under this part if allowing such individual to become a volunteer under this part would prevent a low-income individual from becoming a volunteer under this part or would displace a low-income person from being such a volunteer.

(3) The Director may not take into consideration or require as a condition of receiving a grant or contract to carry out a project under this part, any applicant for such grant or contract—

(A) to accept or recruit individuals who are not low-income persons to serve as volunteers under this part; or

(B) to solicit locally generated contributions, in cash or in kind, to support such individuals.

The Director may not coerce any applicant for, or recipient of, such grant or contract to engage in conduct described in subparagraph (A) or (B).

(4) Funds appropriated to carry out this part may not be used to pay any cost, including any administrative cost, incurred in connection with volunteers under this part who do not receive a stipend under subsection (d). Such cost incurred with respect to a volunteer may be paid with—

(A) funds received by the Director as unrestricted gifts;

(B) funds received by the Director as gifts to pay such cost;

(C) funds contributed by such volunteer; or

(D) locally generated contributions in excess of the amount required to be contributed under subsection (a), in the discretion of the recipient of a grant or contract under such subsection.

(Pub. L. 93–113, title II, §211, Oct. 1, 1973, 87 Stat. 402; Pub. L. 94–135, title II, §205(b)(1), (2), Nov. 28, 1975, 89 Stat. 727; Pub. L. 94–293, §7, May 27, 1976, 90 Stat. 526; Pub. L. 95–478, title IV, §402(b), Oct. 18, 1978, 92 Stat. 1557; Pub. L. 97–35, title VI, §608(b), Aug. 13, 1981, 95 Stat. 487; Pub. L. 98–288, §14(c), May 21, 1984, 98 Stat. 192; Pub. L. 99–551, §7(a)(1), Oct. 27, 1986, 100 Stat. 3074; Pub. L. 101–204, title V, §§503, 504, Dec. 7, 1989, 103 Stat. 1817; Pub. L. 103–82, title III, §§344, 345, Sept. 21, 1993, 107 Stat. 904, 905; Pub. L. 108–446, title III, §305(k), Dec. 3, 2004, 118 Stat. 2806; Pub. L. 111–13, title II, §2144, Apr. 21, 2009, 123 Stat. 1588.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (a), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175. Part C of the Act is classified generally to subchapter III (§1431 et seq.) of chapter 33 of Title 20, Education. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

The Head Start Act, referred to in subsec. (a), is subchapter B (§§635–657) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of this title and Tables.

Section 3044b of this title, referred to in subsec. (a), related to grants and contracts for Foster Grandparent projects and for services as senior health aides and senior companions, amount of award, method of payment, and exclusion as income of compensation to individual volunteers, was repealed by Pub. L. 93–113, title VI, §604(a), Oct. 1, 1973, 87 Stat. 417, and is covered by this section and sections 5022 and 5058 of this title.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–13, §2144(1), in first sentence, substituted "age 55" for "aged sixty" and "children having special or exceptional needs or circumstances identified as limiting their academic, social, or emotional development" for "children having exceptional needs", and, in second sentence, struck out "any of a variety of" before "other programs" and substituted "children having special or exceptional needs or circumstances identified as limiting their academic, social, or emotional development" for "children with special or exceptional needs".

Subsec. (b)(1). Pub. L. 111–13, §2144(2)(A)(i), which directed substitution of "may determine" for " 'shall have' and all that follows through '(2) of the subsection' " in introductory provisions, was executed by making the substitution for "shall have the exclusive authority to determine, pursuant to the provisions of paragraph (2) of this subsection" to reflect the probable intent of Congress.

Subsec. (b)(1)(C). Pub. L. 111–13, §2144(2)(A)(ii)–(iv), added subpar. (C).

Subsec. (b)(2). Pub. L. 111–13, §2144(2)(B), added par. (2) and struck out former par. (2) which read as follows: "In the event that such an agency or organization determines that it is in the best interests of a mentally retarded child receiving, and of a particular foster grandparent providing, services in such a project, such relationship may be continued after the child reaches the chronological age of 21: *Provided*, That such child was receiving such services prior to attaining the chronological age of 21. If the particular foster grandparent subject to the determination under this paragraph becomes unavailable to serve after such determination is made, the agency or organization may select another foster grandparent."

Subsec. (d). Pub. L. 111–13, §2144(3), substituted "$3.00 per hour, except" for "$2.45 per hour on and after October 1, 1993, and shall be adjusted once prior to December 31, 1997, to account for inflation, as determined by the Director and rounded to the nearest five cents, except".

Subsec. (e)(1). Pub. L. 111–13, §2144(4)(A), substituted "200 percent" for "125 per centum".

Subsec. (e)(2). Pub. L. 111–13, §2144(4)(B), substituted "percent" for "per centum".

Subsec. (f)(1)(A). Pub. L. 111–13, §2144(5)(A), substituted "subparagraph (B)" for "subparagraphs (B) and (C)".

Subsec. (f)(1)(C). Pub. L. 111–13, §2144(5)(B), struck out subpar. (C) which read as follows: "Individuals who are not low-income persons may not serve as volunteers under this part in any community in which there are volunteers serving under part A of this subchapter unless such individuals have been referred previously for possible placement as volunteers under part A of this subchapter and such placement did not occur."

2004—Subsec. (a). Pub. L. 108–446 substituted "part C" for "part H" and "1431 et seq." for "1471 et seq.".

1993—Subsec. (a). Pub. L. 103–82, §344, struck out ", including services by individuals serving as 'foster grandparents' to children receiving care in hospitals, homes for dependent and neglected children, or other establishments providing care for children with special needs" after "having exceptional needs" in first sentence and inserted after first sentence "Such services may include services by individuals serving as foster grandparents to children who are individuals with disabilities, who have chronic health conditions, who are receiving care in hospitals, who are residing in homes for dependent and neglected children, or who are receiving services provided by day care centers, schools, early intervention programs under part H of the Individuals with Disabilities Education Act (20 U.S.C. 1471 et seq.), Head Start agencies under the Head Start Act, or any of a variety of other programs, establishments, and institutions providing services for children with special or exceptional needs. Individual foster grandparents may provide person-to-person services to one or more children, depending on the needs of the project and local site."

Subsec. (d). Pub. L. 103–82, §345, in second sentence substituted "Any stipend or allowance provided under this section shall not be less than $2.45 per hour on and after October 1, 1993, and shall be adjusted once prior to December 31, 1997, to account for inflation, as determined by the Director and rounded to the nearest five cents," for "Any stipend or allowance provided under this subsection shall not be less than $2.20 per hour until October 1, 1990, $2.35 per hour during fiscal year 1991, and $2.50 per hour on and after October 1, 1992," and inserted sentence at end relating to consideration of effect of adjustment on non-federally funded volunteer programs.

1989—Subsec. (d). Pub. L. 101–204, §503, inserted "until October 1, 1990, $2.35 per hour during fiscal year 1991, and $2.50 per hour on and after October 1, 1992" after "$2.20 per hour" in introductory provisions, substituted "such stipend or allowance shall not be increased as a result of an amendment made" for "no increase in the stipend of allowance shall be made pursuant" in cl. (1), and substituted "the minimum hourly rate specified in this sentence" for "$2.20 per hour" in cl. (2).

Subsec. (f)(1)(C). Pub. L. 101–204, §504(1), inserted before period at end "unless such individuals have been referred previously for possible placement as volunteers under part A of this subchapter and such placement did not occur".

Subsec. (f)(3). Pub. L. 101–204, §504(2), inserted "take into consideration or" after "may not", inserted "or recruit" after "accept" in subpar. (A), and inserted at end "The Director may not coerce any applicant for, or recipient of, such grant or contract to engage in conduct described in subparagraph (A) or (B)."

1986—Subsec. (d). Pub. L. 99–551, §7(a)(1)(A), inserted "low-income" after "may provide to".

Subsec. (f). Pub. L. 99–551, §7(a)(1)(B), added subsec. (f).

1984—Subsec. (a). Pub. L. 98–288, §14(c)(1), substituted "the Director" for "he" in two places.

Subsec. (b)(2). Pub. L. 98–288, §14(c)(2), inserted at end "If the particular foster grandparent subject to the determination under this paragraph becomes unavailable to serve after such determination is made, the agency or organization may select another foster grandparent."

Subsec. (d). Pub. L. 98–288, §14(c)(3), substituted "the Director" for "he" in two places and "$2.20" for "$2" in two places.

Subsec. (e). Pub. L. 98–288, §14(c)(4), in amending subsec. (e) generally, substituted "poverty line defined in section 9902(2) of this title and adjusted by the Director in the manner described in such section" for "poverty line set forth in section 2971d of this title" and "any person whose income is not more than 100 per centum of such poverty line, as so adjusted and determined by the Director after taking into consideration existing poverty guidelines as appropriate to local situations" for "any person considered a poor or low-income person under section 5061(4) of this title".

1981—Subsecs. (b) to (f). Pub. L. 97–35, §608(b), struck out subsec. (b) which related to service as senior health aides and senior companions, and redesignated subsecs. (c) to (f) as (b) to (e), respectively.

1978—Subsecs. (e), (f). Pub. L. 95–478 added subsecs. (e) and (f).

1976—Subsecs. (c), (d). Pub. L. 94–293 added subsecs. (c) and (d).

1975—Subsec. (a). Pub. L. 94–135, §205(b)(1), substituted "individuals" for "volunteers" where appearing first and third places and struck out "serve as volunteers to" before "provide supportive person-to-person services".

Subsec. (b). Pub. L. 94–135, §205(b)(2), substituted "individuals" for "volunteers".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 392 of Pub. L. 103–82, set out as a note under section 4951 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–551 effective Oct. 1, 1986, except as otherwise provided, see section 11 of Pub. L. 99–551, set out as an Effective Date note under section 4950 of this title.

Pub. L. 99–551, §7(a)(2), Oct. 27, 1986, 100 Stat. 3075, provided that: "Section 211(f)(3) of the Domestic Volunteer Service Act of 1973 [subsec. (f)(3) of this section], as added by paragraph (1), shall apply with respect to grants and contracts made under section 211(a) of such Act before the date of the enactment of this Act [Oct. 27, 1986]."

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–478 effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95–478, set out as a note under section 3001 of this title.

[1] *See References in Text note below.*

§5012. Repealed. Pub. L. 103–82, title III, §346, Sept. 21, 1993, 107 Stat. 905

Section, Pub. L. 93–113, title II, §212, Oct. 1, 1973, 87 Stat. 402; Pub. L. 94–135, title II, §205(b)(3), Nov. 28, 1975, 89 Stat. 727; Pub. L. 95–478, title IV, §402(c), Oct. 18, 1978, 92 Stat. 1557; Pub. L. 101–204, title IX, §902(4), Dec. 7, 1989, 103 Stat. 1826, set forth conditions of grants and contracts and defined "community action agency".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1993, see section 392 of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 4951 of this title.

PART C—SENIOR COMPANION PROGRAM

§5013. Grants and contracts for volunteer service projects

(a) Costs of project development and operation

The Director is authorized to make grants to or contracts with public and nonprofit private agencies and organizations to pay part or all of the cost of development and operation of projects (including direct payments to individuals serving under this part in the same manner as provided in section 5011(a) of this title) designed for the purpose of providing opportunities for low-income persons age 55 or older to serve as "senior companions" to persons with exceptional needs. Senior companions may provide services designed to help older persons requiring long-term care, including services to persons receiving home health care, nursing care, home-delivered meals or other nutrition services; services designed to help persons deinstitutionalized from mental hospitals, nursing homes, and other institutions; and services designed to assist persons having developmental disabilities and other special needs for companionship.

(b) Application of other laws

Subsections (d), (e), and (f) of section 5011 of this title, and such other provisions of part B as the Director determines to be necessary, shall apply to this part, except that for purposes of this part any reference in such subsections and such provisions to part B shall be deemed to be a reference to this part.

(c) Senior companion projects to assist homebound elderly

(1) The Director is authorized to make grants or contracts after [1] subsection (a) for senior companion projects to assist homebound elderly individuals to remain in their own homes and to enable institutionalized elderly individuals to return to home care settings.

(2)(A) The Director is authorized to recruit, subject to subparagraph (B), senior companion volunteer trainers who on the basis of experience (such as, doctors, nurses, home economists, social workers) will be used to train senior companion volunteers to participate in and monitor initial and continuing needs assessments and appropriate in-home services for senior companion volunteer recipients. The needs assessments and in-home services shall be coordinated with and supplement existing community based home health and long-term care systems. The Director may also use senior companion volunteer leaders, who on the basis of experience as volunteers, special skills, and demonstrated leadership abilities may spend time in the program (in addition to their regular assignment) to assist newer senior companion volunteers in performing their assignments and in coordinating activities of such volunteers.

(B) Senior companion volunteer trainers recruited under subparagraph (A) of this paragraph shall not be paid stipends.

(Pub. L. 93–113, title II, §213, as added Pub. L. 97–35, title VI, §608(c)(2), Aug. 13, 1981, 95 Stat. 487; amended Pub. L. 98–288, §15, May 21, 1984, 98 Stat. 193; Pub. L. 99–551, §§7(b), 10(c)(1), Oct. 27, 1986, 100 Stat. 3075, 3077; Pub. L. 101–204, title IX, §902(5), Dec. 7, 1989, 103 Stat. 1826; Pub. L. 103–82, title III, §347, Sept. 21, 1993, 107 Stat. 905; Pub. L. 111–13, title II, §2145, Apr. 21, 2009, 123 Stat. 1589.)

EDITORIAL NOTES

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–13 substituted "age 55 or older" for "aged 60 or over".

1993—Subsec. (c)(3). Pub. L. 103–82 struck out par. (3) which required an evaluation of, and report on, impact of senior companion projects to assist homebound elderly.

1989—Subsec. (c)(1). Pub. L. 101–204 inserted "after subsection (a)" after "grants or contracts", and "individuals" after "elderly" in two places.

1986—Pub. L. 99–551 inserted "for volunteer service projects" in section catchline and amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "The provisions of section 5011(d) of this title and section 5011(e) of this title and such other provisions of part B as the Director determines to be necessary shall apply to the provisions of this part."

1984—Subsec. (c). Pub. L. 98–288 added subsec. (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 392 of Pub. L. 103–82, set out as a note under section 4951 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–551 effective Oct. 1, 1986, except as otherwise provided, see section 11 of Pub. L. 99–551, set out as an Effective Date note under section 4950 of this title.

[1] So in original. Probably should be "under".

PART D—GENERAL PROVISIONS

§5021. Promotion of National Senior Service Corps

(a)(1) In carrying out this subchapter, the Director shall consult with the Departments of Labor and Health and Human Services, and any other Federal agencies administering relevant programs with a view to achieving optimal coordination with such other programs, and shall promote the coordination of projects under this subchapter with other public or private programs or projects carried out at State and local levels. Such Federal agencies shall cooperate with the Director in disseminating information about the availability of assistance under this subchapter and in promoting the identification and interest of low-income and other older persons whose services may be utilized in projects under this subchapter.

(2) To the maximum extent practicable, the Director shall enter into agreements with—

(A) the Department of Health and Human Services to—

(i) involve retired and senior volunteers, and foster grandparents, in Head Start programs;

(ii) involve retired and senior volunteers, and senior companions, in providing services authorized by title III of the Older Americans Act of 1965 [42 U.S.C. 3021 et seq.]; and

(iii) promote the recognition of such volunteers who are qualified to provide in-home services for reimbursement under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.] for providing such services;

(B) the Department of Education to promote intergenerational tutoring and mentoring for at-risk children; and

(C) the Environmental Protection Agency to support conservation efforts.

(b)(1) In carrying out this subchapter, the Director shall encourage and facilitate the efforts of private organizations to promote the programs established in parts A, B, and C and the involvement of older individuals as volunteers in such programs.

(2) The Director shall take appropriate actions to ensure that special efforts are made to publicize the programs established in parts A, B, and C, in order to facilitate recruitment efforts, to encourage greater participation of volunteers of all ages and backgrounds, living in urban or rural communities, and to emphasize the value of volunteering to the health and well-being of volunteers and the communities of such volunteers. Such actions shall include informing recipients of grants and contracts under this subchapter of all informational materials available from the Director.

(3) From funds appropriated under section 5082 of this title, the Director shall expend not less than $375,000 in each fiscal year to carry out paragraph (2).

(Pub. L. 93–113, title II, §221, Oct. 1, 1973, 87 Stat. 403; Pub. L. 96–143, §18(b), Dec. 13, 1979, 93 Stat. 1083; Pub. L. 97–35, title VI, §608(f)(2), Aug. 13, 1981, 95 Stat. 488; Pub. L. 101–204, title V, §505, Dec. 7, 1989, 103 Stat. 1817; Pub. L. 103–82, title III, §§341(b)(2), 348, Sept. 21, 1993, 107 Stat. 904, 905; Pub. L. 111–13, title II, §2146(a), Apr. 21, 2009, 123 Stat. 1589.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Older Americans Act of 1965, referred to in subsec. (a)(2)(A)(ii), is Pub. L. 89–73, July 14, 1965, 79 Stat. 218. Title III of the Act is classified generally to subchapter III (§3021 et seq.) of chapter 35 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables.

The Social Security Act, referred to in subsec. (a)(2)(A)(iii), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title XVIII of the Act is classified generally to subchapter XVIII (§1395 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

AMENDMENTS

2009—Pub. L. 111–13, §2146(a)(1), substituted "Service" for "Volunteer" in section catchline.

Subsec. (b)(2). Pub. L. 111–13, §2146(a)(2), substituted "participation of volunteers of all ages and backgrounds, living in urban or rural communities" for "participation of volunteers".

1993—Pub. L. 103–82, §341(b)(2), substituted "National Senior Volunteer Corps" for "older American volunteer programs" in section catchline.

Subsec. (a). Pub. L. 103–82, §348(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (b)(3). Pub. L. 103–82, §348(b), substituted "$375,000" for "$250,000".

1989—Pub. L. 101–204 substituted "Promotion of older American volunteer" for "Coordination with other Federal" in section catchline, designated existing provisions as subsec. (a), and added subsec. (b).

1981—Pub. L. 97–35 substituted "Health and Human Services" for "Health, Education, and Welfare" and struck out reference to Community Services Administration.

1979—Pub. L. 96–143 substituted "Community Services Administration" for "Office of Economic Opportunity".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 392 of Pub. L. 103–82, set out as a note under section 4951 of this title.

§5022. Payments; adjustments; advances or reimbursement; installments; conditions

Payments under this subchapter pursuant to a grant or contract may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions, as the Director may determine.

(Pub. L. 93–113, title II, §222, Oct. 1, 1973, 87 Stat. 403.)

§5023. Minority population participation

The Director shall take appropriate steps to insure that special efforts are made to recruit, select, and assign qualified individuals age 55 years or older from minority populations to serve as volunteers under this subchapter.

(Pub. L. 93–113, title II, §223, Oct. 1, 1973, 87 Stat. 404; Pub. L. 111–13, title II, §2146(b), Apr. 21, 2009, 123 Stat. 1589.)

EDITORIAL NOTES

AMENDMENTS

2009—Pub. L. 111–13 substituted "population" for "group" in section catchline and "age 55 years or older from minority populations" for "sixty years and older from minority groups" in text.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

§5024. Use of locally generated contributions in National Senior Service Corps

Whenever locally generated contributions made to National Senior Service Corps projects under this subchapter are in excess of the amount required by the Director, the Director may not restrict the manner in which such contributions are expended if expenditures from locally generated contributions are not inconsistent with the provisions of this chapter.

(Pub. L. 93–113, title II, §224, as added Pub. L. 98–288, §16(a), May 21, 1984, 98 Stat. 194; amended Pub. L. 99–551, §10(b)(1), Oct. 27, 1986, 100 Stat. 3077; Pub. L. 101–204, title IX, §902(6), Dec. 7, 1989, 103 Stat. 1826; Pub. L. 103–82, title III, §341(b)(3), Sept. 21, 1993, 107 Stat. 904; Pub. L. 103–304, §3(b)(9), Aug. 23, 1994, 108 Stat. 1568; Pub. L. 111–13, title II, §2146(c), Apr. 21, 2009, 123 Stat. 1589.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, known as the Domestic Volunteer Service Act of 1973, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

AMENDMENTS

2009—Pub. L. 111–13 substituted "Service" for "Volunteer" in section catchline and "Service Corps" for "Volunteer Corps" in text.

1994—Pub. L. 103–304 substituted "National Senior Volunteer Corps projects" for "volunteer projects for older Americans".

1993—Pub. L. 103–82 amended section catchline and in text directed substitution of "National Senior Volunteer Corps projects" for "volunteer projects for Older Americans", which could not be executed because the phrase "volunteer projects for Older Americans" did not appear in text.

1989—Pub. L. 101–204 substituted "projects" for "programs".

1986—Pub. L. 99–551 amended directory language of Pub. L. 98–288 to correct an error, and did not involve any change in text.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 392 of Pub. L. 103–82, set out as a note under section 4951 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–551 effective Oct. 1, 1986, except as otherwise provided, see section 11 of Pub. L. 99–551, set out as an Effective Date note under section 4950 of this title.

§5025. Programs of national significance

(a) Program grants for national problems of local concern; minimum amounts available; scope; implementation

(1) With not less than one-third of the funds made available under subsection (d) in each fiscal year, the Director shall make grants under the programs authorized in parts A, B, and C to support programs that address national problems of local concern.

(2) An applicant for a grant under paragraph (1) shall determine whether the program to be

supported by the grant is a program under part A, B, or C, and shall submit an application as required for such program.

(3) Each program for which a grant is received under this subsection shall be carried out in accordance with the requirements applicable to the program under part A, B, or C under which the program supported by such grant is to be carried out.

(4) To the maximum extent practicable, the Director shall ensure that not less than 25 percent of the funds appropriated under this section are used to award grants—

(A) to applicants for grants under this section that are not receiving assistance from the Corporation at the time of such grant award; or

(B) to applicants from locations where no programs supported under part A, B, or C are in effect at the time of such grant award.

(5) Notwithstanding paragraph (4), if, for a fiscal year, less than 25 percent of the applicants for grants under this section are applicants described in paragraph (4), the Director may use an amount that is greater than 75 percent of the funds appropriated under this subsection to award grants to applicants that are already receiving assistance from the Corporation at the time of such grant award.

(b) Program grants for problems concerning Nation

The Director shall make grants under subsection (a) to support one or more of the following programs to address problems that concern the Nation:

(1) Programs that assist individuals with chronic and debilitating illnesses, such as acquired immune deficiency syndrome.

(2) Programs designed to decrease drug and alcohol abuse through education, prevention, treatment, and rehabilitation.

(3) Programs that work with teenage parents.

(4) Programs that establish and support mentoring programs for low-income youth, including mentoring programs that match such youth with mentors and match such youth with employment and training programs, including apprenticeship programs.

(5) Programs that provide adult and school-based literacy assistance, including literacy programs that serve youth, and adults, with limited English proficiency.

(6) Programs that provide respite care, including care for elderly individuals and for children and individuals with disabilities or chronic illnesses who are living at home.

(7) Programs that provide before-school and after-school activities, serving children in low-income communities, that may engage participants in mentoring relationships, tutoring, life skills, and study skills programs, service-learning, physical, nutrition, and health education programs, and other activities addressing the needs of the children in the communities, including children of working parents.

(8) Programs that serve children who are enrolled in child care programs, giving priority to such programs that serve children with special needs.

(9) Programs that provide care to developmentally disabled adults who reside at home and in community-based settings, including programs that, when appropriate, involve older developmentally disabled individuals as volunteers under this subchapter.

(10) Programs that provide volunteer tutors to assist students, on a one-to-one basis, to improve the academic achievement of such students.

(11) Programs that engage older individuals with children and youth to complete service in energy conservation, environmental stewardship, or other environmental needs of a community, including service relating to conducting energy audits, insulating homes, or conducting other activities to promote energy efficiency.

(12) Programs that reach out to organizations (such as labor unions and profitmaking organizations) not previously involved in addressing national problems of local concern.

(13) Programs that provide for outreach to increase participation of members of ethnic groups who have limited English proficiency.

(14) Programs in which the grant recipients involved collaborate with criminal justice professionals and organizations in order to provide prevention programs that serve low-income

youth or youth reentering society after incarceration and their families, which prevention programs may include mentoring, counseling, or employment counseling.

(15) Programs that support the community integration of individuals with disabilities.

(16) Programs that provide health, education, and welfare services that augment the activities of State and local agencies, to be carried out in a fiscal year for which the aggregate amount of funds available to such agencies is not less than the annual average aggregate amount of funds available to such agencies for the period of 3 fiscal years preceding such fiscal year.

(c) Eligibility of applicant; supplemental nature of funds available

(1) In order for an applicant to be eligible to receive a grant under subsection (a), such applicant shall demonstrate to the Director that such grant will be used to increase the total number of volunteers supported by such applicant and that such applicant has expertise applicable to implementing the proposed program for which the applicant is requesting the grant.

(2) Funds made available under subsection (d) shall be used to supplement and not supplant the number of volunteers engaged in activities under parts A, B, and C (without regard to this section) addressing the problem for which such funds are awarded unless such sums are an extension of funds previously provided under this section.

(d) Amount of funds available for grants

(1) Except as provided in paragraph (2), from the amounts appropriated under subsection (a), (b), (c), or (d) of section 5082 of this title, for each fiscal year there shall be available to the Director such sums as may be necessary to make grants under subsection (a).

(2) No funds shall be available to the Director to make grants under subsection (a) for a fiscal year unless the amounts appropriated under subsections (a), (b), and (c) of section 5082 of this title and available for such fiscal year to carry out parts A, B, and C (without regard to this section) are sufficient to maintain the number of projects and volunteers funded under parts A, B, and C, respectively, in the preceding fiscal year.

(e) Dissemination of information respecting grants

The Director shall widely disseminate information on grants that may be made under subsection (a) to field personnel of the Corporation and to community volunteer organizations that request such information.

(Pub. L. 93–113, title II, §225, as added Pub. L. 101–204, title V, §502(a), Dec. 7, 1989, 103 Stat. 1815; amended Pub. L. 103–82, title III, §349, title IV, §405(a)(6), Sept. 21, 1993, 107 Stat. 906, 920; Pub. L. 111–13, title II, §2146(d), Apr. 21, 2009, 123 Stat. 1589.)

EDITORIAL NOTES

AMENDMENTS

2009—Subsec. (a)(1). Pub. L. 111–13, §2146(d)(1)(A), which directed substitution of "(9), (11), and (14)" for "(10), (12), (15), and (16)" in subpar. (B) and "(9)" for "(10)" in subpar. (C), could not be executed because the words to be stricken did not appear in par. (1).

Subsec. (a)(2). Pub. L. 111–13, §2146(d)(1)(B), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "Except as provided in paragraph (3), the Director may make such grants—

"(A) under the program authorized in part A of this subchapter, to support programs that address the national problems specified in subsection (b) of this section;

"(B) under the program authorized in part B of this subchapter, to support programs that address the national problems specified in subsection (b) of this section, other than paragraphs (10), (12), (15), and (16) of such subsection; and

"(C) under the program authorized in part C of this subchapter, to support programs that address the national problems referred to in paragraphs (1), (2), (5), (6), and (10) of subsection (b) of this section."

Subsec. (a)(4), (5). Pub. L. 111–13, §2146(d)(1)(C), added pars. (4) and (5).

Subsec. (b)(2). Pub. L. 111–13, §2146(d)(2)(A), inserted "through education, prevention, treatment, and rehabilitation" after "abuse".

Subsec. (b)(4). Pub. L. 111–13, §2146(d)(2)(B), added par. (4) and struck out former par. (4), which read as

follows: "Programs that match volunteer mentors with youth who need guidance."

Subsec. (b)(5). Pub. L. 111–13, §2146(d)(2)(C), inserted ", including literacy programs that serve youth, and adults, with limited English proficiency" after "assistance".

Subsec. (b)(6) to (9). Pub. L. 111–13, §2146(d)(2)(D)–(F), added pars. (6) and (7), redesignated pars. (9) and (10) as (8) and (9), respectively, and struck out former pars. (6) to (8), which read as follows:

"(6) Programs that provide respite care, including care for frail elderly individuals and for disabled or chronically ill children living at home.

"(7) Programs that provide before- and after-school activities that are sponsored by organizations, such as libraries, that serve children of working parents.

"(8) Programs that work with boarder babies."

Subsec. (b)(10). Pub. L. 111–13, §2146(d)(2)(F), (G), redesignated par. (11) as (10) and substituted "students" for "educationally disadvantaged children" and "the academic achievement of such students" for "the basic skills of such children". Former par. (10) redesignated (9).

Subsec. (b)(11). Pub. L. 111–13, §2146(d)(2)(H), added par. (11) and struck out former par. (11), which read as follows: "Programs that address environmental needs."

Pub. L. 111–13, §2146(d)(2)(F), redesignated par. (12) as (11). Former par. (11) redesignated (10).

Subsec. (b)(12), (13). Pub. L. 111–13, §2146(d)(2)(F), redesignated pars. (13) and (14) as (12) and (13), respectively. Former par. (12) redesignated (11).

Subsec. (b)(14). Pub. L. 111–13, §2146(d)(2)(I), added par. (14) and struck out former par. (14), which read as follows: "Programs that support criminal justice activities and juvenile justice activities."

Pub. L. 111–13, §2146(d)(2)(F), redesignated par. (15) as (14). Former par. (14) redesignated (13).

Subsec. (b)(15) to (18). Pub. L. 111–13, §2146(d)(2)(J), (K), redesignated pars. (17) and (18) as (15) and (16), respectively, and struck out former par. (16), which read as follows: "Programs that involve older volunteers working with young people in apprenticeship programs." Former par. (15) redesignated (14).

Subsec. (c)(1). Pub. L. 111–13, §2146(d)(3), inserted "and that such applicant has expertise applicable to implementing the proposed program for which the applicant is requesting the grant" after "supported by such applicant".

Subsec. (e). Pub. L. 111–13, §2146(d)(4), inserted "widely" after "shall".

1993—Subsec. (a)(2)(B). Pub. L. 103–82, §349(1), substituted "paragraphs (10), (12), (15), and (16)" for "paragraph (10)".

Subsec. (b)(12) to (18). Pub. L. 103–82, §349(2), added pars. (12) to (18).

Subsec. (c)(1). Pub. L. 103–82, §349(3), struck out "under this subchapter" after "supported by such applicant".

Subsec. (d)(1). Pub. L. 103–82, §349(4), added par. (1) and struck out former par. (1) which read as follows: "Except as provided in paragraph (2), in each fiscal year there shall be available to the Director to make grants under subsection (a) of this section not more than—

"(A) $6,000,000 from funds appropriated under section 5082(a) of this title;

"(B) $9,000,000 from funds appropriated under section 5082(b) of this title; and

"(C) $9,000,000 from funds appropriated under section 5082(c) of this title."

Subsec. (e). Pub. L. 103–82, §405(a)(6), substituted "the Corporation" for "the ACTION Agency".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 349 of Pub. L. 103–82 effective Oct. 1, 1993, see section 392 of Pub. L. 103–82, set out as a note under section 4951 of this title.

Amendment by section 405(a)(6) of Pub. L. 103–82 effective Apr. 4, 1994, see section 406(b) of Pub. L. 103–82, set out as a note under section 8332 of Title 5, Government Organization and Employees.

§5026. Adjustments to Federal financial assistance

(a)(1) In determining the amount of Federal financial assistance to be provided under this subchapter to applicants, the Director shall consider the impact of changes in the Consumer Price

Index For All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor on the administrative costs of operating the projects for which such assistance will be provided.

(2) The Director shall, to the fullest extent practicable, make appropriate adjustments in the amount referred to in paragraph (1) to ensure the effective administration of such projects.

(b) The Director shall take reasonable actions to inform applicants for such assistance that such adjustments may be available.

(Pub. L. 93–113, title II, §226, as added Pub. L. 101–204, title V, §506, Dec. 7, 1989, 103 Stat. 1818; amended Pub. L. 103–82, title III, §350, Sept. 21, 1993, 107 Stat. 906; Pub. L. 104–66, title II, §2011, Dec. 21, 1995, 109 Stat. 726.)

EDITORIAL NOTES

AMENDMENTS

1995—Pub. L. 104–66 in subsec. (a), redesignated par. (1)(A) as (1), redesignated par. (1)(B) as (2) and substituted "paragraph (1)" for "subparagraph (A)" after "referred to in", redesignated former par. (2) as subsec. (b), and struck out former subsec. (b) which read as follows: "The Director shall submit, once every 2 years, to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report on the extent to which adjustments are made under subsection (a) of this section."

1993—Subsec. (b). Pub. L. 103–82 struck out par. (1) designation before "The Director shall", substituted ", once every 2 years" for "annually", and struck out par. (2) which read as follows: "With respect to each of parts A, B, and C of this subchapter, the Director shall include in such report—

"(A) a summary of the number of, and purposes for which, such adjustments are requested by the recipients of grants and contracts under parts A, B, and C of this subchapter, respectively;

"(B) a description of the extent that such requests are accommodated; and

"(C) a statement explaining the decisions made by the Director with respect to the requested adjustments."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 392 of Pub. L. 103–82, set out as a note under section 4951 of this title.

§5027. Multiyear grants or contracts

(a) Maximum period; compliance requirements where period exceeds 1 year; pro rata reductions where funding below prior fiscal year amounts

(1) Subject to paragraph (2) and the availability of funds, the Director may make a grant or enter into a contract under part A, B, or C for a period not to exceed 3 years. Each applicant who receives a grant, or enters into a contract, under such part for a period exceeding 1 year shall comply with such regulations as the Director may issue to require such applicant—

(A) to demonstrate that such applicant is in compliance with such part and with the terms and conditions of such grant or contract; and

(B) to provide information to update the application submitted to obtain such grant or contract.

(2) If the amount appropriated for any fiscal year to carry out part A, B, or C in a period during which multiyear grants or contracts are in effect under such part is less than the amount appropriated to carry out such part in the first fiscal year in such period, then the amounts payable under all such grants and contracts in effect in such period under such part shall be reduced pro rata.

(b) Documentation, etc., by applicant of meaningful administrative savings from multiyear

grant or contract

The Director shall require each applicant for a multiyear grant or contract under this section, to document or describe in the application any meaningful administrative savings that will result from such multiyear grant or contract.

(c) Single-year grant or contract

If an applicant does not receive a multiyear grant or contract under this section, the Director shall consider such applicant for a single-year grant or contract.

(d) Projects for multiyear periods to be treated as single-year projects for specified purposes

If the Director approves an application for a contract or grant to carry out a project for a multiyear period as referred to in subsection (a), the Director shall ensure that such project shall be treated in the same manner as a single-year contract or grant with respect to—

(1) the overall level of funding for such project;

(2) any adjustments to Federal financial assistance that may be available under section 5026 of this title; and

(3) the renewal of funding on the expiration of the term of such contract or grant.

(Pub. L. 93–113, title II, §227, as added Pub. L. 101–204, title V, §507, Dec. 7, 1989, 103 Stat. 1818.)

§5027a. Acceptance of donations

(a) In general

Except as provided in subsection (b), an entity receiving assistance under this subchapter may accept donations, including donations in cash or in kind fairly evaluated, including plant, equipment, or services.

(b) Exception

An entity receiving assistance under this subchapter to carry out an activity shall not accept donations from the beneficiaries of the activity.

(Pub. L. 93–113, title II, §228, as added Pub. L. 111–13, title II, §2146(e), Apr. 21, 2009, 123 Stat. 1591.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

PART E—DEMONSTRATION PROGRAMS

§5028. Authority of Director

(a) In general

The Director is authorized to make grants to or enter into contracts with public or nonprofit organizations, including organizations funded under part A, B, or C, for the purposes of demonstrating innovative activities involving older Americans as volunteers. The Director may support under this part both volunteers receiving stipends and volunteers not receiving stipends.

(b) Activities

An organization that receives a grant or enters into a contract under subsection (a) may use funds made available through the grant or contract for activities such as—

(1) linking youth groups and older American organizations in volunteer activities;

(2) involving older volunteers in programs and activities different from programs and activities supported in the community; and

(3) testing whether older American volunteer programs may contribute to new objectives or certain national priorities.

(Pub. L. 93–113, title II, §231, as added Pub. L. 103–82, title III, §351, Sept. 21, 1993, 107 Stat. 906.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1993, see section 392 of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 4951 of this title.

§5028a. Prohibition

The Director may not reduce the activities, projects, or volunteers funded under the other parts of this subchapter in order to support projects under this part.

(Pub. L. 93–113, title II, §232, as added Pub. L. 103–82, title III, §351, Sept. 21, 1993, 107 Stat. 907.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1993, see section 392 of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 4951 of this title.

SUBCHAPTER III—NATIONAL VOLUNTEER PROGRAMS TO ASSIST SMALL BUSINESSES AND PROMOTE VOLUNTEER SERVICE BY PERSONS WITH BUSINESS EXPERIENCE

§§5031, 5032. Repealed. Pub. L. 95–510, §102(a), Oct. 24, 1978, 92 Stat. 1781

Section 5031, Pub. L. 93–113, title III, §301, Oct. 1, 1973, 87 Stat. 404, set out Congressional statement of purpose in enacting this subchapter.

Section 5032, Pub. L. 93–113, title III, §302, Oct. 1, 1973, 87 Stat. 404, authorized Director to establish, coordinate, and operate national volunteer programs. See section 637 of Title 15, Commerce and Trade.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal of sections 5031 and 5032 effective Oct. 1, 1979, see section 105 of Pub. L. 95–510, set out as an Effective Date of 1978 Amendment note under section 634 of Title 15, Commerce and Trade.

SUBCHAPTER IV—ADMINISTRATION AND COORDINATION

§§5041, 5042. Repealed. Pub. L. 103–82, title II, §203(b), Sept. 21, 1993, 107 Stat. 892

Section 5041, Pub. L. 93–113, title IV, §401, Oct. 1, 1973, 87 Stat. 405; Pub. L. 96–533, title VI, §602(a), Dec. 16, 1980, 94 Stat. 3155; Pub. L. 98–288, §17, May 21, 1984, 98 Stat. 194; Pub. L. 99–551, §10(e), Oct. 27, 1986, 100 Stat. 3078; Pub. L. 101–204, title VII, §704, Dec. 7, 1989, 103 Stat. 1821; Pub. L. 103–82, title II, §202(b), title III, §361, Sept. 21, 1993, 107 Stat. 887, 907, related to establishment of ACTION Agency and appointment, compensation, and functions of Director and other officials. See section 12651 of this title and notes thereunder.

Section 5042, Pub. L. 93–113, title IV, §402, Oct. 1, 1973, 87 Stat. 406; Pub. L. 94–293, §4(b), May 27, 1976, 90 Stat. 526; Pub. L. 97–214, §10(b)(2), July 12, 1982, 96 Stat. 175; Pub. L. 98–288, §§4(c)(2), 18(a), May 21, 1984, 98 Stat. 190, 194; Pub. L. 99–551, §10(f), (i)(5), Oct. 27, 1986, 100 Stat. 3078; Pub. L. 103–82, title III, §362, Sept. 21, 1993, 107 Stat. 907, related to authority of Director of ACTION Agency. See section 12651 of this title and notes thereunder.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 103–82 effective Apr. 4, 1994, see section 203(d) of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 12651 of this title.

§5043. Political activities

(a) Funds use prohibition; "election" and "Federal office" defined

No part of any funds appropriated to carry out this chapter, or any program administered by the Corporation under this chapter, shall be used to finance, directly or indirectly, any activity designed to influence the outcome of any election to Federal office, or the outcome of any election to any State or local public office, or any voter registration activity, or to pay the salary of any officer or employee of the Corporation, who, in an official capacity as such an officer or employee, engages in any such activity. As used in this section, the term "election" (when referring to an election for Federal office) has the same meaning given such term by section 30101(1) of title 52, and the term "Federal office" has the same meaning given such term by section 30101(3) of title 52.

(b) Prohibition on program identification

(1) Programs assisted under this chapter shall not be carried on in a manner involving the use of funds, the provision of services, or the employment or assignment of personnel in a manner supporting or resulting in the identification of such programs with—

(A) any partisan or nonpartisan political activity associated with a candidate, or a contending faction or group, in an election for public or party office;

(B) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election; or

(C) any voter registration activity;

except that programs assisted under this chapter may make voter registration applications and nonpartisan voter registration information available to the public on the premises of such programs.

(2) In carrying out any voter registration activity permitted under paragraph (1), an individual who is affiliated with, or employed to carry out, a program assisted under this chapter shall not—

(A) indicate a preference with respect to any candidate, political party, or election issue; or

(B) seek to influence the political or party affiliation, or voting decision, of any individual.

(c) Prohibition on influencing passage or defeat of legislation

No funds appropriated to carry out this chapter shall be used by any program assisted under this chapter in any activity for the purpose of influencing the passage or defeat of legislation or proposals

by initiative petition, except—

(1) in any case in which a legislative body, a committee of a legislative body, or a member of a legislative body requests any volunteer in, or employee of, such a program to draft, review, or testify regarding measures or to make representations to such legislative body, committee, or member; or

(2) in connection with an authorization or appropriations measure directly affecting the operation of the program.

(d) Enforcement; rules and regulations

The Director, after consultation with the Office of Personnel Management, shall issue rules and regulations to provide for the enforcement of this section, which shall include provisions for summary suspension of assistance for no more than thirty days until notice and an opportunity to be heard can be provided or other action necessary to permit enforcement on an emergency basis.

(Pub. L. 93–113, title IV, §403, Oct. 1, 1973, 87 Stat. 408; Pub. L. 96–143, §§8, 18(c)(1), Dec. 13, 1979, 93 Stat. 1077, 1083; Pub. L. 96–187, title I, §112(e)(1), Jan. 8, 1980, 93 Stat. 1366; Pub. L. 99–551, §10(i)(6), Oct. 27, 1986, 100 Stat. 3078; Pub. L. 103–82, title III, §363, title IV, §405(a)(7), Sept. 21, 1993, 107 Stat. 907, 920.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) to (c), was in the original "this Act", meaning Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, known as the Domestic Volunteer Service Act of 1973, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

CODIFICATION

References in subsec. (a) to "section 30101(1) of title 52" and to "section 30101(3) of title 52" were formerly references to "section 431(1) of title 2" and to "section 431(3) of title 2", respectively, and were updated to reflect the editorial reclassification of section 431 of Title 2, The Congress, to section 30101 of Title 52, Voting and Elections. See 1980 Amendment note below.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–82, §405(a)(7), substituted "administered by the Corporation under this chapter" for "administered by the ACTION Agency" and "of the Corporation" for "of the ACTION Agency".

Subsec. (b)(1). Pub. L. 103–82, §363(3), added par. (1) and struck out former par. (1) which read as follows: "Programs assisted under this chapter shall not be carried on in a manner involving the use of funds, the provision of services, or the employment or assignment of personnel in a manner supporting or resulting in the identification of such programs with (A) any partisan or non-partisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office, (B) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election, or (C) any voter registration activity."

Subsec. (b)(2). Pub. L. 103–82, §363(3), added par. (2). Former par. (2) redesignated subsec. (c).

Subsec. (c). Pub. L. 103–82, §363(1), (2), redesignated subsec. (b)(2) as subsec. (c) and subpars. (A) and (B) as pars. (1) and (2), respectively. Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 103–82, §363(1), redesignated subsec. (c) as (d).

1986—Subsec. (a). Pub. L. 99–551 substituted "an official capacity" for "his official capacity".

1980—Subsec. (a). Pub. L. 96–187 substituted "section 431(1) of title 2" and "section 431(3) of title 2" for "section 431(a) of title 2" and "section 431(c) of title 2", respectively. See Codification note above.

1979—Pub. L. 96–143, §8(a), inserted "or the outcome of any election to any State or local public office," after "Federal office," and "(when referring to an election for Federal office)" before "has the same meaning".

Subsec. (b). Pub. L. 96–143, §8(b), designated existing provisions as par. (1), cls. (1) to (3) thereof as cls. (A) to (C), and last sentence thereof as subsec. (c), and added par. (2).

Subsec. (c). Pub. L. 96–143, §§8(b)(3), 18(c)(1), designated as subsec. (c) provisions formerly contained in last sentence of subsec. (b) and, as so designated, substituted "Office of Personnel Management" for "Civil Service Commission".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 363 of Pub. L. 103–82 effective Oct. 1, 1993, see section 392 of Pub. L. 103–82, set out as a note under section 4951 of this title.

Amendment by section 405(a)(7) of Pub. L. 103–82 effective Apr. 4, 1994, see section 406(b) of Pub. L. 103–82, set out as a note under section 8332 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–551 effective Oct. 1, 1986, except as otherwise provided, see section 11 of Pub. L. 99–551, set out as an Effective Date note under section 4950 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–187 effective Jan. 8, 1980, see section 301(a) of Pub. L. 96–187, set out as a note under section 30101 of Title 52, Voting and Elections.

§5044. Special limitations

(a) Volunteer activities; limitation

The Director shall prescribe regulations and shall carry out the provisions of this chapter so as to assure that the service of volunteers assigned, referred, or serving pursuant to grants, contracts, or agreements made under this chapter is limited to activities which would not otherwise be performed by employed workers or other volunteers (not including participants under this chapter and the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.)), and which will not supplant the hiring of or result in the displacement of employed workers or other volunteers (not including participants under this chapter and the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.)),,[1] or impair existing contracts for service.

(b) Support costs

All support, including transportation provided to volunteers under this chapter, shall be furnished at the lowest possible costs consistent with the effective operation of volunteer programs.

(c) Compensation of supervising agencies or organizations

No agency or organization to which volunteers are assigned hereunder, or which operates or supervises any volunteer program hereunder, shall request or receive any compensation from such volunteers or from beneficiaries for services of volunteers supervised by such agency or organization.

(d) Labor or antilabor organization activities; funds use prohibition

No funds authorized to be appropriated herein shall be directly or indirectly utilized to finance labor or antilabor organization or related activity.

(e) Selection procedure

Persons serving as volunteers under this chapter shall provide such information concerning their qualifications, including their ability to perform their assigned tasks, and their integrity, as the Director shall prescribe and shall be subject to such procedures for selection and approval as the Director determines are necessary to carry out the purposes of this chapter. The Director may establish such special procedures for the recruitment, selection, training, and assignment of low-income residents of the area to be served by a program under this chapter who wish to become volunteers as the Director determines will further the purposes of this chapter.

(f) Government assistance; eligibility; special limitations

(1) Notwithstanding any other provision of law except as may be provided expressly in limitation of this subsection, payments to volunteers under this chapter shall not in any way reduce or eliminate

the level of or eligibility for assistance or services any such volunteers may be receiving under any governmental program, except that this paragraph shall not apply in the case of such payments when the Director determines that the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) or the minimum wage, under the laws of the State where such volunteers are serving, whichever is the greater.

(2) Notwithstanding any other provision of law, a person enrolled for full-time service as a volunteer under subchapter I of this chapter who was otherwise entitled to receive assistance or services under any governmental program prior to such volunteer's enrollment shall not be denied such assistance or services because of such volunteer's failure or refusal to register for, seek, or accept employment or training during the period of such service.

(Pub. L. 93–113, title IV, §404, Oct. 1, 1973, 87 Stat. 408; Pub. L. 96–143, §9, Dec. 13, 1979, 93 Stat. 1077; Pub. L. 98–288, §19, May 21, 1984, 98 Stat. 195; Pub. L. 99–551, §10(i)(7), Oct. 27, 1986, 100 Stat. 3078; Pub. L. 103–82, title III, §364, Sept. 21, 1993, 107 Stat. 908; Pub. L. 111–13, title II, §2151, Apr. 21, 2009, 123 Stat. 1591.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b), (e), and (f), was in the original "this Act", meaning Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, known as the Domestic Volunteer Service Act of 1973, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

The National and Community Service Act of 1990, referred to in subsec. (a), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, which is classified principally to chapter 129 (§12501 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of this title and Tables.

The Fair Labor Standards Act of 1938, referred to in subsec. (f)(1), is act June 25, 1938, ch. 676, 52 Stat. 1060, which is classified generally to chapter 8 (§201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–13 inserted "or other volunteers (not including participants under this chapter and the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.))," after "employed workers" in two places.

1993—Subsec. (c). Pub. L. 103–82, §364(1), inserted "from such volunteers or from beneficiaries" after "compensation".

Subsecs. (f), (g). Pub. L. 103–82, §364(2), (3), redesignated subsec. (g) as (f) and struck out former subsec. (f) which read as follows: "Notwithstanding any other provision of law, the Director shall assign or delegate any substantial responsibility for carrying out programs under this chapter only to persons appointed or employed pursuant to clauses (1) and (2) of section 5042 of this title, and persons assigned or delegated such substantial responsibilities on October 1, 1973, and who are receiving compensation in accordance with provisions of law other than the applicable provisions of title 5 on such date shall, by operation of law on such date, be assigned a grade level pursuant to such latter provisions so as to fix the compensation of such persons under such authority at no less than their compensation rate on the day preceding such date."

1986—Subsec. (e). Pub. L. 99–551 substituted "the Director" for "he" before "determines will".

1984—Subsec. (f). Pub. L. 98–288 struck out "and except as provided in the second sentence of this subsection" after "Notwithstanding any other provision of law" and struck out "The Director may personally make exceptions to the requirements set forth in the first sentence of this subsection for persons he finds will be assigned to carrying out functions under the Peace Corps Act (22 U.S.C. 2501 et seq.) within six months after October 1, 1973."

1979—Subsec. (g). Pub. L. 96–143 designated existing provisions as par. (1), inserted ", except that this paragraph shall not apply in the case of such payments when the Director determines that the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938 or the minimum wage, under the laws of the State where such volunteers are serving, whichever is the greater" after "governmental program", and added par. (2).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 392 of Pub. L. 103–82, set out as a note under section 4951 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–551 effective Oct. 1, 1986, except as otherwise provided, see section 11 of Pub. L. 99–551, set out as an Effective Date note under section 4950 of this title.

[1] *So in original.*

§5045. Repealed. Pub. L. 98–288, §20(a), May 21, 1984, 98 Stat. 195

Section, Pub. L. 93–113, title IV, §405, Oct. 1, 1973, 87 Stat. 409; Pub. L. 94–293, §5(a), May 27, 1976, 90 Stat. 526; Pub. L. 96–470, title I, §113, Oct. 19, 1980, 94 Stat. 2240; Pub. L. 96–533, title VI, §602(b), Dec. 16, 1980, 94 Stat. 3156, provided for a National Voluntary Service Advisory Council.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 98–288, §20(a), May 21, 1984, 98 Stat. 195, provided that the repeal of this section is effective Jan. 1, 1986.

§5046. Labor standards for federally assisted projects, buildings, and works

All laborers and mechanics employed by contractors or subcontractors in the construction, alteration or repair, including painting and decorating of projects, buildings and works which are federally assisted under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40. The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Number 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and in section 3145 of title 40.

(Pub. L. 93–113, title IV, §406, Oct. 1, 1973, 87 Stat. 410.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, known as the Domestic Volunteer Service Act of 1973, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

In text, "sections 3141–3144, 3146, and 3147 of title 40" substituted for "the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5)" and "section 3145 of title 40" substituted for "section 2 of the Act of June 13, 1934, as amended (48 Stat. 948, ch. 492, as amended; 40 U.S.C. 276c)", on authority of Pub. L. 107–217,

§5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

§5047. Repealed. Pub. L. 103–82, title III, §365, Sept. 21, 1993, 107 Stat. 908

Section, Pub. L. 93–113, title IV, §407, Oct. 1, 1973, 87 Stat. 410; Pub. L. 98–288, §21, May 21, 1984, 98 Stat. 195; Pub. L. 99–551, §3(b), Oct. 27, 1986, 100 Stat. 3072; Pub. L. 101–204, title IV, §401, Dec. 7, 1989, 103 Stat. 1814, required annual report on activities under section 4953 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1993, see section 392 of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 4951 of this title.

§5048. Joint funding; single non-Federal share requirement; grant or contract requirement waiver

Pursuant to regulations prescribed by the President, and to the extent consistent with the other provisions of this chapter, where funds are provided for a single project by more than one Federal agency to an agency or organization assisted under this chapter, the Federal agency principally involved may be designated to act for all in administering the funds provided, and, notwithstanding any other provision of law, in such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each agency. When the principal agency involved is the Corporation, it may waive any grant or contract requirement (as defined by such regulations) under or pursuant to any law other than this chapter, which requirement is inconsistent with the similar requirements under or pursuant to this chapter.

(Pub. L. 93–113, title IV, §408, Oct. 1, 1973, 87 Stat. 410; Pub. L. 103–82, title IV, §405(a)(8), Sept. 21, 1993, 107 Stat. 920.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, known as the Domestic Volunteer Service Act of 1973, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

AMENDMENTS

1993—Pub. L. 103–82 substituted "the Corporation" for "the ACTION Agency".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Apr. 4, 1994, see section 406(b) of Pub. L. 103–82, set out as a note under section 8332 of Title 5, Government Organization and Employees.

EXECUTIVE DOCUMENTS

DELEGATION OF FUNCTIONS

Authority of President under this section delegated to Director of Office of Management and Budget, see section 1 of Ex. Ord. No. 11893, eff. Dec. 31, 1975, 41 F.R. 1040, set out as a note under section 7103 of Title 31, Money and Finance.

§5049. Prohibition of Federal control of educational institution or school system

Nothing contained in this chapter shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any education institution or school system.

(Pub. L. 93–113, title IV, §409, Oct. 1, 1973, 87 Stat. 410.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, known as the Domestic Volunteer Service Act of 1973, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

§5050. Coordination with other programs

The Director shall take necessary steps to coordinate volunteer programs authorized under this chapter with one another, with community action programs, and with other related Federal, State, and local programs. The Director shall also consult with the heads of other Federal, State, and local agencies responsible for programs related to the purposes of this chapter with a view to encouraging greater use of volunteer services in those programs and establishing in connection with them systematic procedures for the recruitment, referral, or necessary preservice orientation or training of volunteers serving pursuant to this chapter. The Director, in consultation with the Director of the Office of Personnel Management and the Secretaries of Labor, Commerce, and the Treasury and officials of other appropriate departments and agencies, shall take all appropriate steps to encourage State and local governments, charitable and service organizations, and private employers (1) to take into account experience in volunteer work in the consideration of applicants for employment; and (2) to make provisions for the listing and description of volunteer work on all employment application forms.

(Pub. L. 93–113, title IV, §410, Oct. 1, 1973, 87 Stat. 410; Pub. L. 96–143, §10, Dec. 13, 1979, 93 Stat. 1078.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, known as the Domestic Volunteer Service Act of 1973, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

AMENDMENTS

1979—Pub. L. 96–143 inserted provisions requiring the Director in consultation with the Director of the Office of Personnel Management and the Secretaries of Labor, Commerce, and the Treasury and officials of other appropriate departments and agencies to take steps to encourage employers to review the consideration they give volunteer service in the information requested on their standard application forms.

§5051. Performance of functions by existing departments or offices rather than new departments or offices

In order to assure that existing Federal agencies are used to the fullest extent possible in carrying out the purposes of this chapter, no funds appropriated to carry out this chapter shall be used to establish any new department or office when the intended function is being performed by an existing department or office.

(Pub. L. 93–113, title IV, §411, Oct. 1, 1973, 87 Stat. 411.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, known as the Domestic Volunteer Service Act of 1973, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

§5052. Suspension and termination of financial assistance; procedures; notice and hearing; emergency situations; refunding applications

(a) The Director is authorized, in accordance with the provisions of this section, to suspend further payments or to terminate payments under any contract or grant providing assistance under this chapter, whenever the Director determines there is a material failure to comply with the applicable terms and conditions of any such grant or contract. The Director shall prescribe procedures to insure that—

(1) assistance under this chapter shall not be suspended for failure to comply with applicable terms and conditions, except in emergency situations for thirty days;

(2) an application for refunding under this chapter may not be denied unless the recipient has been given (A) notice at least 75 days before the denial of such application of the possibility of such denial and the grounds for any such denial, and (B) opportunity to show cause why such action should not be taken;

(3) in any case where an application for refunding is denied for failure to comply with the terms and conditions of the grant or contract award, the recipient shall be afforded an opportunity for an informal hearing before an impartial hearing officer, who has been agreed to by the recipient and the Agency; and

(4) assistance under this chapter shall not be terminated for failure to comply with applicable terms and conditions unless the recipient has been afforded reasonable notice and opportunity for a full and fair hearing.

(b) In order to assure equal access to all recipients, such hearings or other meetings as may be necessary to fulfill the requirements of this section shall be held at locations convenient to the recipient agency.

(Pub. L. 93–113, title IV, §412, Oct. 1, 1973, 87 Stat. 411; Pub. L. 98–288, §22, May 21, 1984, 98 Stat. 195; Pub. L. 99–551, §10(i)(8), Oct. 27, 1986, 100 Stat. 3078.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, known as the Domestic Volunteer Service Act of 1973, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

AMENDMENTS

1986—Subsec. (a). Pub. L. 99–551 substituted "the Director" for "he" before "determines" in first sentence.

1984—Subsec. (a). Pub. L. 98–288 designated existing provisions as subsec. (a), substituted a semicolon

for "nor shall an application for refunding under this chapter be denied, unless the recipient has been given reasonable notice and opportunity to show why such action should not be taken; and" in par. (1), added pars. (2) and (3), redesignated former par. (2) as (4), and added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–551 effective Oct. 1, 1986, except as otherwise provided, see section 11 of Pub. L. 99–551, set out as an Effective Date note under section 4950 of this title.

§5053. Repealed. Pub. L. 94–293, §5(b)(1), May 27, 1976, 90 Stat. 526

Section, Pub. L. 93–113, title IV, §413, Oct. 1, 1973, 87 Stat. 411, authorized Director to carry out programs of this chapter during fiscal year ending June 30, 1974, and three succeeding fiscal years, and authorizing Congress to appropriate such sums as necessary for each fiscal year.

§5054. Distribution of benefits between rural and urban areas

The Director shall adopt appropriate administrative measures to assure that the benefits of and services under this chapter will be distributed equitably between residents of rural and urban areas.

(Pub. L. 93–113, title IV, §414, Oct. 1, 1973, 87 Stat. 411.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, known as the Domestic Volunteer Service Act of 1973, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

RURAL PROGRAM REPORT

Pub. L. 96–143, §16, Dec. 13, 1979, 93 Stat. 1082, provided that not later than Feb. 1, 1980, the Director of the ACTION Agency was to submit to appropriate committees of Congress a report specifying special needs and circumstances to be addressed in designing programs under Domestic Volunteer Service Act of 1973 [this chapter] for implementation in rural areas, such report to include a detailed statement of manner in which Director intended to address such needs and circumstances, together with a timetable for designing and implementing such programs.

§5055. Application of Federal law

(a) General rule

Except as provided in subsections (b), (c), (d), and (e) of this section, volunteers under this chapter shall not be deemed Federal employees and shall not be subject to the provisions of laws relating to Federal officers and employees and Federal employment.

(b) Specific Federal legislation

Individuals enrolled as volunteers for periods of full-time service, or, as the Director deems appropriate in accordance with regulations, for periods of part-time service of not less than 20 hours per week for not less than 26 consecutive weeks, under subchapter I of this chapter shall, with respect to such service or training, (1) for the purposes of subchapter III of chapter 73 of title 5, be

deemed persons employed in the executive branch of the Federal Government, (2) for the purposes of the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.) and title II of the Social Security Act (42 U.S.C. 401 et seq.), be deemed employees of the United States, and any service performed by an individual as a volunteer (including training) shall be deemed to be performed in the employ of the United States, (3) for the purposes of the Federal Tort Claims provisions of title 28, be deemed employees of the United States, (4) for the purposes of subchapter I of chapter 81 of title 5 (relative to compensation to Federal employees for work injuries), shall be deemed civil employees of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, and the provisions of that subchapter shall apply except as follows: (A) in computing compensation benefits for disability or death, the annual rate of pay of a volunteer enrolled for a period of full-time service under such subchapter I shall be deemed to be that received under the entrance salary for an employee at grade GS–5 of the General Schedule under section 5332 of title 5, and the annual rate of pay of a volunteer enrolled for a period of part-time service under such subchapter I shall be deemed to be such entry salary or an appropriate portion thereof as determined by the Director, and subsections (a) and (b) of section 8113 of title 5 shall apply, and (B) compensation for disability shall not begin to accrue until the day following the date on which the injured volunteer is terminated, and (5) be deemed employees of the United States for the purposes of section 5584 of title 5 (and stipends and allowances paid under this chapter shall be considered as pay for such purposes).

(c) Subsequent Government employment

Any period of service of a volunteer enrolled in a program for a period of service of at least one year under part A of subchapter I of this chapter, and any period of full-time service of a volunteer enrolled in a program for a period of service of at least one year under part B (as such part was in effect on the day before April 21, 2009) or C of subchapter I of this chapter, shall be credited in connection with subsequent employment in the same manner as a like period of civilian employment by the United States Government—

(1) for the purposes of any Act establishing a retirement system for civilian employees of any United States Government agency; and

(2) except as otherwise determined by the President, for the purposes of determining seniority, reduction in force, and layoff rights, leave entitlement, and other rights and privileges based upon length of service under the laws administered by the Office of Personnel Management, the Foreign Service Act of 1980 [22 U.S.C. 3901 et seq.], and every other Act establishing or governing terms and conditions of service of civilian employees of the United States Government: *Provided*, That service of a volunteer shall not be credited toward completion of any probationary or trial period or completion of any service requirement for career appointment.

(d) Competitive service

Volunteers serving in programs for periods of service of at least one year under part A of subchapter I of this chapter, and volunteers serving for such periods under title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991–2994d), including those whose service was completed under such Act, who the Director determines, in accordance with regulations the Director shall prescribe, have successfully completed their periods of service, shall be eligible for appointment in the competitive service in the same manner as Peace Corps volunteers as prescribed in Executive Order Number 11103 (April 10, 1963).

(e) References in other laws to service under provisions relating to Volunteers in Service to America deemed references to service under subchapter I of this chapter

Notwithstanding any other provision of law, all references in any other law to persons serving as volunteers under title VIII of the Economic Opportunity Act of 1964, as amended [42 U.S.C. 2991 et seq.], shall be deemed to be references to persons serving as full-time volunteers in a program of at least one year's duration under part A, B (as such part was in effect on the day before April 21, 2009), or C of subchapter I of this chapter.

(f) Civil actions

(1) The remedy—

(A) against the United States provided by sections 1346(b) and 2672 of title 28 or

(B) through proceedings for compensation or other benefits from the United States as provided by any other law, where the availability of such benefits precludes a remedy under section 1346(b) or 2672 of such title 28,

for damages for personal injury, including death, allegedly arising from malpractice or negligence of a physician, dentist, podiatrist, optometrist, nurse, physician assistant, expanded-function dental auxiliary, pharmacist, or paramedical (for example, medical and dental technicians, nursing assistants, and therapists) or other supporting personnel in furnishing medical care or treatment while in the exercise of such person's duties as a volunteer enrolled under subchapter I of this chapter shall be exclusive of any other civil action or proceeding by reason of the same subject matter against such person (or such person's estate) whose action or omission gave rise to such claim.

(2) The Attorney General of the United States shall defend any civil action or proceeding brought in any court against any person referred to in paragraph (1) of this subsection (or such person's estate) for any such damage or injury. Any such person against whom such civil action or proceeding is brought shall deliver, within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such person or an attested true copy thereof to such person's immediate supervisor or to whomever is designated by the Director to receive such papers, and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought and to the Attorney General.

(3) Upon a certification by the Attorney General that the defendant was acting in the scope of such person's volunteer assignment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28 and all references thereto. After removal the United States shall have available all defenses to which it would have been entitled if the action had originally been commenced against the United States. Should a district court of the United States determine on a hearing on a motion to remand held before a trial on the merits that the volunteer whose act or omission gave rise to the suit was not acting within the scope of such person's volunteer assignment, the case shall be remanded to the State court.

(4) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28 and with the same effect.

(Pub. L. 93–113, title IV, §415, Oct. 1, 1973, 87 Stat. 411; Pub. L. 96–143, §§11, 18(c)(2), Dec. 13, 1979, 93 Stat. 1078, 1083; Pub. L. 96–465, title II, §2206(h), Oct. 17, 1980, 94 Stat. 2163; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 99–551, §10(i)(9), Oct. 27, 1986, 100 Stat. 3078; Pub. L. 103–82, title III, §366, Sept. 21, 1993, 107 Stat. 908; Pub. L. 111–13, title II, §2152, Apr. 21, 2009, 123 Stat. 1591.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) to (e) and (f)(1), was in the original "this Act", meaning Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, known as the Domestic Volunteer Service Act of 1973, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

The Social Security Act, referred to in subsec. (b)(2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title II of the Social Security Act is classified generally to subchapter II (§401 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Foreign Service Act of 1980, referred to in subsec. (c)(2), is Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, which is classified principally to chapter 52 (§3901 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3901

of Title 22 and Tables.

The Economic Opportunity Act of 1964, as amended, referred to in subsecs. (d) and (e), is Pub. L. 88–452, Aug. 20, 1964, 78 Stat. 508. Title VIII of such Act, probably means title VIII of Pub. L. 88–452 as added by Pub. L. 89–794, title VIII, §801, Nov. 8, 1966, 80 Stat. 1472, and generally revised and amended by Pub. L. 90–222, title I, §110, Dec. 23, 1967, 81 Stat. 722, which was classified generally to subchapter VIII (§2991 et seq.) of chapter 34 of this title. Title VIII of the Economic Opportunity Act of 1964 as so added and amended was repealed by Pub. L. 93–113, title VI, 603, and its provisions are covered by this chapter. For complete classification of this Act to the Code, see Tables.

Executive Order Number 11103 (April 10, 1963), referred to in subsec. (d), is set out under section 2504 of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

2009—Subsec. (c). Pub. L. 111–13, §2152(1), inserted "(as such part was in effect on the day before April 21, 2009)" after "part B" in introductory provisions.

Subsec. (e). Pub. L. 111–13, §2152(2), inserted "(as such part was in effect on the day before April 21, 2009)" after "A, B".

1993—Subsec. (b)(4)(A). Pub. L. 103–82 substituted "an employee at grade GS–5 of the General Schedule under section 5332 of title 5" for "a grade GS–7 employee".

1986—Subsec. (b)(2). Pub. L. 99–514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954".

Subsec. (d). Pub. L. 99–551 substituted "the Director" for "he" before "shall prescribe".

1980—Subsec. (c)(1). Pub. L. 96–465, §2206(h)(1), substituted "any" for "section 1092(a)(1) of title 22 and every other".

Subsec. (c)(2). Pub. L. 96–465, §2206(h)(2), substituted "Foreign Service Act of 1980" for "Foreign Service Act of 1946".

1979—Subsec. (b). Pub. L. 96–143, §11(a), substituted in provisions preceding cl. (1) "as volunteers for periods of full-time service, or, as the Director deems appropriate in accordance with regulations, for periods of part-time service of not less than 20 hours per week for not less than 26 consecutive weeks, under subchapter I of this chapter" for "in programs under subchapter I of this chapter for periods of service of at least one year" and in cl. (4)(A) "the annual rate of pay of a volunteer enrolled for a period of full-time service under such subchapter I shall be deemed to be that received under the entrance salary for a grade GS–7 employee, and the annual rate of pay of a volunteer enrolled for a period of part-time service under such subchapter I shall be deemed to be such entry salary or an appropriate portion thereof as determined by the Director" for "the monthly pay of a volunteer shall be deemed that received under the entrance salary for a grade GS–7 employee" and added cl. (5).

Subsec. (c)(2). Pub. L. 96–143, §18(c)(2), substituted "Office of Personnel Management" for "Civil Service Commission".

Subsec. (f). Pub. L. 96–143, §11(b), added subsec. (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 392 of Pub. L. 103–82, set out as a note under section 4951 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–551 effective Oct. 1, 1986, except as otherwise provided, see section 11 of Pub. L. 99–551, set out as an Effective Date note under section 4950 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

EXECUTIVE DOCUMENTS

EX. ORD. NO. 11561. DELEGATION OF AUTHORITY

Ex. Ord. No. 11561, Sept. 25, 1970, 35 F.R. 14981, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055; Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, the authority conferred upon the President by that portion of section 833(c)(2) of the Economic Opportunity Act of 1964 (42 U.S.C. 2994b(c)(2)) [former section 2994b(c)(2) of this title, now subsec. (c)(2) of this section] which reads "except as otherwise determined by the President" is hereby delegated as follows: (1) To the Office of Personnel Management to the extent that such authority is with respect to the laws administered by the Commission, and (2) to the Secretary of State to the extent that such authority is with respect to the Foreign Service Act of 1980, as amended [22 U.S.C. 3901 et seq.].

§5056. Evaluation of programs and projects

(a) General objectives; persons conducting the evaluation

The Director shall measure and evaluate the impact of all programs authorized by this chapter, their effectiveness in achieving stated goals, in general, and in relation to their cost, their impact on related programs, and their structure and mechanism for delivery of services. Each program shall be evaluated at least once every three years. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated. Such evaluation shall also measure and evaluate compliance with the equitable distribution requirement of section 5054 of this title.

(b) General standards; publication; reports of ensuing actions

The Director shall develop and publish general standards for evaluation of program and project effectiveness in achieving the objectives of this chapter. Reports submitted pursuant to section 5047 [1] of this title shall describe the actions taken as a result of evaluations carried out under this section.

(c) Opinions of participants

In carrying out evaluations under this subchapter, the Director shall, whenever possible, arrange to obtain the opinions of program and project participants about the strengths and weaknesses of such programs and projects.

(d) Summaries of results; publication

The Director shall publish summaries of the results of evaluations of program and project impact and effectiveness no later than sixty days after the completion thereof.

(e) Federal property

The Director shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds shall become the property of the United States.

(f) Evaluation of programs that relate to services that assist families caring for frail and disabled adult family members; evaluation of impact by volunteers on such programs; report to committees of Congress

Not later than December 31, 1988, the Director shall—

(1) evaluate the impact of Corporation programs carried out under subchapter II that relate to services that assist families caring for frail and disabled adult family members and shall include in such evaluation information on—

(A) the range and extent of service needs of, and the services provided to, family caregivers assisted by volunteers;

(B) the characteristics of volunteers and the skills, training, and supervision necessary to provide various types of volunteer assistance to family caregivers;

(C) administrative costs, including recruitment, training, and supervision costs, associated with volunteer assistance to family caregivers; and

(D) such other issues as may be relevant to provide services to assist family caregivers;

(2) evaluate the impact that volunteers who participate in programs under parts B and C of subchapter II without receiving a stipend have on such programs and shall include in such evaluation—

(A) information on adminstrative [2] costs associated with such volunteers;

(B) a comparison of the quality of services provided by such volunteers and the quality of services provided by volunteers who receive a stipend under such parts, including the rate of absenteeism and turnover; and

(C) a review of the effect that participation by volunteers who do not receive such stipend have on the administration of such programs; and

(3) submit to the authorizing committees a report summarizing in detail the results of the evaluations made under paragraphs (1) and (2).

(g) Funds limitation; reduction of allotments

The Director is authorized to use such sums as are required, but not to exceed 1 per centum of the funds appropriated under this chapter, to conduct program and project evaluations (directly, or by grants or contracts) as required by this chapter. In the case of allotments from such an appropriation, the amount available for such allotments (and the amount deemed appropriate therefor) shall be reduced accordingly.

(Pub. L. 93–113, title IV, §416, Oct. 1, 1973, 87 Stat. 412; Pub. L. 98–288, §23, May 21, 1984, 98 Stat. 195; Pub. L. 99–551, §8, Oct. 27, 1986, 100 Stat. 3075; Pub. L. 101–204, title IV, §402, Dec. 7, 1989, 103 Stat. 1815; Pub. L. 103–82, title IV, §405(a)(9), Sept. 21, 1993, 107 Stat. 920; Pub. L. 111–13, title II, §2153, Apr. 21, 2009, 123 Stat. 1591.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b), and (g), was in the original "this Act", meaning Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, known as the Domestic Volunteer Service Act of 1973, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

Section 5047 of this title, referred to in subsec. (b), was repealed by Pub. L. 103–82, title III, §365, Sept. 21, 1993, 107 Stat. 908.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–13, §2153(1), struck out "(including the VISTA Literacy Corps which shall be evaluated as a separate program at least once every 3 years)" after "authorized by this chapter".

Subsec. (f)(3). Pub. L. 111–13, §2153(2), substituted "authorizing committees" for "Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate".

1993—Subsec. (f)(1). Pub. L. 103–82 substituted "Corporation" for "ACTION Agency" in introductory provisions.

1989—Subsec. (a). Pub. L. 101–204 inserted "(including the VISTA Literacy Corps which shall be evaluated as a separate program at least once every 3 years)" after "this chapter" in first sentence.

1986—Subsec. (a). Pub. L. 99–551, §8(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "The Director shall biennially measure and evaluate the impact of all programs authorized by this chapter, their effectiveness in achieving stated goals in general, and in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services. Evaluations shall be conducted by persons not immediately involved in the administration of the program or any project of such program being evaluated. Such evaluation shall also measure and evaluate compliance with the equitable distribution requirement of section 5054 of this title."

Subsecs. (f), (g). Pub. L. 99–551, §8(b), added subsec. (f) and redesignated former subsec. (f) as (g).

1984—Subsec. (a). Pub. L. 98–288 substituted "biennially" for "periodically" in first sentence, and

substituted "or any project of such program being evaluated. Such evaluation shall also measure and evaluate compliance with the equitable distribution requirement of section 5054 of this title" for "or project evaluated".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Apr. 4, 1994, see section 406(b) of Pub. L. 103–82, set out as a note under section 8332 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–551 effective Oct. 1, 1986, except as otherwise provided, see section 11 of Pub. L. 99–551, set out as an Effective Date note under section 4950 of this title.

[1] See References in Text note below.

[2] So in original. Probably should be "administrative".

§5057. Nondiscrimination provisions

(a) In general

(1) Basis

An individual with responsibility for the operation of a program that receives assistance under this chapter shall not discriminate against a participant in, or member of the staff of, such program on the basis of race, color, national origin, sex, age, or political affiliation of such participant or member, or on the basis of disability, if the participant or member is a qualified individual with a disability.

(2) Definition

As used in paragraph (1), the term "qualified individual with a disability" has the meaning given the term in section 12111(8) of this title.

(b) Federal financial assistance

Any assistance provided under this chapter shall constitute Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).

(c) Religious discrimination

(1) In general

Except as provided in paragraph (2), an individual with responsibility for the operation of a program that receives assistance under this chapter shall not discriminate on the basis of religion against a participant in such program or a member of the staff of such program who is paid with funds received under this chapter.

(2) Exception

Paragraph (1) shall not apply to the employment, with assistance provided under this chapter, of any member of the staff, of a program that receives assistance under this chapter, who was employed with the organization operating the program on the date the grant under this chapter was awarded.

(d) Rules and regulations

The Director shall promulgate rules and regulations to provide for the enforcement of this section that shall include provisions for summary suspension of assistance for not more than 30 days, on an emergency basis, until notice and an opportunity to be heard can be provided.

(Pub. L. 93–113, title IV, §417, Oct. 1, 1973, 87 Stat. 413; Pub. L. 96–143, §12, Dec. 13, 1979, 93 Stat. 1079; Pub. L. 97–35, title VI, §608(f)(3), Aug. 13, 1981, 95 Stat. 488; Pub. L. 98–288, §30(a), May 21, 1984, 98 Stat. 197; Pub. L. 103–82, title III, §367, Sept. 21, 1993, 107 Stat. 908.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1), (b), and (c), was in the original "this Act", meaning Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, known as the Domestic Volunteer Service Act of 1973, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (b), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. Title VI of the Act 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.

The Education Amendments of 1972, referred to in subsec. (b), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235. Title IX of the Act, known as the Patsy Takemoto Mink Equal Opportunity in Education Act, is classified principally to chapter 38 (§1681 et seq.) of Title 20, Education. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of Title 20 and Tables.

The Age Discrimination Act of 1975, referred to in subsec. (b), is title III of Pub. L. 94–135, Nov. 28, 1975, 78 Stat. 728, which is classified generally to chapter 76 (§6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

AMENDMENTS

1993—Pub. L. 103–82 amended section generally, substituting present provisions for former provisions relating to nondiscrimination, which set forth: in subsec. (a), general rule; in subsec. (b), special rule against sex discrimination; and in subsec. (c), applicability of nondiscrimination authorities of certain statutes and requirement for regulations.

1984—Subsec. (c)(1). Pub. L. 98–288 struck out "and the Peace Corps Act (22 U.S.C. 2501 et seq.)" after "under this chapter".

1981—Subsec. (c)(2). Pub. L. 97–35 substituted reference to the Secretary of Health and Human Services for references to the Secretary of Health and Human Resources and the Secretary of Health, Education, and Welfare.

1979—Subsec. (a). Pub. L. 96–143, §12(a), inserted "handicap," after "age," and inserted provisions requiring that for purposes of this subsection, and for purposes of title VI of the Civil Rights Act of 1964, section 794 of title 29, and the Age Discrimination Act of 1975, any program, project, or activity to which volunteers are assigned under this chapter be deemed to be receiving Federal financial assistance.

Subsec. (c). Pub. L. 96–143, §12(b), added subsec. (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 392 of Pub. L. 103–82, set out as a note under section 4951 of this title.

§5058. Eligibility for other benefits

Notwithstanding any other provision of law, no payment for supportive services or reimbursement of out-of-pocket expenses made to persons serving pursuant to subchapter II of this chapter shall be subject to any tax or charge or be treated as wages or compensation for the purposes of

unemployment, temporary disability, retirement, public assistance, workers' compensation, or similar benefit payments, or minimum wage laws. This section shall become effective with respect to all payments made after October 1, 1973.

(Pub. L. 93–113, title IV, §418, Oct. 1, 1973, 87 Stat. 413; Pub. L. 96–143, §18(a)(2), Dec. 13, 1979, 93 Stat. 1083; Pub. L. 98–288, §24, May 21, 1984, 98 Stat. 196.)

EDITORIAL NOTES

AMENDMENTS

1984—Pub. L. 98–288 inserted "workers' compensation," after "public assistance,".
1979—Pub. L. 96–143 substituted "subchapter II of this chapter" for "subchapters II and III of this chapter".

§5059. Legal expenses

Notwithstanding any other provision of law and pursuant to regulations which the Director shall prescribe, counsel may be employed and counsel fees, court costs, bail, and other expenses incidental to the defense of volunteers may be paid in judicial or administrative proceedings to which full-time volunteers (or part-time volunteers when such proceeding arises directly out of the performance of activities pursuant to this chapter) serving under this chapter have been made parties.

(Pub. L. 93–113, title IV, §419, Oct. 1, 1973, 87 Stat. 413; Pub. L. 98–288, §25, May 21, 1984, 98 Stat. 196; Pub. L. 99–551, §10(g), Oct. 27, 1986, 100 Stat. 3078.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, known as the Domestic Volunteer Service Act of 1973, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

AMENDMENTS

1986—Pub. L. 99–551 substituted "to this chapter)" for "to this chapter".
1984—Pub. L. 98–288 struck out "or section 637(b)(1) of title 15" after "pursuant to this chapter".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–551 effective Oct. 1, 1986, except as otherwise provided, see section 11 of Pub. L. 99–551, set out as an Effective Date note under section 4950 of this title.

§5060. Repealed. Pub. L. 103–82, title III, §368, Sept. 21, 1993, 107 Stat. 909

Section, Pub. L. 93–113, title IV, §420, Oct. 1, 1973, 87 Stat. 414; Pub. L. 96–143, §13(a), Dec. 13, 1979, 93 Stat. 1080; Pub. L. 98–288, §26, May 21, 1984, 98 Stat. 196, set out requirements for prescribing regulations.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1993, see section 392 of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 4951 of this title.

§5061. Definitions

For the purposes of this chapter—

(1) the term "Director" means the Chief Executive Officer of the Corporation for National and Community Service appointed under section 12651c of this title;

(2) the terms "United States" and "States" mean the several States, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, and [1] American Samoa, the Commonwealth of the Northern Mariana Islands, and, for the purposes of subchapter II of this chapter, the Trust Territory of the Pacific Islands;

(3) the term "nonprofit" as applied to any agency, institution, or organization means an agency, institution, or organization which is, or is owned and operated by, one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual;

(4) the term "poor" or "low-income" persons, individuals, or volunteers means such individuals whose incomes fall at or below the poverty line as set forth in section 625 of the Economic Opportunity Act of 1964, as amended by Public Law 92–424 (42 U.S.C. 2971d): [2] *Provided*, That in determining who is "poor" or "low-income", the Director shall take into consideration existing poverty guidelines as appropriate to local situations;

(5) the terms "public agencies or organizations" and "Federal, State, or local agencies" shall include any Indian tribe, band, nation, or other organized group or community (including any Alaskan native village or regional village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.]) which is recognized by the United States or the State in which it resides as eligible for special programs and services provided to Indians because of their status as Indians;

(6) the term "poverty line for a single individual" means such poverty line as established by the Director of the Office of Management and Budget in accordance with section 9902(2) of this title;

(7) the term "Corporation" means the Corporation for National and Community Service established under section 12651 of this title;

(8) the term "foster grandparent" means a volunteer in the Foster Grandparent Program;

(9) the term "Foster Grandparent Program" means the program established under part B of subchapter II;

(10) except as provided in section 5057 of this title, the term "individual with a disability" has the meaning given the term in section 705(20)(B) of title 29;

(11) the term "Inspector General" means the Inspector General of the Corporation;

(12) the term "national senior volunteer" means a volunteer in the National Senior Service Corps;

(13) the term "National Senior Service Corps" means the programs established under parts A, B, C, and E of subchapter II;

(14) the term "Retired and Senior Volunteer Program" means the program established under part A of subchapter II;

(15) the term "retired or senior volunteer" means a volunteer in the Retired and Senior Volunteer Program;

(16) the term "senior companion" means a volunteer in the Senior Companion Program;

(17) the term "Senior Companion Program" means the program established under part C of subchapter II;

(18) the terms "VISTA" and "Volunteers in Service to America" mean the program established under part A of subchapter I;

(19) the term "VISTA volunteer" means a volunteer in VISTA; and

(20) the term "authorizing committees" means the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

(Pub. L. 93–113, title IV, §421, Oct. 1, 1973, 87 Stat. 414; Pub. L. 99–551, §§6(b), 10(h), Oct. 27, 1986, 100 Stat. 3074, 3078; Pub. L. 101–204, title IV, §403, title V, §502(b), Dec. 7, 1989, 103 Stat.

1815, 1817; Pub. L. 103–82, title IV, §§401, 404, 405(a)(10), Sept. 21, 1993, 107 Stat. 917, 920, 921; Pub. L. 105–220, title IV, §414(e), Aug. 7, 1998, 112 Stat. 1242; Pub. L. 108–36, title III, §306, June 25, 2003, 117 Stat. 825; Pub. L. 111–13, title II, §2154, Apr. 21, 2009, 123 Stat. 1591.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, known as the Domestic Volunteer Service Act of 1973, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

Section 625 of the Economic Opportunity Act of 1964, as amended by Public Law 92–424 (42 U.S.C. 2971d), referred to in par. (4), was repealed by Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519. Section 9924 of this title provides that any reference in any provision of law to the poverty line set forth in section 625 of the Economic Opportunity Act of 1964 is to be construed to be a reference to the poverty line defined in section 9902 of this title.

The Alaska Native Claims Settlement Act, referred to in par. (5), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

AMENDMENTS

2009—Par. (2). Pub. L. 111–13, §2154(1), inserted ", the Commonwealth of the Northern Mariana Islands," after "American Samoa".

Pars. (7) to (12). Pub. L. 111–13, §2154(2), (5), redesignated pars. (8) to (13) as (7) to (12), respectively, and struck out former par. (7), which read as follows: "the term 'boarder baby' means an infant who is abandoned, as defined in section 5117aa–21 of this title;".

Pars. (13), (14). Pub. L. 111–13, §2154(5), redesignated pars. (14) and (15) as (13) and (14), respectively. Former par. (13) redesignated (12).

Pub. L. 111–13, §2154(3), (4), substituted "Service Corps" for "Volunteer Corps".

Pars. (15) to (20). Pub. L. 111–13, §2154(5)–(8), added par. (20) and redesignated former pars. (16) to (20) as (15) to (19), respectively. Former par. (15) redesignated (14).

2003—Par. (7). Pub. L. 108–36 substituted "infant who is abandoned, as defined in section 301" for "infant described in section 103".

1998—Par. (11). Pub. L. 105–220 substituted "section 705(20)(B) of title 29" for "section 706(8)(B) of title 29".

1993—Par. (1). Pub. L. 103–82, §404, added par. (1) and struck out former par. (1) which read as follows: "the term 'Director' means the Director of the ACTION Agency;".

Pars. (8) to (11). Pub. L. 103–82, §401, added pars. (8) to (11).

Par. (12). Pub. L. 103–82, §405(a)(10), substituted "the Corporation" for "ACTION".

Pub. L. 103–82, §401, added par. (12).

Pars. (13) to (20). Pub. L. 103–82, §401, added pars. (13) to (20).

1989—Par. (6). Pub. L. 101–204, §403, added par. (6).

Par. (7). Pub. L. 101–204, §502(b), added par. (7).

1986—Par. (1). Pub. L. 99–551, §10(h), substituted "Agency" for "agency".

Par. (5). Pub. L. 99–551, §6(b), added par. (5).

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by sections 404 and 405(a)(10) of Pub. L. 103–82 effective Apr. 4, 1994, see section 406(b) of Pub. L. 103–82, set out as a note under section 8332 of Title 5, Government Organization and Employees.

Pub. L. 103–82, title IV, §406(a), Sept. 21, 1993, 107 Stat. 922, provided that: "The amendments made by sections 401 through 402 [amending this section, sections 12612, 12617, 12619, 12622 to 12626, 12632, 12636, 12637, 12639, and 12662 of this title, and provisions set out as notes under section 12612 of this title] will take effect on October 1, 1993."

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–551 effective Oct. 1, 1986, except as otherwise provided, see section 11 of Pub. L. 99–551, set out as an Effective Date note under section 4950 of this title.

EXECUTIVE DOCUMENTS

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

[1] So in original. The word "and" probably should not appear.

[2] See References in Text note below.

§5062. Audit

(a) Recordkeeping

Each recipient of Federal grants, subgrants, contracts, subcontracts, or loans entered into under this chapter other than by formal advertising, and which are otherwise authorized by this chapter, shall keep such records as the Director or the Inspector General shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) Access to books, documents, papers, and records; limitations

The Director, the Inspector General, and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in subsection (a) of this section, have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients which in the opinion of the Director, the Inspector General, or the Comptroller General may be related or pertinent to the grants, contracts, subcontracts, subgrants, or loans referred to in subsection (a).

(Pub. L. 93–113, title IV, §422, Oct. 1, 1973, 87 Stat. 414; Pub. L. 103–82, title III, §369, Sept. 21, 1993, 107 Stat. 909.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, known as the Domestic Volunteer Service Act of 1973, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–82, §369(1), inserted "or the Inspector General" after "Director".

Subsec. (b). Pub. L. 103–82, §369(2), inserted ", the Inspector General," after "Director" in two places.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 392 of Pub. L. 103–82, set out as a note under section 4951 of this title.

§5063. Reduction of paperwork

In order to reduce unnecessary, duplicative, or disruptive demands for information, the Director, in consultation with other appropriate agencies and organizations, shall continually review and evaluate all requests for information made under this chapter and take such action as may be necessary to reduce the paperwork required under this chapter. The Director shall request only such information as the Director deems essential to carry out the purposes and provisions of this chapter.

(Pub. L. 93–113, title IV, §423, as added Pub. L. 96–143, §14(a), Dec. 13, 1979, 93 Stat. 1081.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, known as the Domestic Volunteer Service Act of 1973, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

§5064. Review of project renewals

If the executive authority of any State or local government submits to the Director, not later than 30 days before the expiration of any contract or grant to carry out any project under this chapter, a statement which objects to the renewal of such contract or grant, then the Director shall (1) review such statement and take it into account in determining whether to renew such contract or grant; and (2) submit to such executive authority a written statement of reasons regarding the Director's determination with respect to such renewal and specifically with respect to any objection so submitted.

(Pub. L. 93–113, title IV, §424, as added Pub. L. 96–143, §14(a), Dec. 13, 1979, 93 Stat. 1081.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, known as the Domestic Volunteer Service Act of 1973, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

§5065. Protection against improper use

Whoever falsely—

(1) advertises or represents; or

(2) publishes or displays any sign, symbol, or advertisement, reasonably calculated to convey the impression,

that an entity is affiliated with, funded by, or operating under the authority of the Corporation,

VISTA, or any of the programs of the National Senior Service Corps may be enjoined under an action filed by the Attorney General, on a complaint by the Director.

(Pub. L. 93–113, title IV, §425, as added and amended Pub. L. 103–82, title III, §370, title IV, §405(a)(11), Sept. 21, 1993, 107 Stat. 909, 921; Pub. L. 111–13, title II, §2155, Apr. 21, 2009, 123 Stat. 1592.)

EDITORIAL NOTES

AMENDMENTS

2009—Pub. L. 111–13 substituted "Service Corps" for "Volunteer Corps" in concluding provisions.
1993—Pub. L. 103–82, §405(a)(11), substituted "the Corporation" for "ACTION" in concluding provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 405(a)(11) of Pub. L. 103–82 effective Apr. 4, 1994, see section 406(b) of Pub. L. 103–82, set out as a note under section 8332 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective Oct. 1, 1993, see section 392 of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 4951 of this title.

§5066. Provisions under the National and Community Service Act of 1990

The Corporation shall carry out this chapter in accordance with the provisions of this chapter and the relevant provisions of the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.), particularly the provisions of section 122 and subtitle F of title I of the National and Community Service Act of 1990 (42 U.S.C. 12572, 12631 et seq.) relating to the national service laws.

(Pub. L. 93–113, title IV, §426, as added Pub. L. 111–13, title II, §2156, Apr. 21, 2009, 123 Stat. 1592.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, known as the Domestic Volunteer Service Act of 1973, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

The National and Community Service Act of 1990, referred to in text, is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127. Subtitle F of title I of the Act is classified principally to division F (§12631 et seq.) of subchapter I of chapter 129 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

SUBCHAPTER V—AUTHORIZATION OF APPROPRIATIONS

§5081. National Volunteer Antipoverty Programs

(a) Authorizations

(1) Volunteers in Service to America

There are authorized to be appropriated to carry out part A of subchapter I $100,000,000 for fiscal year 2010 and such sums as may be necessary for each of the fiscal years 2011 through 2014.

(2) Special volunteer programs

There are authorized to be appropriated to carry out part C of subchapter I such sums as may be necessary for each of fiscal years 2010 through 2014.

(3) Specification of budget function

The authorizations of appropriations contained in this subsection shall be considered to be a component of budget function 500 as used by the Office of Management and Budget to cover education, training, employment, and social services, and, as such, shall be considered to be related to the programs of the Departments of Labor, Health and Human Services, and Education for budgetary purposes.

(b) Subsistence

The minimum level of an allowance for subsistence required under section 4955(b)(2) of this title, to be provided to each volunteer under subchapter I, may not be reduced or limited in order to provide for an increase in the number of volunteer service years under part A of subchapter I.

(c) Limitation

No part of the funds appropriated to carry out part A of subchapter I may be used to provide volunteers or assistance to any program or project authorized under part C of subchapter I, or under subchapter II, unless the program or project meets the antipoverty criteria of part A of subchapter I.

(d) Availability

Amounts appropriated for part A of subchapter I shall remain available for obligation until the end of the fiscal year following the fiscal year for which the amounts were appropriated.

(Pub. L. 93–113, title V, §501, Oct. 1, 1973, 87 Stat. 415; Pub. L. 94–293, §6(a), May 27, 1976, 90 Stat. 526; Pub. L. 96–143, §15(a), (b), Dec. 13, 1979, 93 Stat. 1082; Pub. L. 97–35, title VI, §607(a), Aug. 13, 1981, 95 Stat. 486; Pub. L. 98–288, §27(a), May 21, 1984, 98 Stat. 196; Pub. L. 99–551, §9(a), Oct. 27, 1986, 100 Stat. 3076; Pub. L. 99–570, title IV, §4301(2), Oct. 27, 1986, 100 Stat. 3207–153; Pub. L. 100–690, title III, §3402, Nov. 18, 1988, 102 Stat. 4253; Pub. L. 101–204, title VIII, §§801, 802, Dec. 7, 1989, 103 Stat. 1823, 1824; Pub. L. 102–73, title VII, §701(b), July 25, 1991, 105 Stat. 359; Pub. L. 103–82, title III, §381, Sept. 21, 1993, 107 Stat. 913; Pub. L. 111–13, title II, §2161(a), Apr. 21, 2009, 123 Stat. 1592.)

EDITORIAL NOTES

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–13, §2161(a)(1), added pars. (1) and (2), redesignated par. (5) as (3), and struck out former pars. (1) to (4), which read as follows:

"(1) VOLUNTEERS IN SERVICE TO AMERICA.—There are authorized to be appropriated to carry out parts A and B of subchapter I of this chapter, excluding section 4959 of this title, $56,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

"(2) LITERACY ACTIVITIES.—There are authorized to be appropriated to carry out section 4959 of this

title, $5,600,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

"(3) SPECIAL VOLUNTEER PROGRAMS.—There are authorized to be appropriated to carry out part C of subchapter I of this chapter, excluding section 4995 of this title, such sums as may be necessary for each of the fiscal years 1994 through 1996.

"(4) LITERACY CHALLENGE GRANTS.—There are authorized to be appropriated to carry out section 4995 of this title, such sums as may be necessary for each of the fiscal years 1994 through 1996."

Subsec. (c). Pub. L. 111–13, §2161(a)(2), substituted "part C" for "part B or C".

Subsec. (e). Pub. L. 111–13, §2161(a)(3), struck out subsec. (e). Text read as follows:

"(1) VOLUNTEER SERVICE YEARS.—Of the amounts appropriated under this section for parts A, B, and C of subchapter I of this chapter, including section 4995 of this title, there shall first be available for part A of subchapter I of this chapter, including sections 4954(e) and 4959 of this title, an amount not less than the amount necessary to provide 3,700 volunteer service years in fiscal year 1994, 4,000 volunteer service years in fiscal year 1995, and 4,500 volunteer service years in fiscal year 1996.

"(2) PLAN.—If the Director determines that funds appropriated to carry out part A, B, or C of subchapter I of this chapter are insufficient to provide for the years of volunteer service required by paragraph (1), the Director shall submit a plan to the relevant authorizing and appropriations committees of Congress that will detail what is necessary to fully meet this requirement."

1993—Pub. L. 103–82 amended section generally, substituting provisions authorizing appropriations for parts A, B, and C of subchapter I of this chapter for fiscal years 1994 through 1996 for provisions authorizing appropriations for such parts for fiscal years 1987 through 1993.

1991—Subsec. (c). Pub. L. 102–73 designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), and added pars. (2) and (3).

1989—Subsec. (a)(1). Pub. L. 101–204, §801(a), inserted provision authorizing appropriations for fiscal years 1990 through 1993.

Subsec. (a)(2). Pub. L. 101–204, §801(b)(1), inserted provision authorizing appropriations for fiscal years 1990 through 1993.

Subsec. (a)(3). Pub. L. 101–204, §801(b)(2), substituted "1987 through 1993" for "1987, 1988, and 1989".

Subsec. (b). Pub. L. 101–204, §801(c), inserted provision authorizing appropriations for fiscal years 1990 through 1993.

Subsec. (c). Pub. L. 101–204, §801(d)(1), inserted provision authorizing appropriations for fiscal years 1990 through 1993 to carry out part C of subchapter I of this chapter.

Pub. L. 101–204, §801(d)(2), inserted provision authorizing appropriations for fiscal years 1992 and 1993 for support of drug abuse prevention.

Subsec. (d)(1)(D) to (G). Pub. L. 101–204, §801(e), added subpars. (D) to (G).

Subsec. (d)(4). Pub. L. 101–204, §802, added par. (4).

1988—Subsec. (c). Pub. L. 100–690, §3402(1), inserted "(other than section 4994(b) of this title)" after "of this chapter" and inserted provisions at end relating to additional authorization of appropriations for support of drug abuse prevention in fiscal years 1989 through 1991.

Subsec. (d)(1). Pub. L. 100–690, §3402(2), substituted "subchapter I of this chapter (other than section 4994(b) of this title)" for "subchapter I of this chapter".

1986—Subsecs. (a), (b). Pub. L. 99–551 added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which read as follows:

"(a) There is authorized to be appropriated to carry out part A of subchapter I of this chapter $17,000,000 for fiscal year 1984, $20,000,000 for fiscal year 1985, and $25,000,000 for fiscal year 1986.

"(b) There is authorized to be appropriated to carry out part B of subchapter I of this chapter $1,800,000 for the fiscal year 1984 and for each of the fiscal years 1985 and 1986."

Subsec. (c). Pub. L. 99–570 inserted at end "In addition to the amounts authorized to be appropriated by the preceding sentence, there is authorized to be appropriated the aggregate sum of $5,500,000 for fiscal years 1987 and 1988 to be made available for drug abuse prevention."

Pub. L. 99–551 added subsec. (c) and struck out former subsec. (c) which read as follows: "There is authorized to be appropriated to carry out part C of subchapter I of this chapter $1,984,000 for the fiscal year 1984 and for each of the fiscal years 1985 and 1986."

Subsec. (d)(1). Pub. L. 99–551 added par. (1) and struck out former par. (1) which read as follows: "Of the amounts appropriated under this section for parts A, B, and C of subchapter I of this chapter, there shall first be available for part A of subchapter I of this chapter an amount not less than the amount necessary to provide—

"(A) 2,000 years of volunteer service in fiscal year 1984;

"(B) 2,200 years of volunteer service in fiscal year 1985; and

"(C) 2,400 years of volunteer service in fiscal year 1986."

1984—Pub. L. 98–288 designated existing provisions as subsec. (a), substituted "There is authorized to be appropriated to carry out part A of subchapter I of this chapter $17,000,000 for fiscal year 1984, $20,000,000 for fiscal year 1985, and $25,000,000 for fiscal year 1986" for "There is authorized to be appropriated to carry out subchapter I of this chapter $25,763,000 for fiscal year 1982 and $15,391,000 for fiscal year 1983. Of the amounts appropriated under this section, not less than $16,000,000 shall first be available for carrying out part A of subchapter I of this chapter for fiscal year 1982, and not less than $8,000,000 shall first be available for carrying out part A of subchapter I of this chapter for fiscal year 1983", and added subsecs. (b) to (e).

1981—Pub. L. 97–35 substituted provisions relating to authorization and availability of funds for fiscal years 1982 and 1983, for provisions relating to authorization and availability of funds for fiscal year ending June 30, 1974, through fiscal year ending Sept. 30, 1981.

1979—Subsec. (a). Pub. L. 96–143, §15(a), inserted "September 30, 1979, September 30, 1980, and September 30, 1981," after "September 30, 1978," and substituted "this section for the purpose of carrying out subchapter I of this chapter" for "this subchapter".

Subsec. (c). Pub. L. 96–143, §15(b), added subsec. (c).

1976—Subsec. (a). Pub. L. 94–293 inserted "September 30, 1977, and September 30, 1978," after "June 30, 1976".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 392 of Pub. L. 103–82, set out as a note under section 4951 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–551 effective Oct. 1, 1986, except as otherwise provided, see section 11 of Pub. L. 99–551, set out as an Effective Date note under section 4950 of this title.

ADDITIONAL APPROPRIATIONS AUTHORIZATION

Additional appropriations authorization for meeting increase in stipend to volunteers under section 4955(a)(1) of this title, see section 5(b) of Pub. L. 94–130, formerly set out as a note under section 4955 of this title.

§5082. National Senior Service Corps

(a) Retired and Senior Volunteer Program

There are authorized to be appropriated to carry out part A of subchapter II, $70,000,000 for fiscal year 2010, and such sums as may be necessary for each of the fiscal years 2011 through 2014.

(b) Foster Grandparent Program

There are authorized to be appropriated to carry out part B of subchapter II, $115,000,000 for fiscal year 2010, and such sums as may be necessary for each of the fiscal years 2011 through 2014.

(c) Senior Companion Program

There are authorized to be appropriated to carry out part C of subchapter II, $55,000,000 for fiscal year 2010, and such sums as may be necessary for each of the fiscal years 2011 through 2014.

(d) Demonstration programs

There are authorized to be appropriated to carry out part E of subchapter II, such sums as may be necessary for each of the fiscal years 2010 through 2014.

(Pub. L. 93–113, title V, §502, Oct. 1, 1973, 87 Stat. 415; Pub. L. 94–135, title II, §205(a), Nov. 28,

1975, 89 Stat. 727; Pub. L. 95–478, title IV, §402(d), Oct. 18, 1978, 92 Stat. 1558; Pub. L. 97–35, title VI, §607(b), Aug. 13, 1981, 95 Stat. 486; Pub. L. 98–288, §28, May 21, 1984, 98 Stat. 197; Pub. L. 99–551, §9(b)–(d), Oct. 27, 1986, 100 Stat. 3077; Pub. L. 101–204, title VIII, §804, title IX, §902(7), Dec. 7, 1989, 103 Stat. 1824, 1826; Pub. L. 103–82, title III, §382, Sept. 21, 1993, 107 Stat. 914; Pub. L. 111–13, title II, §2161(b), Apr. 21, 2009, 123 Stat. 1592.)

EDITORIAL NOTES

AMENDMENTS

2009—Pub. L. 111–13 amended section generally. Prior to amendment, section authorized appropriations for the National Senior Volunteer Corps for fiscal years 1994 through 1996.

1993—Pub. L. 103–82 amended section generally, substituting subsecs. (a) to (d) authorizing appropriations for parts A, B, C, and E of subchapter II of this chapter for fiscal years 1994 through 1996 for former subsecs. (a) to (c) authorizing appropriations for parts A, B, and C of such subchapter for fiscal years 1989 through 1993.

1989—Pub. L. 101–204, §902(7), struck out "National" before "Older Americans" in section catchline.

Subsec. (a). Pub. L. 101–204, §804(a), inserted "not less than the amount appropriated in the previous fiscal year and not more than" after "to be appropriated", struck out provisions authorizing appropriations for fiscal years 1986 through 1988, and inserted provisions authorizing appropriations for fiscal years 1990 through 1993.

Subsec. (b). Pub. L. 101–204, §804(b), inserted "not less than the amount appropriated in the previous fiscal year and not more than" after "to be appropriated", struck out provisions authorizing appropriations for fiscal years 1986 through 1988, and inserted provisions authorizing appropriations for fiscal years 1990 through 1993.

Subsec. (c). Pub. L. 101–204, §804(c), inserted "not less than the amount appropriated in the previous fiscal year and not more than" after "to be appropriated", struck out provisions authorizing appropriations for fiscal years 1986 through 1988, and inserted provisions authorizing appropriations for fiscal years 1990 through 1993.

1986—Subsec. (a). Pub. L. 99–551, §9(b), inserted ", $32,000,000 for fiscal year 1987, $33,280,000 for fiscal year 1988, and $34,610,000 for fiscal year 1989" and struck out "$30,412,000 for fiscal year 1983, $29,700,000 for fiscal year 1984, $30,400,000 for fiscal year 1985, and" after "to be appropriated".

Subsec. (b). Pub. L. 99–551, §9(c), inserted ", $60,000,000 for fiscal year 1987, $62,400,000 for fiscal year 1988, and $64,900,000 for fiscal year 1989" and struck out "$52,650,000 for fiscal year 1983, $54,300,000 for fiscal year 1984, $56,700,000 for fiscal year 1985, and" after "to be appropriated".

Subsec. (c). Pub. L. 99–551, §9(d), inserted ", $29,740,000 for fiscal year 1987, $30,930,000 for fiscal year 1988, and $32,170,000 for fiscal year 1989" and struck out "$17,607,000 for fiscal year 1983, $27,800,000 for fiscal year 1984, $28,200,000 for fiscal year 1985, and" after "to be appropriated".

1984—Subsec. (a). Pub. L. 98–288, §28(a), struck out "$28,691,000 for fiscal year 1982 and" after "to be appropriated", and inserted "$29,700,000 for fiscal year 1984, $30,400,000 for fiscal year 1985, and $31,100,000 for fiscal year 1986".

Subsec. (b). Pub. L. 98–288, §28(b), struck out "$49,670,000 for fiscal year 1982 and" after "to be appropriated", and inserted "$54,300,000 for fiscal year 1984, $56,700,000 for fiscal year 1985, and $58,700,000 for fiscal year 1986".

Subsec. (c). Pub. L. 98–288, §28(c), struck out "$16,610,000 for fiscal year 1982 and" after "to be appropriated", and inserted "$27,800,000 for fiscal year 1984, $28,200,000 for fiscal year 1985, and $28,600,000 for fiscal year 1986".

1981—Subsec. (a). Pub. L. 97–35, §607(b)(1), substituted provisions authorizing appropriations for fiscal years 1982 and 1983, for provisions authorizing appropriations for fiscal year ending June 30, 1974, through fiscal year ending Sept. 30, 1981.

Subsec. (b). Pub. L. 97–35, §607(b)(2), substituted provisions authorizing appropriations for fiscal years 1982 and 1983, for provisions relating to authorization, availability, and allocation of appropriations from fiscal year ending June 30, 1974, through fiscal year ending Sept. 30, 1981.

Subsec. (c). Pub. L. 97–35, §607(b)(3), added subsec. (c).

1978—Subsec. (a). Pub. L. 95–478, §402(d)(1), authorized appropriations of $25,000,000; $30,000,000; and $35,000,000 for fiscal years ending Sept. 30, 1979, through 1981.

Subsec. (b)(2). Pub. L. 95–478, §402(d)(2), authorized appropriations of $55,000,000; $62,500,000; and $70,000,000 for fiscal years ending Sept. 30, 1979, through 1981, for carrying out part B programs of the

subchapter.

1975—Subsec. (a). Pub. L. 94–135, §205(a)(1), authorized appropriations of $6,000,000 for period beginning July 1, 1976, and ending Sept. 30, 1976, and $22,000,000 for fiscal years ending Sept. 30, 1977, and 1978.

Subsec. (b). Pub. L. 94–135, §205(a)(2), authorized appropriations of $10,750,000 for period beginning July 1, 1976, and ending Sept. 30, 1976, and $43,000,000 for fiscal years ending Sept. 30, 1977, and 1978, in introductory text; $8,750,000 for period beginning July 1, 1976, and ending Sept. 30, 1976, and $35,000,000 for fiscal years ending Sept. 30, 1977, and 1978, in cl. (A); and $2,000,000 for period beginning July 1, 1976, and ending Sept. 30, 1976, and $8,000,000 for fiscal years ending Sept. 30, 1977, and 1978, in cl. (B).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 392 of Pub. L. 103–82, set out as a note under section 4951 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–551 effective Oct. 1, 1986, except as otherwise provided, see section 11 of Pub. L. 99–551, set out as an Effective Date note under section 4950 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–478 effective at the close of Sept. 30, 1978, see section 504 of Pub. L. 95–478, set out as a note under section 3001 of this title.

§5083. Repealed. Pub. L. 95–510, §102(b), Oct. 24, 1978, 92 Stat. 1781

Section, Pub. L. 93–113, title V, §503, Oct. 1, 1973, 87 Stat. 415; Pub. L. 94–293, §6(b), May 27, 1976, 90 Stat. 526, authorized appropriations for national volunteer programs to assist small businesses and promote volunteer service by persons with business experience.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1979, see section 105 of Pub. L. 95–510, set out as an Effective Date of 1978 Amendment note under section 634 of Title 15, Commerce and Trade.

§5084. Administration and coordination

(a) In general

For each of the fiscal years 2010 through 2014, there are authorized to be appropriated for the administration of this chapter as provided for in subchapter IV, 18 percent of the total amount appropriated under sections 5081 and 5082 of this title with respect to such year.

(b) Evaluation

For each of the fiscal years 2010 through 2014, the Director is authorized to expend not less than 2½ percent, and not more than 5 percent, of the amount appropriated under subsection (a), for the purposes prescribed in section 5056 of this title.

(Pub. L. 93–113, title V, §504, Oct. 1, 1973, 87 Stat. 416; Pub. L. 94–293, §6(c), May 27, 1976, 90 Stat. 526; Pub. L. 96–143, §15(c), Dec. 13, 1979, 93 Stat. 1082; Pub. L. 97–35, title VI, §607(c), Aug. 13, 1981, 95 Stat. 487; Pub. L. 98–288, §29, May 21, 1984, 98 Stat. 197; Pub. L. 99–551,

§9(e), Oct. 27, 1986, 100 Stat. 3077; Pub. L. 99–570, title IV, §4301(3), Oct. 27, 1986, 100 Stat. 3207–153; Pub. L. 101–204, title VIII, §803, Dec. 7, 1989, 103 Stat. 1824; Pub. L. 103–82, title III, §383, Sept. 21, 1993, 107 Stat. 915; Pub. L. 111–13, title II, §2161(c), Apr. 21, 2009, 123 Stat. 1593.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, known as the Domestic Volunteer Service Act of 1973, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

AMENDMENTS

2009—Pub. L. 111–13 substituted "fiscal years 2010 through 2014" for "fiscal years 1994 through 1996" in subsecs. (a) and (b).

1993—Pub. L. 103–82 amended section generally. Prior to amendment, section read as follows:

"(a) There is authorized to be appropriated for the administration of this chapter, as authorized in subchapter IV of this chapter, $25,312,000 for each of the fiscal years 1987, 1988, and 1989. In addition to the amounts authorized to be appropriated for the administration of this chapter by the preceding sentence, there is authorized to be appropriated the aggregate sum of $500,000 for fiscal years 1987 and 1988 to be available for support of drug abuse prevention.

"(b) For each of the fiscal years 1990 through 1993, there is authorized to be appropriated for the administration of this chapter, as authorized in subchapter IV of this chapter, 20 percent of the total amount appropriated under sections 5081 and 5082 of this title."

1989—Pub. L. 101–204 designated existing provisions as subsec. (a) and added subsec. (b).

1986—Pub. L. 99–570 inserted at end "In addition to the amounts authorized to be appropriated for the administration of this chapter by the preceding sentence, there is authorized to be appropriated the aggregate sum of $500,000 for fiscal years 1987 and 1988 to be available for support of drug abuse prevention."

Pub. L. 99–551 substituted "$25,312,000 for each of the fiscal years 1987, 1988, and 1989" for "$25,800,000 for fiscal year 1984, $27,000,000 for fiscal year 1985, and $28,000,000 for fiscal year 1986".

1984—Pub. L. 98–288 substituted "$25,800,000 for fiscal year 1984, $27,000,000 for fiscal year 1985, and $28,000,000 for fiscal year 1986" for "$30,091,000 for fiscal year 1982 and $29,348,000 for fiscal year 1983".

1981—Pub. L. 97–35 substituted provisions authorizing appropriations for fiscal years 1982 and 1983, for provisions authorizing appropriations for fiscal year ending June 30, 1974, through fiscal year ending Sept. 30, 1981.

1979—Pub. L. 96–143 inserted "September 30, 1979, September 30, 1980, and September 30, 1981," after "September 30, 1978,".

1976—Pub. L. 94–293 inserted "September 30, 1977, and September 30, 1978," after "June 30, 1976,".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 392 of Pub. L. 103–82, set out as a note under section 4951 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–551 effective Oct. 1, 1986, except as otherwise provided, see section 11 of Pub. L. 99–551, set out as an Effective Date note under section 4950 of this title.

§5085. Availability of appropriations

Notwithstanding any other provision of law, unless enacted in express and specific limitation of the provisions of this section, funds appropriated for any fiscal year to carry out any program under this chapter or any predecessor authority shall remain available, in accordance with the provisions of this chapter, for obligation and expenditure until expended.

(Pub. L. 93–113, title V, §505, Oct. 1, 1973, 87 Stat. 416.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, known as the Domestic Volunteer Service Act of 1973, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

SUBCHAPTER VI—YOUTHBUILD PROJECTS

§§5091 to 5091n. Repealed. Pub. L. 103–82, title III, §385, Sept. 21, 1993, 107 Stat. 915

Section 5091, Pub. L. 93–113, title VII, §701, as added Pub. L. 101–610, title II, §211, Nov. 16, 1990, 104 Stat. 3172, set forth purpose of this subchapter.

Section 5091a, Pub. L. 93–113, title VII, §702, as added Pub. L. 101–610, title II, §211, Nov. 16, 1990, 104 Stat. 3173, authorized Federal grants for Youthbuild projects.

Section 5091b, Pub. L. 93–113, title VII, §703, as added Pub. L. 101–610, title II, §211, Nov. 16, 1990, 104 Stat. 3173, related to service in construction and rehabilitation projects.

Section 5091c, Pub. L. 93–113, title VII, §704, as added Pub. L. 101–610, title II, §211, Nov. 16, 1990, 104 Stat. 3174, related to education and job training services.

Section 5091d, Pub. L. 93–113, title VII, §705, as added Pub. L. 101–610, title II, §211, Nov. 16, 1990, 104 Stat. 3174, set forth permitted uses of funds provided under this subchapter.

Section 5091e, Pub. L. 93–113, title VII, §706, as added Pub. L. 101–610, title II, §211, Nov. 16, 1990, 104 Stat. 3175, set forth eligibility requirements for participants.

Section 5091f, Pub. L. 93–113, title VII, §707, as added Pub. L. 101–610, title II, §211, Nov. 16, 1990, 104 Stat. 3175, provided living allowance for full-time program participants.

Section 5091g, Pub. L. 93–113, title VII, §708, as added Pub. L. 101–610, title II, §211, Nov. 16, 1990, 104 Stat. 3176, directed that services and activities be carried out through arrangements or under contracts with certain entities.

Section 5091h, Pub. L. 93–113, title VII, §709, as added Pub. L. 101–610, title II, §211, Nov. 16, 1990, 104 Stat. 3176, directed prescribing of standards for evaluating performance of projects.

Section 5091i, Pub. L. 93–113, title VII, §710, as added Pub. L. 101–610, title II, §211, Nov. 16, 1990, 104 Stat. 3176, related to applications for grants.

Section 5091j, Pub. L. 93–113, title VII, §711, as added Pub. L. 101–610, title II, §211, Nov. 16, 1990, 104 Stat. 3177, set forth criteria for selection of projects.

Section 5091k, Pub. L. 93–113, title VII, §712, as added Pub. L. 101–610, title II, §211, Nov. 16, 1990, 104 Stat. 3177, authorized management and technical assistance for projects.

Section 5091l, Pub. L. 93–113, title VII, §713, as added Pub. L. 101–610, title II, §211, Nov. 16, 1990, 104 Stat. 3178, defined terms for purposes of this subchapter.

Section 5091m, Pub. L. 93–113, title VII, §715, as added Pub. L. 101–610, title II, §211, Nov. 16, 1990, 104 Stat. 3179; amended Pub. L. 102–10, §10, Mar. 12, 1991, 105 Stat. 32, directed issuance of necessary regulations.

Section 5091n, Pub. L. 93–113, title VII, §716, as added Pub. L. 101–610, title II, §211, Nov. 16, 1990, 104 Stat. 3179, authorized appropriations to carry out this subchapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Subchapter repealed effective Oct. 1, 1993, see section 392 of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 4951 of this title.

CHAPTER 67—CHILD ABUSE PREVENTION AND TREATMENT AND ADOPTION REFORM

SUBCHAPTER I—GENERAL PROGRAM

Sec.
5101. Office on Child Abuse and Neglect.
5102. Advisory board on child abuse and neglect.
5103. Repealed.
5104. National clearinghouse for information relating to child abuse.
5105. Research and assistance activities.
5106. Grants to States, Indian tribes or tribal organizations, and public or private agencies and organizations.
5106a. Grants to States for child abuse or neglect prevention and treatment programs.
5106a–1, 5106b. Repealed.
5106c. Grants to States for programs relating to investigation and prosecution of child abuse and neglect cases.
5106d. Miscellaneous requirements relating to assistance.
5106e. Coordination of child abuse and neglect programs.
5106f. Reports.
5106f–1. Report concerning voluntary reporting system.
5106g. Definitions.
5106h. Authorization of appropriations.
5106i. Rule of construction.
5107. Discretionary programs; authorization of appropriations.
5108. Monitoring and oversight.

SUBCHAPTER II—ADOPTION OPPORTUNITIES

5111. Congressional findings and declaration of purpose.
5112. Repealed.
5113. Information and services.
5114. Study and report of unlicensed or unregulated adoption placements.
5115. Authorization of appropriations.
5115a. Repealed.

SUBCHAPTER III—COMMUNITY–BASED GRANTS FOR THE PREVENTION OF CHILD ABUSE AND NEGLECT

5116. Purpose and authority.
5116a. Eligibility.
5116b. Amount of grant.
5116c. Repealed.
5116d. Application.
5116e. Local program requirements.
5116f. Performance measures.
5116g. National network for community-based family resource programs.
5116h. Definitions.
5116i. Authorization of appropriations.

SUBCHAPTER IV—TEMPORARY CHILD CARE FOR CHILDREN WITH DISABILITIES AND CRISIS NURSERIES

5117 to 5117d. Repealed.

SUBCHAPTER IV–A—ABANDONED INFANTS ASSISTANCE

5117aa to 5117aa–22. Repealed.

SUBCHAPTER V—CERTAIN PREVENTIVE SERVICES REGARDING CHILDREN OF HOMELESS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS

5118 to 5118e. Repealed.

SUBCHAPTER VI—CHILD ABUSE CRIME INFORMATION AND BACKGROUND CHECKS

5119 to
5119c.
Transferred.

SUBCHAPTER I—GENERAL PROGRAM

EDITORIAL NOTES

CODIFICATION

This subchapter is comprised of title I of the Child Abuse Prevention and Treatment Act, Pub. L. 93–247. Title II of that Act is classified to subchapter III (§5116 et seq.) of this chapter.

§5101. Office on Child Abuse and Neglect

(a) Establishment

The Secretary of Health and Human Services may establish an office to be known as the Office on Child Abuse and Neglect.

(b) Purpose

The purpose of the Office established under subsection (a) shall be to execute and coordinate the functions and activities of this subchapter and subchapter III. In the event that such functions and activities are performed by another entity or entities within the Department of Health and Human Services, the Secretary shall ensure that such functions and activities are executed with the necessary expertise and in a fully coordinated manner involving regular intradepartmental and interdepartmental consultation with all agencies involved in child abuse and neglect activities.

(Pub. L. 93–247, title I, §101, formerly §2, Jan. 31, 1974, 88 Stat. 5; Pub. L. 93–644, §8(d)(1), Jan. 4, 1975, 88 Stat. 2310; Pub. L. 95–266, title I, §101, Apr. 24, 1978, 92 Stat. 205; Pub. L. 98–457, title I, §101, Oct. 9, 1984, 98 Stat. 1749; Pub. L. 99–401, title I, §103(a), Aug. 27, 1986, 100 Stat. 906; Pub. L. 100–294, title I, §101, Apr. 25, 1988, 102 Stat. 103; renumbered title I, §101, Pub. L. 101–126, §3(a)(1), (2), Oct. 25, 1989, 103 Stat. 764; Pub. L. 104–235, title I, §101, Oct. 3, 1996, 110 Stat. 3064.)

EDITORIAL NOTES

AMENDMENTS

1996—Pub. L. 104–235 amended section generally, substituting provisions relating to Office on Child Abuse and Neglect for provisions relating to National Center on Child Abuse and Neglect.

1988—Pub. L. 100–294 amended section generally, substituting provisions relating to establishment, appointment of Director, and other staff and resources of National Center on Child Abuse and Neglect for provisions relating to establishment, functions, grant and contract authority, staff and resource availability, and use of funds of National Center on Child Abuse and Neglect. See sections 5105 to 5106d of this title.

1986—Subsec. (b)(2). Pub. L. 99–401, §103(a)(2), added par. (2). Former par. (2) redesignated (3).

Subsec. (b)(3), (4). Pub. L. 99–401, §103(a)(1), redesignated former pars. (2) and (3) as (3) and (4), respectively. Former par. (4) redesignated (6).

Subsec. (b)(5). Pub. L. 99–401, §103(a)(3), added par. (5). Former par. (5) redesignated (7).

Subsec. (b)(6). Pub. L. 99–401, §103(a)(1), redesignated former par. (4) as (6). Former par. (6) redesignated (8).

Subsec. (b)(7). Pub. L. 99–401, §103(a)(1), (4), redesignated former par. (5) as (7) and amended it generally, substituting "conduct research on the causes, prevention, identification, and treatment of child abuse and neglect, and on appropriate and effective investigative, administrative, and judicial procedures in cases of child abuse" for "conduct research into the causes of child abuse and neglect, and into the prevention, identification, and treatment thereof". Former par. (7) redesignated (9).

Subsec. (b)(8), (9). Pub. L. 99–401, §103(a)(1), redesignated former pars. (6) and (7) as (8) and (9), respectively.

Subsec. (b)(10). Pub. L. 99–401, §103(a)(5), added par. (10).

1984—Subsec. (a). Pub. L. 98–457, §101(a), substituted "Health and Human Services" for "Health, Education, and Welfare".

Subsec. (b)(6). Pub. L. 98–457, §101(b), amended par. (6) generally. Prior to amendment, par. (6) read as follows: "make a complete and full study and investigation of the national incidence of child abuse and neglect, including a determination of the extent to which incidents of child abuse and neglect are increasing in number or severity; and".

Subsec. (b)(7). Pub. L. 98–457, §101(b), amended par. (7) generally. Prior to amendment, par. (7) read as follows: "in consultation with Federal agencies serving on the Advisory Board on Child Abuse and Neglect (established by section 5105 of this title), prepare a comprehensive plan for seeking to bring about maximum coordination of the goals, objectives, and activities of all agencies and organizations which have responsibilities for programs and activities related to child abuse and neglect, and submit such plan to such Advisory Board not later than twelve months after April 24, 1978."

Subsec. (c). Pub. L. 98–457, §101(c), substituted "The functions of the Secretary under subsection (b) of this section may be carried out" for "The Secretary may carry out his functions under subsection (b) of this section".

Subsec. (e). Pub. L. 98–457, §101(d), added subsec. (e).

1978—Subsec. (b). Pub. L. 95–266, §101(1), in pars. (1) and (3) inserted requirement of dissemination of annual summary and training materials, respectively, and added par. (7).

Subsec. (c). Pub. L. 95–266, §101(2), inserted provisions relating to duration and review of grants under subsec. (b)(5) of this section.

Subsec. (d). Pub. L. 95–266, §101(3), added subsec. (d).

1975—Subsec. (c). Pub. L. 93–644 added subsec. (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 2024 AMENDMENT

Pub. L. 118–193, §1, Dec. 23, 2024, 138 Stat. 2662, provided that: "This Act [amending section 5106 of this title] may be cited as the 'Jenna Quinn Law'."

SHORT TITLE OF 2015 AMENDMENT

Pub. L. 114—22, title VIII, §801, May 29, 2015, 129 Stat. 263, provided that: "This title [amending sections 5106a and 5106g of this title, enacting provisions set out as a note under section 5106a of this title, and amending provisions set out as a note under this section] may be cited as the 'Ensuring a Better Response for Victims of Child Sex Trafficking'."

SHORT TITLE OF 2010 AMENDMENT

Pub. L. 111–320, §1, Dec. 20, 2010, 124 Stat. 3459, provided that: "This Act [enacting chapter 110 of this title, amending sections 3796gg, 5102, 5104 to 5106a, 5106c, 5106d, 5106f, 5106g to 5106i, 5111, 5113, 5115, 5116 to 5116b, 5116d to 5116i, 5117aa, 5117aa–21, 5117aa–22, 13925, and 14214 of this title, section 707 of Title 11, Bankruptcy, and section 1435 of Title 20, Education, enacting provisions set out as notes under this section, amending provisions set out as a note under this section, repealing provisions set out as a note under section 670 of this title, and omitting provisions set out as a note under section 10401 of this title] may be cited as the 'CAPTA Reauthorization Act of 2010'."

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108–36, §1(a), June 25, 2003, 117 Stat. 800, provided that: "This Act [see Tables for classification] may be cited as the 'Keeping Children and Families Safe Act of 2003'."

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–235, §1(a), Oct. 3, 1996, 110 Stat. 3063, provided that: "This Act [enacting sections 5106i and 5116 to 5116i of this title, amending this section and sections 5102, 5104 to 5106, 5106a, 5106c to 5106f, 5106g to 5106i, 5111, 5113, 5115, 5777, 10402, 10403, 10409, 10603a, and 13004 of this title, repealing sections 5103, 5106b, 5117 to 5117d, 5118 to 5118e, 5778, and 11481 to 11489 of this title, amending provisions set out as notes under this section and section 670 of this title, and repealing provisions set out as notes under section 5117 of this title] may be cited as the 'Child Abuse Prevention and Treatment Act Amendments of 1996'."

SHORT TITLE OF 1994 AMENDMENT

For short title of subpart 1 of part E of title V of Pub. L. 103–381, which enacted section 5115a of this title, as the "Howard M. Metzenbaum Multiethnic Placement Act of 1994", see section 551 of Pub. L. 103–382, set out as a note under section 1305 of this title.

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–295, §1(a), May 28, 1992, 106 Stat. 187, provided that: "This Act [enacting sections 5106f–1, 10414, and 10415 of this title, amending sections 5102, 5105, 5106, 5106a, 5106a–1, 5106c, 5106h, 5111, 5113, 5115, 5116, 5116b to 5116d, 5117c, 5117d, 5118e, 10401 to 10405, 10407 to 10410, 10412, and 10413 of this title, repealing section 5112 of this title, and enacting provisions set out as notes under this section and sections 5106a, 5106h, 5117, 10401, and 10402 of this title] may be cited as the 'Child Abuse, Domestic Violence, Adoption and Family Services Act of 1992'."

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–236, §1, Dec. 12, 1991, 105 Stat. 1812, provided that: "This Act [amending sections 5117aa to 5117aa–12 and 5117aa–22 of this title and provisions set out as a note under section 623 of Title 29, Labor] may be cited as the 'Abandoned Infants Assistance Act Amendments of 1991'."

SHORT TITLE OF 1989 AMENDMENT

Pub. L. 101–126, §1, Oct. 25, 1989, 103 Stat. 764, provided that: "This Act [amending this section and sections 5102 to 5106h and 5116 to 5116g of this title and enacting provisions set out as notes under section 5102 and 5116b of this title] may be cited as the 'Child Abuse Prevention Challenge Grants Reauthorization Act of 1989'."

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–294, §1, Apr. 25, 1988, 102 Stat. 102, provided that: "This Act [enacting sections 5106a to 5106h and 10413 of this title, amending this section and sections 5102 to 5106, 5113, 5115, 10402, 10409, and 10410 of this title, repealing section 10411 of this title, and enacting provisions set out as notes under this section and section 5105 of this title] may be referred to as the 'Child Abuse Prevention, Adoption, and Family Services Act of 1988'."

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99–401, §1, Aug. 27, 1986, 100 Stat. 903, provided that: "This Act [enacting subchapter IV of this chapter and section 10603a of this title, amending this section and sections 290dd–3, 290ee–3, 5103, 5105, 10601, and 10603 of this title, and enacting provisions set out as notes under this section and section 5117 of this title] may be cited as the 'Children's Justice and Assistance Act of 1986'."

Pub. L. 99–401, title I, §101, Aug. 27, 1986, 100 Stat. 903, provided that: "This title [enacting section 10603a of this title, amending this section and sections 290dd–3, 290ee–3, 5103, 5105, 10601, and 10603 of this title, and enacting provisions set out as notes under this section] may be cited as the 'Children's Justice Act'."

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–457, §1, Oct. 9, 1984, 98 Stat. 1749, provided: "That this Act [enacting chapter 110 of this title, amending this section and sections 5102 to 5106, 5111 to 5113, and 5115 of this title, and enacting provisions set out as notes under this section and sections 5102, 5103, and 10401 of this title] may be cited as the 'Child Abuse Amendments of 1984'."

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–266, §1, Apr. 24, 1978, 92 Stat. 205, provided: "That this Act [enacting subchapter II of this chapter and amending this section and sections 5102 to 5105 of this title] may be cited as the 'Child Abuse

Prevention and Treatment and Adoption Reform Act of 1978'."

SHORT TITLE

Pub. L. 93–247, §1(a), formerly §1, Jan. 31, 1974, 88 Stat. 4, as renumbered §1(a) and amended by Pub. L. 100–294, title I, §101, Apr. 25, 1988, 102 Stat. 102, provided that: "This Act [enacting this subchapter and subchapters III and V of this chapter] may be cited as the 'Child Abuse Prevention and Treatment Act'."

For short title of title II of Pub. L. 99–401, which enacted subchapter IV of this chapter, as the "Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986", see section 201 of Pub. L. 99–401, formerly set out as a note under section 5117 of this title.

Pub. L. 100–505, §1, Oct. 18, 1988, 102 Stat. 2533, which provided that Pub. L. 100–505, enacting subchapter IV–A of this chapter and provisions formerly set out as a note under section 670 of this title, could be cited as the "Abandoned Infants Assistance Act of 1988", was repealed by Pub. L. 115–271, title VII, §7065(b), Oct. 24, 2018, 132 Stat. 4028.

REGULATIONS

Pub. L. 100–294, title IV, §401(a), Apr. 25, 1988, 102 Stat. 126, provided that: "For any rule or regulation needed to implement this Act [see Short Title of 1988 Amendment note above], the Secretary of Health and Human Services shall—

"(1) publish proposed regulations for purposes of implementing the amendments made by this Act before the expiration of the 90-day period beginning on the date of the enactment of this Act [Apr. 25, 1988];

"(2) allow not less than 45 days for public comment on such proposed regulations; and

"(3) publish final regulations for purposes of implementing the amendments made by this Act before the end of the 195-day period beginning on the date of the enactment of this Act."

CONSTRUCTION OF CHILD ABUSE AMENDMENTS OF 1984 WITH OTHER LAWS; SEPARABILITY

Pub. L. 98–457, title I, §127, Oct. 9, 1984, 98 Stat. 1754, provided that:

"(a) No provision of this Act or any amendment made by this Act [See Short Title of 1984 Amendment note above] is intended to affect any right or protection under section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794].

"(b) No provision of this Act or any amendment made by this Act may be so construed as to authorize the Secretary or any other governmental entity to establish standards prescribing specific medical treatments for specific conditions, except to the extent that such standards are authorized by other laws.

"(c) If the provisions of any part of this Act or any amendment made by this Act or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby."

PRESIDENTIAL COMMISSION ON CHILD AND YOUTH DEATHS

Pub. L. 100–294, title I, §106, Apr. 25, 1988, 102 Stat. 119, established a National Commission on Child and Youth Deaths to study and evaluate comprehensively Federal, State, and local public and private resources which affect child and youth deaths and to prepare and transmit to President and appropriate committees of Congress a report within 12 months after appointment of the Commission, and provided that the Commission terminates 90 days after transmitting the report.

ACQUISITION OF STATISTICAL DATA

Pub. L. 99–401, title I, §105, Aug. 27, 1986, 100 Stat. 906, which related to data acquisition by the Attorney General for 1987 and 1988 and modification of the FBI's uniform crime reporting program, was editorially reclassified as section 41302 of Title 34, Crime Control and Law Enforcement.

CONGRESSIONAL FINDINGS

Pub. L. 93–247, §2, as added by Pub. L. 102–295, title I, §102(a), May 28, 1992, 106 Stat. 188, and amended by Pub. L. 104–235, title I, §100, Oct. 3, 1996, 110 Stat. 3064; Pub. L. 108–36, title I, §101, June 25, 2003, 117 Stat. 801; Pub. L. 111–320, title I, §101, Dec. 20, 2010, 124 Stat. 3459, provided that: "Congress finds that—

"(1) in fiscal year 2008, approximately 772,000 children were found by States to be victims of child abuse and neglect;

"(2)(A) more children suffer neglect than any other form of maltreatment and close to 1/3 of all child maltreatment-related fatalities in fiscal year 2008 were attributed to neglect alone; and

"(B) investigations have determined that approximately 71 percent of children who were victims of maltreatment in fiscal year 2008 suffered neglect, 16 percent suffered physical abuse, 9 percent suffered sexual abuse,, [sic] 7 percent suffered psychological maltreatment, 2 percent experienced medical neglect, and 9 percent were victims of other forms of maltreatment;

"(3)(A) child abuse or neglect can result in the death of a child;

"(B) in fiscal year 2008, an estimated 1,740 children were counted by child protection services to have died as a result of abuse or neglect; and

"(C) in fiscal year 2008, children younger than 1 year old comprised 45 percent of child maltreatment fatalities and 72 percent of child maltreatment fatalities were younger than 4 years of age;

"(4)(A) many of these children and their families fail to receive adequate protection and treatment; and

"(B) approximately 37 percent of victims of child abuse did not receive post-investigation services in fiscal year 2008;

"(5) African-American children, American Indian children, Alaska Native children, and children of multiple races and ethnicities experience the highest rates of child abuse or neglect;

"(6) the problem of child abuse and neglect requires a comprehensive approach that—

"(A) integrates the work of social service, legal, health, mental health, domestic violence services, education, and substance abuse agencies and community-based organizations;

"(B) strengthens coordination among all levels of government, and with private agencies, civic, religious, and professional organizations, and individual volunteers;

"(C) emphasizes the need for abuse and neglect prevention, assessment, investigation, and treatment at the neighborhood level;

"(D) recognizes the need for properly trained staff with the qualifications needed, to carry out their child protection duties; and

"(E) recognizes the diversity of ethnic, cultural, and religious beliefs and traditions that may impact child rearing patterns, while not allowing the differences in those beliefs and traditions to enable abuse or neglect;

"(7) the failure to coordinate and comprehensively prevent and treat child abuse and neglect threatens the futures of thousands of children and results in a cost to the Nation of billions of dollars in tangible expenditures, as well as significant intangible costs;

"(8) all elements of American society have a shared responsibility in responding to child abuse and neglect;

"(9) substantial reductions in the prevalence and incidence of child abuse and neglect and the alleviation of its consequences are matters of the highest national priority;

"(10) national policy should strengthen families to prevent child abuse and neglect, provide support for needed services to prevent the unnecessary removal of children from families, and promote the reunification of families where appropriate;

"(11) the child protection system should be comprehensive, child-centered, family-focused, and community-based, should incorporate all appropriate measures to prevent the occurrence or recurrence of child abuse and neglect, and should promote physical and psychological recovery and social re-integration in an environment that fosters the health, safety, self-respect, and dignity of the child;

"(12) because both child maltreatment and domestic violence occur in up to 60 percent of the families in which either is present, States and communities should adopt assessments and intervention procedures aimed at enhancing the safety both of children and victims of domestic violence;

"(13) because of the limited resources available in low-income communities, Federal aid for the child protection system should be distributed with due regard to the relative financial need of the communities;

"(14) the Federal Government should assist States and communities with the fiscal, human, and technical resources necessary to develop and implement a successful and comprehensive child and family protection strategy; and

"(15) the Federal Government should provide leadership and assist communities in their child and family protection efforts by—

"(A) promoting coordinated planning among all levels of government;

"(B) generating and sharing knowledge relevant to child and family protection, including the development of models for service delivery;

"(C) strengthening the capacity of States to assist communities;

"(D) allocating financial resources to assist States in implementing community plans;

"(E) helping communities to carry out their child and family protection plans by promoting the competence of professional, paraprofessional, and volunteer resources; and

"(F) providing leadership to end the abuse and neglect of the nation's children and youth."

DEFINITIONS

Pub. L. 93–247, §3, as added by Pub. L. 111–320, title I, §142(a), Dec. 20, 2010, 124 Stat. 3482, as amended by Pub. L. 114–22, title VIII, §802(c)(2), May 29, 2015, 129 Stat. 264, provided that: "In this Act [see Short Title note above]—

"(1) the term 'child' means a person who has not attained the lesser of—

"(A) the age of 18; or

"(B) except in the case of sexual abuse, the age specified by the child protection law of the State in which the child resides;

"(2) the term 'child abuse and neglect' means, at a minimum, any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation (including sexual abuse as determined under section 111 [42 U.S.C. 5106g]), or an act or failure to act which presents an imminent risk of serious harm;

"(3) the term 'child with a disability' means a child with a disability as defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401), or an infant or toddler with a disability as defined in section 632 of such Act (20 U.S.C. 1432);

"(4) the term 'Governor' means the chief executive officer of a State;

"(5) the terms 'Indian', 'Indian tribe', and 'tribal organization' have the meanings given the terms in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b) [now 25 U.S.C. 5304];

"(6) the term 'Secretary' means the Secretary of Health and Human Services;

"(7) except as provided in section 106(f) [42 U.S.C. 5106a(f)], the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands; and

"(8) the term 'unaccompanied homeless youth' means an individual who is described in paragraphs (2) and (6) of section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a)."

§5102. Advisory board on child abuse and neglect

(a) Appointment

The Secretary may appoint an advisory board to make recommendations to the Secretary and to the appropriate committees of Congress concerning specific issues relating to child abuse and neglect.

(b) Solicitation of nominations

The Secretary shall publish a notice in the Federal Register soliciting nominations for the appointment of members of the advisory board under subsection (a).

(c) Composition

In establishing the board under subsection (a), the Secretary shall appoint members from the general public who are individuals knowledgeable in child abuse and neglect prevention, intervention, treatment, or research, and with due consideration to representation of ethnic or racial minorities and diverse geographic areas, and who represent—

(1) law (including the judiciary);
(2) psychology (including child development);
(3) social services (including child protective services);
(4) health care providers (including pediatricians);
(5) State and local government;
(6) organizations providing services to disabled persons;
(7) organizations providing services to adolescents;
(8) teachers;
(9) parent self-help organizations;
(10) parents' groups;
(11) voluntary groups;
(12) family rights groups;
(13) children's rights advocates; and

(14) Indian tribes or tribal organizations.

(d) Vacancies

Any vacancy in the membership of the board shall be filled in the same manner in which the original appointment was made.

(e) Election of officers

The board shall elect a chairperson and vice-chairperson at its first meeting from among the members of the board.

(f) Duties

Not later than 1 year after the establishment of the board under subsection (a), the board shall submit to the Secretary and the appropriate committees of Congress a report, or interim report, containing—

(1) recommendations on coordinating Federal, State, tribal, and local child abuse and neglect activities with similar activities at the Federal, State, tribal, and local level pertaining to family violence prevention;

(2) specific modifications needed in Federal, State, and tribal laws and programs to reduce the number of unfounded or unsubstantiated reports of child abuse or neglect while enhancing the ability to identify and substantiate legitimate cases of child abuse or neglect which place a child in danger; and

(3) recommendations for modifications needed to facilitate coordinated national data collection with respect to child protection and child welfare.

(Pub. L. 93–247, title I, §102, formerly §3, Jan. 31, 1974, 88 Stat. 5; Pub. L. 95–266, title I, §102, Apr. 24, 1978, 92 Stat. 206; Pub. L. 98–457, title I, §§102, 121, Oct. 9, 1984, 98 Stat. 1750, 1752; Pub. L. 100–294, title I, §101, Apr. 25, 1988, 102 Stat. 103; renumbered title I, §102, and amended Pub. L. 101–126, §3(a)(1), (2), (b)(1), Oct. 25, 1989, 103 Stat. 764; Pub. L. 102–295, title I, §111, May 28, 1992, 106 Stat. 190; Pub. L. 104–235, title I, §102, Oct. 3, 1996, 110 Stat. 3065; Pub. L. 111–320, title I, §111, Dec. 20, 2010, 124 Stat. 3460.)

EDITORIAL NOTES

AMENDMENTS

2010—Subsec. (c)(4). Pub. L. 111–320, §111(1)(A), substituted "health care providers (including pediatricians)" for "medicine (including pediatrics)".

Subsec. (c)(14). Pub. L. 111–320, §111(1)(B)–(D), added par. (14).

Subsec. (f)(1). Pub. L. 111–320, §111(2)(A), inserted "tribal," after "State," in two places.

Subsec. (f)(2). Pub. L. 111–320, §111(2)(B), substituted "Federal, State, and tribal" for "Federal and State" and "child abuse or neglect which" for "abuse or neglect which".

1996—Pub. L. 104–235 amended section generally, substituting present provisions for provisions which related to appointment of Advisory Board on Child Abuse and Neglect in subsec. (a); solicitation of nominations in subsec. (b); composition of Advisory Board in subsec. (c); election of officers in subsec. (d); meetings in subsec. (e); duties in subsec. (f); compensation in subsec. (g); and authorization of appropriations in subsec. (h).

1992—Subsec. (f)(4). Pub. L. 102–295, §111(a), added par. (4).

Subsec. (h). Pub. L. 102–295, §111(b), added subsec. (h).

1989—Subsecs. (c)(1)(A), (e), (f)(2)(E). Pub. L. 101–126, §3(b)(1), made technical amendments to references to sections 5103, 5105, and 5106 of this title to reflect renumbering of corresponding sections of original act.

1988—Pub. L. 100–294 amended section generally, substituting provisions relating to Advisory Board on Child Abuse and Neglect for provisions relating to definitions. See section 5106g of this title.

1984—Cl. (1). Pub. L. 98–457, §121(1), designated provisions after opening phrase as cl. (1).

Pub. L. 98–457, §102(1), inserted "(including any employee of a residential facility or any staff person providing out-of-home care)".

Cl. (2). Pub. L. 98–457, §102(2), (3), added cl. (2).

Cl. (3). Pub. L. 98–457, §121(2), (3), added cl. (3).

1978—Pub. L. 95–266 inserted "or exploitation" after "sexual abuse" and ", or the age specified by the child protection law of the State in question," after "eighteen".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–126, §8, Oct. 25, 1989, 103 Stat. 769, provided that: "This Act and the amendments made by this Act [see Short Title of 1989 Amendment note set out under section 5101 of this title] shall take effect October 1, 1989, or upon the date of the enactment of this Act [Oct. 25, 1989], whichever occurs later."

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98–457, title I, §128, Oct. 9, 1984, 98 Stat. 1755, provided that:

"(a) Except as provided in subsection (b), the provisions of this part or any amendment made by this part [part B (§§121–128) of title I of Pub. L. 98–457, amending this section and section 5103 of this title and enacting provisions set out as notes under sections 5101 and 5103 of this title] shall be effective on the date of the enactment of this Act [Oct. 9, 1984].

"(b)(1) Except as provided in paragraph (2), the amendments made by sections 122 and 123(b) of this Act [amending section 5103 of this title] shall become effective one year after the date of such enactment [Oct. 9, 1984].

"(2) In the event that, prior to such effective date, funds have not been appropriated pursuant to section 5 of the Act (as amended by section 104 of this Act) [section 5104 of this title] for the purpose of grants under section 4(c)(1) of the Act (as added by section 123(a) of this Act) [section 5103(c)(1) of this title], any State which has not met any requirement of section 4(b)(2)(K) of the Act (as added by section 122(3) of this Act) may be granted a waiver of such requirements for a period of not more than one year, if the Secretary finds that such State is making a good-faith effort to comply with such requirements."

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of its establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the end of such period, or in the case of a board established by the Congress, its duration is otherwise provided by law, see sections 1001(2) and 1013 of Title 5, Government Organization and Employees.

LIMITATIONS ON USE OF APPROPRIATED FUNDS

Pub. L. 105–277, div. A, §101(f) [title II, §206], Oct. 21, 1998, 112 Stat. 2681–337, 2681–359, provided that: "None of the funds appropriated in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts, may be obligated or expended for the Federal Council on Aging under the Older Americans Act [of 1965, 42 U.S.C. 3001 et seq.] or the Advisory Board on Child Abuse and Neglect under the Child Abuse Prevention and Treatment Act [42 U.S.C. 5101 et seq.]."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 105–78, title II, §206, Nov. 13, 1997, 111 Stat. 1489.

Pub. L. 104–208, div. A, §101(e) [title II, §208], Sept. 30, 1996, 110 Stat. 3009–233, 3009–254.

Pub. L. 104–134, title I, §101(d) [title II, §209], Apr. 26, 1996, 110 Stat. 1321–211, 1321–228; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.

§5103. Repealed. Pub. L. 104–235, title I, §103, Oct. 3, 1996, 110 Stat. 3066

Section, Pub. L. 93–247, title I, §103, formerly §4, Jan. 31, 1974, 88 Stat. 5; Pub. L. 93–644, §8(d)(2), Jan. 4, 1975, 88 Stat. 2310; Pub. L. 95–266, title I, §103, Apr. 24, 1978, 92 Stat. 206; Pub. L. 98–457, title I, §§103, 122, 123, Oct. 9, 1984, 98 Stat. 1750, 1752, 1753; Pub. L. 99–401, title I, §102(a), Aug. 27, 1986, 100 Stat. 903; Pub. L. 100–117, §1, Sept. 28, 1987, 101 Stat. 751; Pub. L. 100–294, title I, §101, Apr. 25, 1988, 102 Stat. 105; renumbered title I, §103, Pub. L. 101–126, §3(a)(1), (2), Oct. 25, 1989, 103 Stat. 764, related to the Inter-Agency Task Force on Child Abuse and Neglect.

§5104. National clearinghouse for information relating to child abuse

(a) Establishment

The Secretary shall through the Department, or by one or more contracts of not less than 3 years duration let through a competition, establish a national clearinghouse for information relating to child abuse and neglect.

(b) Functions

The Secretary shall, through the clearinghouse established by subsection (a)—

(1) maintain, coordinate, and disseminate information on effective programs, including private and community-based programs, that have demonstrated success with respect to the prevention, assessment, identification, and treatment of child abuse or neglect and hold the potential for broad-scale implementation and replication;

(2) maintain, coordinate, and disseminate information on the medical diagnosis and treatment of child abuse and neglect;

(3) maintain and disseminate information on best practices relating to differential response;

(4) maintain and disseminate information about the best practices used for achieving improvements in child protective systems;

(5) maintain and disseminate information about the requirements of section 5106a(b)(2)(B)(iii) of this title and best practices relating to the development of plans of safe care as described in such section for infants born and identified as being affected by substance abuse or withdrawal symptoms, or a Fetal Alcohol Spectrum Disorder;

(6) maintain and disseminate information relating to—

(A) the incidence of cases of child abuse and neglect in the United States;

(B) the incidence of such cases in populations determined by the Secretary under section 105(a)(1) of the Child Abuse Prevention, Adoption, and Family Services Act of 1988 (42 U.S.C. 5105 note); and

(C) the incidence of any such cases related to substance abuse;

(7) provide technical assistance upon request that may include an evaluation or identification of—

(A) various methods and procedures for the investigation, assessment, and prosecution of child physical and sexual abuse cases;

(B) ways to mitigate psychological trauma to the child victim; and

(C) effective programs carried out by the States under this subchapter and subchapter III;

(8) collect and disseminate information relating to various training resources available at the State and local level to—

(A) individuals who are engaged, or who intend to engage, in the prevention, identification, and treatment of child abuse and neglect; and

(B) appropriate State and local officials to assist in training law enforcement, legal, judicial, medical, mental health, education, child welfare, substance abuse treatment services, and domestic violence services personnel; and

(9) collect and disseminate information, in conjunction with the National Resource Centers authorized in section 10410(b) of this title, on effective programs and best practices for developing and carrying out collaboration between entities providing child protective services and entities providing domestic violence services.

(c) Coordination with available resources

(1) In general

In establishing a national clearinghouse as required by subsection (a), the Secretary shall—

(A) consult with other Federal agencies that operate similar clearinghouses;

(B) consult with the head of each agency involved with child abuse and neglect on the development of the components for information collection and management of such

clearinghouse and on the mechanisms for the sharing of such information with other Federal agencies and clearinghouses;

(C) develop a Federal data system involving the elements under subsection (b) which, to the extent practicable, coordinates existing Federal, State, tribal, regional, and local child welfare data systems which shall include—

(i) standardized data on false, unfounded, unsubstantiated, and substantiated reports;

(ii) information on the number of deaths due to child abuse and neglect;

(iii) information about the incidence and characteristics of child abuse and neglect in circumstances in which domestic violence is present; and

(iv) information about the incidence and characteristics of child abuse and neglect in cases related to substance abuse;

(D) through a national data collection and analysis program and in consultation with appropriate State and local agencies and experts in the field, collect, compile, and make available State child abuse and neglect reporting information which, to the extent practical, shall be universal and case specific and integrated with other case-based foster care and adoption data collected by the Secretary;

(E) compile, analyze, and publish a summary of the research conducted under section 5105(a) of this title;

(F) collect and disseminate information that describes best practices being used throughout the Nation for making appropriate referrals related to, and addressing, the physical, developmental, and mental health needs of victims of child abuse or neglect; and

(G) solicit public comment on the components of such clearinghouse.

(2) Confidentiality requirement

In carrying out paragraph (1)(D), the Secretary shall ensure that methods are established and implemented to preserve the confidentiality of records relating to case specific data.

(Pub. L. 93–247, title I, §103, formerly §5, Jan. 31, 1974, 88 Stat. 7; Pub. L. 95–266, title I, §104, Apr. 24, 1978, 92 Stat. 206; Pub. L. 98–457, title I, §104, Oct. 9, 1984, 98 Stat. 1751; Pub. L. 100–294, title I, §101, Apr. 25, 1988, 102 Stat. 105; renumbered title I, §104, and amended Pub. L. 101–126, §§3(a)(1), (2), (b)(2), 6, Oct. 25, 1989, 103 Stat. 764, 765, 768; renumbered §103 and amended Pub. L. 104–235, title I, §§104, 113(a)(1)(A), Oct. 3, 1996, 110 Stat. 3066, 3079; Pub. L. 108–36, title I, §111, June 25, 2003, 117 Stat. 802; Pub. L. 111–320, title I, §112, Dec. 20, 2010, 124 Stat. 3461; Pub. L. 114–198, title V, §503(a), July 22, 2016, 130 Stat. 729.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 105(a)(1) of the Child Abuse Prevention, Adoption, and Family Services Act of 1988, referred to in subsec. (b)(6)(B), is section 105(a)(1) of Pub. L. 100–294, which is set out as a note under section 5105 of this title.

PRIOR PROVISIONS

A prior section 103 of Pub. L. 93–247 was classified to section 5103 of this title prior to repeal by Pub. L. 104–235.

AMENDMENTS

2016—Subsec. (b)(5) to (9). Pub. L. 114–198 added par. (5) and redesignated former pars. (5) to (8) as (6) to (9), respectively.

2010—Subsec. (a). Pub. L. 111–320, §112(1), inserted "and neglect" before period at end.

Subsec. (b). Pub. L. 111–320, §112(2), added pars. (1) to (3) and (8), redesignated former pars. (2) to (5) as (4) to (7), respectively, in par. (4) inserted "and disseminate" after "maintain", in par. (5)(B) inserted "(42 U.S.C. 5105 note)" before semicolon, in par. (5)(C) substituted "substance" for "alcohol or drug", in par. (6)(C) struck out "and" at end, in par. (7)(B) substituted "child welfare, substance abuse treatment services, and domestic violence services personnel; and" for "and child welfare personnel.", and struck out former par.

(1) which read as follows: "maintain, coordinate, and disseminate information on all effective programs, including private and community-based programs, that show promise of success with respect to the prevention, assessment, identification, and treatment of child abuse and neglect and hold the potential for broad scale implementation and replication;".

Subsec. (c)(1)(B). Pub. L. 111–320, §112(3)(A), added subpar. (B) and struck out former subpar. (B) which read as follows: "consult with the head of each agency involved with child abuse and neglect and mechanisms for the sharing of such information among other Federal agencies and clearinghouses on the development of the components for information collection and management of such clearinghouse;".

Subsec. (c)(1)(C). Pub. L. 111–320, §112(3)(B), inserted "tribal," after "State," in introductory provisions and added cls. (iii) and (iv).

Subsec. (c)(1)(F). Pub. L. 111–320, §112(3)(C), which directed substitution of "victims of child abuse or neglect" for "abused or neglected children", was executed by making the substitution for "abused and neglected children" to reflect the probable intent of Congress.

2003—Subsec. (b)(1). Pub. L. 108–36, §111(a)(1), substituted "all effective programs, including private and community-based programs, that show promise of success with respect to the prevention, assessment, identification, and treatment of child abuse and neglect and hold the potential for broad scale implementation and replication;" for "all programs, including private programs, that show promise of success with respect to the prevention, assessment, identification, and treatment of child abuse and neglect; and".

Subsec. (b)(2), (3). Pub. L. 108–36, §111(a)(2)–(4), added par. (2) and redesignated former par. (2) as (3) and substituted a semicolon for period at end.

Subsec. (b)(4), (5). Pub. L. 108–36, §111(a)(5), added pars. (4) and (5).

Subsec. (c)(1)(E). Pub. L. 108–36, §111(b)(1), made technical amendment to reference to section 5105(a) of this title to reflect renumbering of corresponding section of original act and struck out "and" at end.

Subsec. (c)(1)(F), (G). Pub. L. 108–36, §111(b)(2), (3), added subpar. (F) and redesignated former subpar. (F) as (G).

1996—Subsec. (a). Pub. L. 104–235, §104(1), amended heading and text generally. Prior to amendment, text read as follows: "Before the end of the 2-year period beginning on April 25, 1988, the Secretary shall through the Center, or by contract of no less than 3 years duration let through a competition, establish a national clearinghouse for information relating to child abuse."

Subsec. (b). Pub. L. 104–235, §104(2)(A), substituted "Secretary" for "Director" in introductory provisions.

Subsec. (b)(1). Pub. L. 104–235, §104(2)(B)(ii), which directed striking out ", including" and all that followed and inserting "; and", was executed to reflect the probable intent of Congress by substituting "; and" for ", including the information provided by the National Center for Child Abuse and Neglect under section 5105(b) of this title;" which was all that followed ", including" the second place it appeared.

Pub. L. 104–235, §104(2)(B)(ii), inserted "assessment," after "prevention,".

Subsec. (b)(2). Pub. L. 104–235, §104(2)(C), substituted "United States" for "general population" in subpar. (A) and struck out subpar. (D) which read as follows: "State and local recordkeeping with respect to such cases; and".

Subsec. (b)(3). Pub. L. 104–235, §104(2)(D), struck out par. (3) which read as follows: "directly or through contract, identify effective programs carried out by the States pursuant to subchapter III of this chapter and provide technical assistance to the States in the implementation of such programs."

Subsec. (c)(1). Pub. L. 104–235, §104(3)(A), designated existing provisions as par. (1), inserted heading, and substituted "Secretary" for "Director" in introductory provisions. Former par. (1) redesignated (1)(A).

Subsec. (c)(1)(A). Pub. L. 104–235, §104(3)(B), redesignated par. (1) as (1)(A) and realigned margin.

Subsec. (c)(1)(B). Pub. L. 104–235, §104(3)(B), (C), redesignated par. (2) as (1)(B), realigned margin, and substituted "involved with child abuse and neglect and mechanisms for the sharing of such information among other Federal agencies and clearinghouses" for "that is represented on the task force".

Subsec. (c)(1)(C). Pub. L. 104–235, §104(3)(B), (C), redesignated par. (3) as (1)(C), realigned margin, and substituted "Federal, State, regional, and local child welfare data systems which shall include—

"(i) standardized data on false, unfounded, unsubstantiated, and substantiated reports; and

"(ii) information on the number of deaths due to child abuse and neglect;"

for "State, regional, and local data systems; and".

Subsec. (c)(1)(D). Pub. L. 104–235, §104(3)(F), added subpar. (D). Former subpar. (D) redesignated (F).

Pub. L. 104–235, §104(3)(B), redesignated par. (4) as (1)(D) and realigned margin.

Subsec. (c)(1)(E). Pub. L. 104–235, §104(3)(F), added subpar. (E).

Subsec. (c)(1)(F). Pub. L. 104–235, §104(3)(E), redesignated subpar. (D) as (F).

Subsec. (c)(2). Pub. L. 104–235, §104(3)(G), added par. (2). Former par. (2) redesignated (1)(B).

Subsec. (c)(3), (4). Pub. L. 104–235, §104(3)(B), redesignated pars. (3) and (4) as (1)(C) and (1)(D),

respectively.

1989—Subsec. (b)(1). Pub. L. 101–126, §3(b)(2)(A), made technical amendment to reference to section 5105(b) of this title to reflect renumbering of corresponding section of original act.

Subsec. (b)(2)(B). Pub. L. 101–126, §3(b)(2)(B), inserted "of the Child Abuse Prevention, Adoption, and Family Services Act of 1988" after "section 105(a)(1)".

Subsec. (b)(3). Pub. L. 101–126, §6, added par. (3).

1988—Pub. L. 100–294 amended section generally, substituting provisions relating to national clearinghouse for information relating to child abuse for provisions relating to authorization of appropriations and funding requirements for child abuse and neglect and sexual abuse programs and projects. See section 5106h of this title.

1984—Pub. L. 98–457, §104(a), struck out designation "(a)" before "There are hereby authorized", inserted provisions authorizing appropriations of $33,500,000 for fiscal year 1984, $40,000,000 for fiscal year 1985, $41,500,000 for fiscal year 1986, and $43,100,000 for fiscal year 1987, and substituted "this section except as provided in the succeeding sentence, (A) not less than $9,000,000 shall be available in each fiscal year to carry out section 5103(b) of this title (relating to State grants), (B) not less than $11,000,000 shall be available in each fiscal year to carry out sections 5103(a) (relating to demonstration or service projects), 5101(b)(1) and 5101(b)(3) (relating to information dissemination), 5101(b)(5) (relating to research), and 5103(c)(2) (relating to training, technical assistance, and information dissemination) of this title, giving special consideration to continued funding of child abuse and neglect programs or projects (previously funded by the Department of Health and Human Services) of national or regional scope and demonstated [sic] effectiveness, (C) $5,000,000 shall be available in each such year for grants and contracts under section 5103(a) of this title for identification, treatment, and prevention of sexual abuse, and (D) $5,000,000 shall be available in each such year for the purpose of making additional grants to the States to carry out the provisions of section 5103(c)(1) of this title. With respect to any fiscal year in which the total amount appropriated under this section is less than $30,000,000, funds shall first be available as provided in clauses (A) and (B) in the preceding sentence and of the remainder one-half shall be available as provided for in clause (C) and one-half as provided for in clause (D) in the preceding sentence" for "this section, not less than 50 per centum shall be used for making grants or contracts under sections 5101(b)(5) of this title (relating to research) and 5103(a) of this title (relating to demonstration or service projects), giving special consideration to continued Federal funding of child abuse and neglect programs or projects (previously funded by the Department of Health, Education, and Welfare) of national or regional scope and demonstrated effectiveness, of not less than 25 per centum shall be used for making grants or contracts under section 5103(b)(1) of this title (relating to grants to States) for the fiscal years ending September 30, 1978, and September 30, 1979, respectively, and not less than 30 per centum shall be used for making grants or contracts under section 5103(b)(1) of this title (relating to grants to States) for each of the fiscal years ending September 30, 1980, and September 30, 1981, respectively".

Pub. L. 98–457, §104(b), struck out subsec. (b) which authorized appropriations for fiscal years ending Sept. 30, 1978, Sept. 30, 1979, Sept. 30, 1980, and Sept. 30, 1981, respectively, for purpose of making grants and entering into contracts for programs and projects designed to prevent, identify, and treat sexual abuse of children.

1978—Pub. L. 95–266 designated existing provisions as subsec. (a), inserted provisions authorizing appropriations for fiscal year ending Sept. 30, 1978, through fiscal year ending Sept. 30, 1981, and provisions setting forth funding requirements for child abuse and neglect programs and projects, and added subsec. (b).

§5105. Research and assistance activities

(a) Research

(1) Topics

The Secretary shall, in consultation with other Federal agencies and recognized experts in the field, carry out a continuing interdisciplinary program of research, including longitudinal research, that is designed to provide information needed to better protect children from child abuse or neglect and to improve the well-being of victims of child abuse or neglect, with at least a portion of such research being field initiated. Such research program may focus on—

(A) the nature and scope of child abuse and neglect;

(B) causes, prevention, assessment, identification, treatment, cultural and socio-economic distinctions, and the consequences of child abuse and neglect, including the effects of child

abuse and neglect on a child's development and the identification of successful early intervention services or other services that are needed;

(C) effective approaches to improving the relationship and attachment of infants and toddlers who experience child abuse or neglect with their parents or primary caregivers in circumstances where reunification is appropriate;

(D) appropriate, effective and culturally sensitive investigative, administrative, and judicial systems, including multidisciplinary, coordinated decisionmaking procedures with respect to cases of child abuse and neglect;

(E) the evaluation and dissemination of best practices, including best practices to meet the needs of special populations, consistent with the goals of achieving improvements in the child protective services systems of the States in accordance with paragraphs (1) through (14) of section 5106a(a) of this title;

(F) effective approaches to interagency collaboration between the child protection system and the juvenile justice system that improve the delivery of services and treatment, including methods for continuity of treatment plan and services as children transition between systems;

(G) effective practices and programs to improve activities such as identification, screening, medical diagnosis, forensic diagnosis, health evaluations, and services, including activities that promote collaboration between—

(i) the child protective service system; and

(ii)(I) the medical community, including providers of mental health and developmental disability services; and

(II) providers of early childhood intervention services and special education for children who have been victims of child abuse or neglect;

(H) an evaluation of the redundancies and gaps in the services in the field of child abuse and neglect prevention in order to make better use of resources;

(I) effective collaborations, between the child protective system and domestic violence service providers, that provide for the safety of children exposed to domestic violence and their nonabusing parents and that improve the investigations, interventions, delivery of services, and treatments provided for such children and families;

(J) the nature, scope, and practice of voluntary relinquishment for foster care or State guardianship of low-income children who need health services, including mental health services;

(K) the impact of child abuse and neglect on the incidence and progression of disabilities;

(L) the nature and scope of effective practices relating to differential response, including an analysis of best practices conducted by the States;

(M) child abuse and neglect issues facing Indians, Alaska Natives, and Native Hawaiians, including providing recommendations for improving the collection of child abuse and neglect data from Indian tribes and Native Hawaiian communities;

(N) the information on the national incidence of child abuse and neglect specified in clauses (i) through (x) [1] of subparagraph (O); and

(O) the national incidence of child abuse and neglect, including—

(i) the extent to which incidents of child abuse and neglect are increasing or decreasing in number and severity;

(ii) the incidence of substantiated and unsubstantiated reported child abuse and neglect cases;

(iii) the number of substantiated cases that result in a judicial finding of child abuse or neglect or related criminal court convictions;

(iv) the extent to which the number of unsubstantiated, unfounded and false reported cases of child abuse or neglect have contributed to the inability of a State to respond effectively to serious cases of child abuse or neglect;

(v) the extent to which the lack of adequate resources and the lack of adequate training of individuals required by law to report suspected cases of child abuse and neglect have

contributed to the inability of a State to respond effectively to serious cases of child abuse and neglect;

(vi) the number of unsubstantiated, false, or unfounded reports that have resulted in a child being placed in substitute care, and the duration of such placement;

(vii) the extent to which unsubstantiated reports return as more serious cases of child abuse or neglect;

(viii) the incidence and prevalence of physical, sexual, and emotional abuse and physical and emotional neglect in substitute care;

(ix) the incidence and prevalence of child maltreatment by a wide array of demographic characteristics such as age, sex, race, family structure, household relationship (including the living arrangement of the resident parent and family size), school enrollment and education attainment, disability, grandparents as caregivers, labor force status, work status in previous year, and income in previous year;

(x) the extent to which reports of suspected or known instances of child abuse or neglect involving a potential combination of jurisdictions, such as intrastate, interstate, Federal-State, and State-Tribal, are being screened out solely on the basis of the cross-jurisdictional complications; and

(xi) the incidence and outcomes of child abuse and neglect allegations reported within the context of divorce, custody, or other family court proceedings, and the interaction between this venue and the child protective services system.

(2) Research

The Secretary shall conduct research on the national incidence of child abuse and neglect, including the information on the national incidence on child abuse and neglect specified in clauses (i) through (xi) of paragraph (1)(O).

(3) Report

Not later than 4 years after December 20, 2010, the Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate a report that contains the results of the research conducted under paragraph (2).

(4) [2] Priorities

(A) In general

The Secretary shall establish research priorities for making grants or contracts for purposes of carrying out paragraph (1).

(B) Public comment

Not later than 1 years [3] after December 20, 2010, and every 2 years thereafter, the Secretary shall provide an opportunity for public comment concerning the priorities proposed under subparagraph (A) and maintain an official record of such public comment.

(4) [2] Study on shaken baby syndrome

The Secretary shall conduct a study that—

(A) identifies data collected on shaken baby syndrome;

(B) determines the feasibility of collecting uniform, accurate data from all States regarding—

(i) incidence rates of shaken baby syndrome;

(ii) characteristics of perpetrators of shaken baby syndrome, including age, gender, relation to victim, access to prevention materials and resources, and history of substance abuse, domestic violence, and mental illness; and

(iii) characteristics of victims of shaken baby syndrome, including gender, date of birth, date of injury, date of death (if applicable), and short- and long-term injuries sustained.

(b) Provision of technical assistance

(1) In general

The Secretary shall provide technical assistance to State and local public and private agencies and community-based organizations, including disability organizations and persons who work with children with disabilities and providers of mental health, substance abuse treatment, and domestic violence prevention services, to assist such agencies and organizations in planning, improving, developing, and carrying out programs and activities, including replicating successful program models, relating to the prevention, assessment, identification, and treatment of child abuse and neglect.

(2) Evaluation

Such technical assistance may include an evaluation or identification of—

(A) various methods and procedures for the investigation, assessment, and prosecution of child physical and sexual abuse cases;

(B) ways to mitigate psychological trauma to the child victim;

(C) effective programs carried out by the States under this subchapter and subchapter III; and

(D) effective approaches being utilized to link child protective service agencies with health care, mental health care, and developmental services to improve forensic diagnosis and health evaluations, and barriers and shortages to such linkages.

(3) Dissemination

The Secretary may provide for and disseminate information relating to various training resources available at the State and local level to—

(A) individuals who are engaged, or who intend to engage, in the prevention, identification, and treatment of child abuse and neglect; and

(B) appropriate State and local officials to assist in training law enforcement, legal, judicial, medical, mental health, education, child welfare, substance abuse, and domestic violence services personnel in appropriate methods of interacting during investigative, administrative, and judicial proceedings with children who have been subjected to, or whom the personnel suspect have been subjected to, child abuse or neglect.

(c) Authority to make grants or enter into contracts

(1) In general

The functions of the Secretary under this section may be carried out either directly or through grant or contract.

(2) Duration

Grants under this section shall be made for periods of not more than 5 years.

(3) Preference for long-term studies

In making grants for purposes of conducting research under subsection (a), the Secretary shall give special consideration to applications for long-term projects.

(d) Peer review for grants

(1) Establishment of peer review process

(A) In general

To enhance the quality and usefulness of research in the field of child abuse and neglect, the Secretary shall, in consultation with experts in the field and other Federal agencies, establish a formal, rigorous, and meritorious peer review process for purposes of evaluating and reviewing applications for assistance through a grant or contract under this section and determining the relative merits of the project for which such assistance is requested.

(B) Members

In establishing the process required by subparagraph (A), the Secretary shall only appoint to the peer review panels members who—

(i) are experts in the field of child abuse and neglect or related disciplines, with appropriate

expertise related to the applications to be reviewed; and

(ii) are not individuals who are officers or employees of the Administration for Children and Families.

(C) Meetings

The peer review panels shall meet as often as is necessary to facilitate the expeditious review of applications for grants and contracts under this section, but shall meet not less often than once a year.

(D) Criteria and guidelines

The Secretary shall ensure that the peer review panel utilizes scientifically valid review criteria and scoring guidelines in the review of the applications for grants and contracts.

(2) Review of applications for assistance

Each peer review panel established under paragraph (1)(A) that reviews any application for a grant shall—

(A) determine and evaluate the merit of each project described in such application;

(B) rank such application with respect to all other applications it reviews in the same priority area for the fiscal year involved, according to the relative merit of all of the projects that are described in such application and for which financial assistance is requested; and

(C) make recommendations to the Secretary concerning whether the application for the project shall be approved.

The Secretary shall award grants under this section on the basis of competitive review.

(3) Notice of approval

(A) Meritorious projects

The Secretary shall provide grants and contracts under this section from among the projects which the peer review panels established under paragraph (1)(A) have determined to have merit.

(B) Explanation

In the instance in which the Secretary approves an application for a program without having approved all applications ranked above such application (as determined under paragraph (2)(B)), the Secretary shall append to the approved application a detailed explanation of the reasons relied on for approving the application and for failing to approve each pending application that is superior in merit, as indicated on the list under paragraph (2)(B).

(e) Demonstration programs and projects

The Secretary may award grants to, and enter into contracts with, entities that are States, Indian tribes or tribal organizations, or public or private agencies or organizations (or combinations of such entities) for time-limited, demonstration projects for the following:

(1) Promotion of safe, family-friendly physical environments for visitation and exchange

The Secretary may award grants under this subsection to entities to assist such entities in establishing and operating safe, family-friendly physical environments—

(A) for court-ordered, supervised visitation between children and abusing parents; and

(B) to facilitate the safe exchange of children for visits with noncustodial parents in cases of domestic violence.

(2) Education identification, prevention, and treatment

The Secretary may award grants under this subsection to entities for projects that provide educational identification, prevention, and treatment services in cooperation with child care and early childhood education and care providers, preschools, and elementary and secondary schools.

(3) Risk and safety assessment tools

The Secretary may award grants under this subsection to entities for projects that provide for the development of research-based strategies for risk and safety assessments relating to child abuse

and neglect.

(4) Training

The Secretary may award grants under this subsection to entities for projects that involve research-based strategies for innovative training for mandated child abuse and neglect reporters.

(Pub. L. 93–247, title I, §104, formerly §6, Jan. 31, 1974, 88 Stat. 7; Pub. L. 95–266, title I, §105, Apr. 24, 1978, 92 Stat. 207; Pub. L. 98–457, title I, §105, Oct. 9, 1984, 98 Stat. 1751; Pub. L. 99–401, title I, §104, Aug. 27, 1986, 100 Stat. 906; Pub. L. 100–294, title I, §101, Apr. 25, 1988, 102 Stat. 106; renumbered title I, §105, and amended Pub. L. 101–126, §3(a)(1), (2), (b)(3), Oct. 25, 1989, 103 Stat. 764, 765; Pub. L. 102–295, title I, §§112, 141(5), May 28, 1992, 106 Stat. 190, 200; renumbered §104 and amended Pub. L. 104–235, title I, §§105, 113(a)(1)(A), Oct. 3, 1996, 110 Stat. 3067, 3079; Pub. L. 108–36, title I, §112, June 25, 2003, 117 Stat. 803; Pub. L. 111–320, title I, §113, Dec. 20, 2010, 124 Stat. 3462.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 104 of Pub. L. 93–247 was renumbered section 103 and is classified to section 5104 of this title.

AMENDMENTS

2010—Subsec. (a)(1). Pub. L. 111–320, §113(a)(1)(A), substituted "from child abuse or neglect and to improve the well-being of victims of child abuse or neglect" for "from abuse or neglect and to improve the well-being of abused or neglected children" in introductory provisions.

Subsec. (a)(1)(B). Pub. L. 111–320, §113(a)(1)(B), substituted "child abuse and neglect on" for "abuse and neglect on".

Subsec. (a)(1)(C) to (N). Pub. L. 111–320, §113(a)(1)(C)–(K), added subpars. (C), (G), (I), and (K) to (M), redesignated subpars. (C), (D), (E), (F), (G), and (H) as (D), (E), (F), (H), (J), and (N), respectively, in subpar. (D), inserted "and neglect" before semicolon at end, in subpar. (E), inserted ", including best practices to meet the needs of special populations," after "best practices" and substituted "(14)" for "(12)", in subpar. (J), substituted "low-income" for "low income", and, in subpar. (N), substituted "clauses (i) through (x) of subparagraph (O)" for "clauses (i) through (xi) of subparagraph (H)". Former subpar. (I) redesignated (O).

Subsec. (a)(1)(O). Pub. L. 111–320, §113(a)(1)(C), (L), redesignated subpar. (I) as (O), in cls. (i) and (ii), inserted "and neglect" after "abuse", in cl. (v), substituted "child abuse and neglect have" for "child abuse have", added cl. (x) and redesignated former cl. (x) as (xi), and, in cl. (xi), substituted "child abuse and neglect" for "abuse".

Subsec. (a)(2). Pub. L. 111–320, §113(a)(2), substituted "clauses (i) through (xi) of paragraph (1)(O)." for "subparagraphs (i) through (ix) of paragraph (1)(I)."

Subsec. (a)(3). Pub. L. 111–320, §113(a)(3), substituted "December 20, 2010" for "June 25, 2003".

Subsec. (a)(4). Pub. L. 111–320, §113(a)(5), added par. (4) relating to study on shaken baby syndrome.

Pub. L. 111–320, §113(a)(4), in par. (4) relating to priorities, inserted subpar. headings and, in subpar. (B), substituted "Not later than 1 years after December 20, 2010" for "Not later than 2 years after June 25, 2003".

Subsec. (b)(1). Pub. L. 111–320, §113(b)(1), inserted "and providers of mental health, substance abuse treatment, and domestic violence prevention services" after "disabilities".

Subsec. (b)(3)(B). Pub. L. 111–320, §113(b)(2), substituted "child welfare, substance abuse, and domestic violence services personnel" for "and child welfare personnel" and "subjected to, or whom the personnel suspect have been subjected to, child abuse or neglect." for "subjected to abuse."

Subsec. (d)(1)(A). Pub. L. 111–320, §113(c)(1)(A), added subpar. (A) and struck out former subpar. (A) which read as follows: "The Secretary shall, in consultation with experts in the field and other federal agencies, establish a formal, rigorous, and meritorious peer review process for purposes of evaluating and reviewing applications for grants under this section and determining the relative merits of the projects for which such assistance is requested. The purpose of this process is to enhance the quality and usefulness of research in the field of child abuse and neglect."

Subsec. (d)(1)(B) to (D). Pub. L. 111–320, §113(c)(1)(B), added subpars. (B) to (D) and struck out former subpar. (B) which read as follows: "In establishing the process required by subparagraph (A), the Secretary shall appoint to the peer review panels only members who are experts in the field of child abuse and neglect or related disciplines, with appropriate expertise in the application to be reviewed, and who are not individuals

who are officers or employees of the Administration on Children and Families. The panels shall meet as often as is necessary to facilitate the expeditious review of applications for grants and contracts under this section, but may not meet less than once a year. The Secretary shall ensure that the peer review panel utilizes scientifically valid review criteria and scoring guidelines for review committees."

Subsec. (d)(3). Pub. L. 111–320, §113(c)(2), inserted subpar. headings.

Subsec. (e). Pub. L. 111–320, §113(d)(1), substituted "entities that are States, Indian tribes or tribal organizations, or" for "States or" and "such entities" for "such agencies or organizations" in introductory provisions.

Subsec. (e)(1)(B). Pub. L. 111–320, §113(d)(2), substituted "facilitate the safe" for "safely facilitate the".

Subsec. (e)(2). Pub. L. 111–320, §113(d)(3), inserted "child care and early childhood education and care providers," after "in cooperation with" and substituted "preschools," for "preschool".

2003—Subsec. (a)(1). Pub. L. 108–36, §112(a)(1)(A), inserted ", including longitudinal research," after "interdisciplinary program of research" in introductory provisions.

Subsec. (a)(1)(B). Pub. L. 108–36, §112(a)(1)(B), inserted before semicolon ", including the effects of abuse and neglect on a child's development and the identification of successful early intervention services or other services that are needed".

Subsec. (a)(1)(C). Pub. L. 108–36, §112(a)(1)(C), substituted "judicial systems, including multidisciplinary, coordinated decisionmaking procedures" for "judicial procedures" and struck out "and" at end.

Subsec. (a)(1)(D). Pub. L. 108–36, §112(a)(1)(F), added subpar. (D). Former subpar. (D) redesignated (I).

Subsec. (a)(1)(D)(ix), (x). Pub. L. 108–36, §112(a)(1)(D), added cl. (ix) and redesignated former cl. (ix) as (x).

Subsec. (a)(1)(E) to (H). Pub. L. 108–36, §112(a)(1)(F), added subpars. (E) to (H).

Subsec. (a)(1)(I). Pub. L. 108–36, §112(a)(1)(E), redesignated subpar. (D) as (I).

Subsec. (a)(2). Pub. L. 108–36, §112(a)(4), added par. (2). Former par. (2) redesignated (4) relating to priorities.

Subsec. (a)(2)(B). Pub. L. 108–36, §112(a)(2), added subpar. (B) and struck out former subpar. (B) which read as follows: "In establishing research priorities as required by subparagraph (A), the Secretary shall—

"(i) publish proposed priorities in the Federal Register for public comment; and

"(ii) allow not less than 60 days for public comment on such proposed priorities."

Subsec. (a)(3). Pub. L. 108–36, §112(a)(4), added par. (3).

Subsec. (a)(4). Pub. L. 108–36, §112(a)(3), redesignated par. (2) as (4) relating to priorities.

Subsec. (b)(1). Pub. L. 108–36, §112(b)(1), substituted "private agencies and community-based" for "nonprofit private agencies and" and inserted ", including replicating successful program models," after "programs and activities".

Subsec. (b)(2)(D). Pub. L. 108–36, §112(b)(2), added subpar. (D).

Subsec. (e). Pub. L. 108–36, §112(c), added subsec. (e).

1996—Pub. L. 104–235, §105(f), struck out "of the National Center on Child Abuse and Neglect" after "activities" in section catchline.

Subsec. (a)(1). Pub. L. 104–235, §105(a)(1)(A), in introductory provisions, substituted ", in consultation with other Federal agencies and recognized experts in the field, carry out a continuing interdisciplinary program of research that is designed to provide information needed to better protect children from abuse or neglect and to improve the well-being of abused or neglected children, with at least a portion of such research being field initiated. Such research program may focus on" for ", through the Center, conduct research on".

Subsec. (a)(1)(A). Pub. L. 104–235, §105(a)(1)(C), added subpar. (A). Former subpar. (A) redesignated (B).

Subsec. (a)(1)(B). Pub. L. 104–235, §105(a)(1)(B), (D), redesignated subpar. (A) as (B) and amended it generally. Prior to amendment, subpar. (B) read as follows: "the causes, prevention, identification,, treatment and cultural distinctions of child abuse and neglect;". Former subpar. (B) redesignated (C).

Subsec. (a)(1)(C). Pub. L. 104–235, §105(a)(1)(B), redesignated subpar. (B) as (C). Former subpar. (C) redesignated (D).

Subsec. (a)(1)(D). Pub. L. 104–235, §105(a)(1)(B), (E), redesignated subpar. (C) as (D), struck out cl. (ii), redesignated cl. (iii) as (ii) and amended it generally, and added cls. (iii) to (ix). Prior to amendment, cls. (ii) and (iii) read as follows:

"(ii) the relationship of child abuse and neglect to nonpayment of child support, cultural diversity, disabilities, and various other factors; and

"(iii) the incidence of substantiated reported child abuse cases that result in civil child protection proceedings or criminal proceedings, including the number of such cases with respect to which the court makes a finding that abuse or neglect exists and the disposition of such cases."

Subsec. (a)(2). Pub. L. 104–235, §105(a)(2), struck out "and demonstration" after "research", substituted "paragraph (1)" for "paragraph (1)(A) and activities under section 5106 of this title" in subpar. (A) and struck out "and demonstration" after "research" in introductory provisions of subpar. (B).

Subsec. (b). Pub. L. 104–235, §105(b), (c), redesignated subsec. (c) as (b)(1), inserted par. heading, struck out ", through the Center," after "Secretary shall", inserted "State and local" before "public and nonprofit" and "assessment," before "identification", added pars. (2) and (3), and struck out heading and text of former subsec. (b) consisting of pars. (1) to (5) which related to publication and dissemination of information.

Subsec. (c). Pub. L. 104–235, §105(d), redesignated subsec. (d) as (c) and in par. (2) struck out at end "The Secretary shall review each such grant at least annually, utilizing peer review mechanisms to assure the quality and progress of research conducted under such grant." Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 104–235, §105(e), redesignated subsec. (e) as (d), in par. (1)(A) substituted ", in consultation with experts in the field and other federal agencies, establish a formal, rigorous, and meritorious" for "establish a formal", struck out "and contracts" after "for grants", and inserted at end "The purpose of this process is to enhance the quality and usefulness of research in the field of child abuse and neglect.", in par. (1)(B) substituted "Administration on Children and Families" for "Office of Human Development" and inserted at end "The Secretary shall ensure that the peer review panel utilizes scientifically valid review criteria and scoring guidelines for review committees.", in par. (2) struck out ", contract, or other financial assistance" after "grant" in introductory provisions and inserted "The Secretary shall award grants under this section on the basis of competitive review." as concluding provisions, and in par. (3)(B) substituted "paragraph (2)(B)" for "subsection (e)(2)(B) of this section" in two places. Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 104–235, §105(e)(1), redesignated subsec. (e) as (d).

1992—Subsec. (a)(1)(A). Pub. L. 102–295, §112(a)(1), substituted ", treatment and cultural distinctions of" for "and treatment of".

Subsec. (a)(1)(B). Pub. L. 102–295, §112(a)(2), substituted "appropriate, effective and culturally sensitive" for "appropriate and effective".

Subsec. (a)(1)(C)(ii). Pub. L. 102–295, §§112(a)(3), 141(5), substituted "child support, cultural diversity, disabilities" for "child support, handicaps".

Subsec. (b)(1). Pub. L. 102–295, §112(b), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "as a part of research activities establish a national data collection and analysis program, which, to the extent practical, coordinates existing State child abuse and neglect reports and which shall include—

"(A) standardized data on false, unfounded, or unsubstantiated reports; and

"(B) information on the number of deaths due to child abuse and neglect;".

Subsec. (c). Pub. L. 102–295, §141(5), substituted "disabilities" for "handicaps".

Subsec. (e)(1)(A). Pub. L. 102–295, §112(c)(1)(A), inserted "and reviewing" after "evaluating".

Subsec. (e)(1)(B). Pub. L. 102–295, §112(c)(1)(B), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "Members of peer review panels shall be appointed by the Secretary from among individuals who are not officers or employees of the Office of Human Development Services. In making appointments to such panels, the Secretary shall include only experts in the field of child abuse and neglect."

Subsec. (e)(2)(A). Pub. L. 102–295, §112(c)(2)(A), inserted "and evaluate" after "determine".

Subsec. (e)(2)(C). Pub. L. 102–295, §112(c)(2)(B), added subpar. (C).

Subsec. (e)(3)(A). Pub. L. 102–295, §112(c)(3), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "At the end of each application process, the Secretary shall make available upon request, no later than 14 days after the request, to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate the list which identifies all applications reviewed by such panel and arranges such applications according to rank determined under paragraph (2) and a list of all applications funded."

1989—Subsecs. (a)(2)(A), (b)(3). Pub. L. 101–126, §3(b)(3), made technical amendments to references to sections 5104, 5106, and 5106c of this title to reflect renumbering of corresponding sections of original act.

1988—Pub. L. 100–294 amended section generally, substituting provisions relating to research and assistance activities of the National Center on Child Abuse and Neglect for provisions relating to Advisory Board on Child Abuse and Neglect. See section 5102 of this title.

1986—Subsec. (a). Pub. L. 99–401, §104(1), inserted after first sentence "The Advisory Board shall meet at least every six months."

Pub. L. 99–401, §104(2), which directed that subsec. (a) be amended by inserting "in order to prevent unnecessary duplication of such programs, to ensure efficient allocation of resources, and to assure that

programs effectively address all aspects of the child abuse problem" after "Board" in second sentence, was executed by inserting provision after "Advisory Board" the first time that term appeared in what constituted the second sentence before a new second sentence was added by section 104(1) of Pub. L. 99–401.

1984—Subsec. (a). Pub. L. 98–457, §105(a), (b), struck out ", including the Office of Child Development, the Department of Education, the National Institute of Education, the National Institute of Mental Health, the National Institute of Child Health and Human Development, the Social and Rehabilitation Service, and the Health Services Administration," before "and not less than three members", and inserted provision that the Advisory Board may be available, at the Secretary's request, to assist the Secretary in coordinating adoption-related activities of the Federal Government.

Subsecs. (b), (c). Pub. L. 98–457, §105(c), redesignated subsec. (c) as (b) and struck out former subsec. (b) which required the Board to review the comprehensive plan submitted to it by the Center pursuant to section 5101(b)(7) of this title, make such changes as it deemed appropriate, and submit to the President and the Congress a final such plan not later than eighteen months after April 24, 1978.

1978—Subsec. (a). Pub. L. 95–266, §105(1), (2), inserted requirement for representation from the general public, and "planned," before "administered" in two places.

Subsec. (b). Pub. L. 95–266, §105(3), substituted provisions relating to review of the plan by the Advisory Board and submission to the President and Congress of a final plan, for provisions relating to a report by the Advisory Board on assisted programs, etc., and submission to the President and Congress.

Subsec. (c). Pub. L. 95–266, §105(3), substituted provisions setting forth compensation and travel expense allowance authorizations for members of the Board, for provisions authorizing use of appropriated funds for required report.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHILD ABUSE AND DISABILITY

Pub. L. 100–294, title I, §102, Apr. 25, 1988, 102 Stat. 118, directed Director of National Center on Child Abuse and Neglect to conduct a study of incidence of child abuse among children with handicaps, including children in out-of-home placements, the relationship between child abuse and children's handicapping conditions, and incidence of children who have developed handicapping conditions as a result of child abuse or neglect, and not later than 2 years after Apr. 25, 1988, to report to appropriate committees of Congress with respect to the study, such report to include information and data gathered, an analysis of such information and data, and recommendations on how to prevent abuse of disabled children.

CHILD ABUSE AND ALCOHOLIC FAMILIES

Pub. L. 100–294, title I, §103, Apr. 25, 1988, 102 Stat. 118, directed Director of National Center on Child Abuse and Neglect to conduct a study of incidence of child abuse in alcoholic families and relationship between child abuse and familial alcoholism, and not later than 2 years after Apr. 25, 1988, to report to appropriate committees of Congress with respect to the study, such report to include information and data gathered, an analysis of such information and data, and recommendations on how to prevent child abuse in alcoholic families.

STUDY OF GUARDIAN-AD-LITEM

Pub. L. 100–294, title I, §104, Apr. 25, 1988, 102 Stat. 118, directed Director of National Center on Child Abuse and Neglect to conduct a study of how individual legal representation of children in cases of child abuse or neglect has been provided in each State, and effectiveness of legal representation of children in cases of abuse or neglect through use of guardian-ad-litem and court appointed special advocates, and not later than 2 years after Apr. 25, 1988, to report to appropriate committees of Congress with respect to the study, such report to include information and data gathered, an analysis of such information and data, and recommendations on how to improve legal representation of children in cases of abuse or neglect.

HIGH RISK STUDY

Pub. L. 100–294, title I, §105, Apr. 25, 1988, 102 Stat. 118, directed the Director of National Center on Child Abuse and Neglect to conduct a study to identify groups which have been historically underserved or unserved by programs relating to child abuse and neglect, and to report incidence of child abuse and neglect among children who are members of such groups, and not later than 2 years after Apr. 25, 1988, to report to appropriate committees of Congress with respect to the study, such report to include information and data gathered, an analysis of such information and data, and recommendations on how to better meet needs of underserved or unserved groups.

[1] *So in original. Probably should refer to clauses (i) through (xi).*

[2] *So in original. There are two pars. designated "(4)".*

[3] *So in original. Probably should be "year".*

§5106. Grants to States, Indian tribes or tribal organizations, and public or private agencies and organizations

(a) Grants for programs and projects

The Secretary may make grants to, and enter into contracts with, entities that are States, Indian tribes or tribal organizations, or public agencies or private agencies or organizations (or combinations of such entities) for programs and projects for the following purposes:

(1) Training programs

The Secretary may award grants to public or private organizations under this subsection—

(A) for the training of professional and paraprofessional personnel in the fields of health care, medicine, law enforcement, judiciary, social work and child protection, education, child care, and other relevant fields, or individuals such as court appointed special advocates (CASAs) and guardian ad litem, who are engaged in, or intend to work in, the field of prevention, identification, and treatment of child abuse and neglect, including the links between domestic violence and child abuse and neglect;

(B) to improve the recruitment, selection, and training of volunteers serving in public and private children, youth, and family service organizations in order to prevent child abuse and neglect;

(C) for the establishment of resource centers for the purpose of providing information and training to professionals working in the field of child abuse and neglect;

(D) for training to enhance linkages among child protective service agencies and health care agencies, entities providing physical and mental health services, community resources, and developmental disability agencies, to improve screening, forensic diagnosis, and health and developmental evaluations, and for partnerships between child protective service agencies and health care agencies that support the coordinated use of existing Federal, State, local, and private funding to meet the health evaluation needs of children who have been subjects of substantiated cases of child abuse or neglect;

(E) for the training of personnel in best practices to meet the unique needs of children with disabilities, including promoting interagency collaboration;

(F) for the training of personnel in best practices to promote collaboration with the families from the initial time of contact during the investigation through treatment;

(G) for the training of personnel regarding the legal duties of such personnel and their responsibilities to protect the legal rights of children and families;

(H) for the training of personnel in childhood development including the unique needs of children under age 3;

(I) for improving the training of supervisory and nonsupervisory child welfare workers;

(J) for enabling State child welfare agencies to coordinate the provision of services with State and local health care agencies, alcohol and drug abuse prevention and treatment agencies, mental health agencies, other public and private welfare agencies, and agencies that provide early intervention services to promote child safety, permanence, and family stability;

(K) for cross training for child protective service workers in research-based strategies for recognizing situations of substance abuse, domestic violence, and neglect;

(L) for developing, implementing, or operating information and education programs or training programs designed to improve the provision of services to infants or toddlers with disabilities with life-threatening conditions for—

(i) professionals and paraprofessional personnel concerned with the welfare of infants or toddlers with disabilities with life-threatening conditions, including personnel employed in child protective services programs and health care facilities; and

(ii) the parents of such infants; and

(M) for the training of personnel in best practices relating to the provision of differential response.

(2) Triage procedures

The Secretary may award grants under this subsection to public and private agencies that demonstrate innovation in responding to reports of child abuse and neglect, including programs of collaborative partnerships between the State child protective services agency, community social service agencies and family support programs, law enforcement agencies, developmental disability agencies, substance abuse treatment entities, health care entities, domestic violence prevention entities, mental health service entities, schools, churches and synagogues, and other community agencies, to allow for the establishment of a triage system that—

(A) accepts, screens, and assesses reports received to determine which such reports require an intensive intervention and which require voluntary referral to another agency, program, or project;

(B) provides, either directly or through referral, a variety of community-linked services to assist families in preventing child abuse and neglect; and

(C) provides further investigation and intensive intervention when the child's safety is in jeopardy.

(3) Mutual support programs

The Secretary may award grants to private organizations to establish or maintain a national network of mutual support, leadership, and self-help programs as a means of strengthening families in partnership with their communities.

(4) Kinship care

The Secretary may award grants to public and private entities to assist such entities in developing or implementing procedures using adult relatives as the preferred placement for children removed from their home, where such relatives are determined to be capable of providing a safe nurturing environment for the child and where such relatives comply with the State child protection standards.

(5) Linkages among child protective service agencies and public health, mental health, substance abuse, developmental disabilities, and domestic violence service agencies

The Secretary may award grants to entities that provide linkages among State or local child protective service agencies and public health, mental health, substance abuse, developmental disabilities, and domestic violence service agencies, and entities that carry out community-based programs, for the purpose of establishing linkages that are designed to ensure that a greater number of substantiated victims of child maltreatment have their physical health, mental health, and developmental needs appropriately diagnosed and treated, in accordance with all applicable Federal and State privacy laws.

(6) Collaborations between child protective service entities and domestic violence service entities

The Secretary may award grants to public or private agencies and organizations under this section to develop or expand effective collaborations between child protective service entities and domestic violence service entities to improve collaborative investigation and intervention procedures, provision for the safety of the nonabusing parent involved and children, and provision of services to children exposed to domestic violence that also support the caregiving role of the non-abusing parent.

(7) Grants to States to improve and coordinate their response to ensure the safety,

permanency, and well-being of infants affected by substance use

(A) Program authorized

The Secretary is authorized to make grants to States for the purpose of assisting child welfare agencies, social services agencies, substance use disorder treatment agencies, hospitals with labor and delivery units, medical staff, public health and mental health agencies, and maternal and child health agencies to facilitate collaboration in developing, updating, implementing, and monitoring plans of safe care described in section 5106a(b)(2)(B)(iii) of this title. Section 5106h(a)(2) of this title shall not apply to the program authorized under this paragraph.

(B) Distribution of funds

(i) Reservations

Of the amounts made available to carry out subparagraph (A), the Secretary shall reserve—

(I) no more than 3 percent for the purposes described in subparagraph (G); and

(II) up to 3 percent for grants to Indian Tribes and tribal organizations to address the needs of infants born with, and identified as being affected by, substance abuse or withdrawal symptoms resulting from prenatal drug exposure or a fetal alcohol spectrum disorder and their families or caregivers, which to the extent practicable, shall be consistent with the uses of funds described under subparagraph (D).

(ii) Allotments to States and territories

The Secretary shall allot the amount made available to carry out subparagraph (A) that remains after application of clause (i) to each State that applies for such a grant, in an amount equal to the sum of—

(I) $500,000; and

(II) an amount that bears the same relationship to any funds made available to carry out subparagraph (A) and remaining after application of clause (i), as the number of live births in the State in the previous calendar year bears to the number of live births in all States in such year.

(iii) Ratable reduction

If the amount made available to carry out subparagraph (A) is insufficient to satisfy the requirements of clause (ii), the Secretary shall ratably reduce each allotment to a State.

(C) Application

A State desiring a grant under this paragraph shall submit an application to the Secretary at such time and in such manner as the Secretary may require. Such application shall include—

(i) a description of—

(I) the impact of substance use disorder in such State, including with respect to the substance or class of substances with the highest incidence of abuse in the previous year in such State, including—

(aa) the prevalence of substance use disorder in such State;

(bb) the aggregate rate of births in the State of infants affected by substance abuse or withdrawal symptoms or a fetal alcohol spectrum disorder (as determined by hospitals, insurance claims, claims submitted to the State Medicaid program, or other records), if available and to the extent practicable; and

(cc) the number of infants identified, for whom a plan of safe care was developed, and for whom a referral was made for appropriate services, as reported under section 5106a(d)(18) of this title;

(II) the challenges the State faces in developing, implementing, and monitoring plans of safe care in accordance with section 5106a(b)(2)(B)(iii) of this title;

(III) the State's lead agency for the grant program and how that agency will coordinate with relevant State entities and programs, including the child welfare agency, the substance use disorder treatment agency, hospitals with labor and delivery units, health care

providers, the public health and mental health agencies, programs funded by the Substance Abuse and Mental Health Services Administration that provide substance use disorder treatment for women, the State Medicaid program, the State agency administering the block grant program under title V of the Social Security Act (42 U.S.C. 701 et seq.), the State agency administering the programs funded under part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.), the maternal, infant, and early childhood home visiting program under section 511 of the Social Security Act (42 U.S.C. 711), the State judicial system, and other agencies, as determined by the Secretary, and Indian Tribes and tribal organizations, as appropriate, to implement the activities under this paragraph;

(IV) how the State will monitor local development and implementation of plans of safe care, in accordance with section 5106a(b)(2)(B)(iii)(II) of this title, including how the State will monitor to ensure plans of safe care address differences between substance use disorder and medically supervised substance use, including for the treatment of a substance use disorder;

(V) if applicable, how the State plans to utilize funding authorized under part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.) to assist in carrying out any plan of safe care, including such funding authorized under section 471(e) of such Act [42 U.S.C. 671(e)] (as in effect on October 1, 2018) for mental health and substance abuse prevention and treatment services and in-home parent skill-based programs and funding authorized under such section 472(j) [42 U.S.C. 672(j)] (as in effect on October 1, 2018) for children with a parent in a licensed residential family-based treatment facility for substance abuse; and

(VI) an assessment of the treatment and other services and programs available in the State to effectively carry out any plan of safe care developed, including identification of needed treatment, and other services and programs to ensure the well-being of young children and their families affected by substance use disorder, such as programs carried out under part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.) and comprehensive early childhood development services and programs such as Head Start programs;

(ii) a description of how the State plans to use funds for activities described in subparagraph (D) for the purposes of ensuring State compliance with requirements under clauses (ii) and (iii) of section 5106a(b)(2)(B) of this title; and

(iii) an assurance that the State will comply with requirements to refer a child identified as substance-exposed to early intervention services as required pursuant to a grant under part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.).

(D) Uses of funds

Funds awarded to a State under this paragraph may be used for the following activities, which may be carried out by the State directly, or through grants or subgrants, contracts, or cooperative agreements:

(i) Improving State and local systems with respect to the development and implementation of plans of safe care, which—

(I) shall include parent and caregiver engagement, as required under section 5106a(b)(2)(B)(iii)(I) of this title, regarding available treatment and service options, which may include resources available for pregnant, perinatal, and postnatal women; and

(II) may include activities such as—

(aa) developing policies, procedures, or protocols for the administration or development of evidence-based and validated screening tools for infants who may be affected by substance use withdrawal symptoms or a fetal alcohol spectrum disorder and pregnant, perinatal, and postnatal women whose infants may be affected by substance use withdrawal symptoms or a fetal alcohol spectrum disorder;

(bb) improving assessments used to determine the needs of the infant and family;

(cc) improving ongoing case management services;

(dd) improving access to treatment services, which may be prior to the pregnant woman's delivery date; and

(ee) keeping families safely together when it is in the best interest of the child.

(ii) Developing policies, procedures, or protocols in consultation and coordination with health professionals, public and private health facilities, and substance use disorder treatment agencies to ensure that—

(I) appropriate notification to child protective services is made in a timely manner, as required under section 5106a(b)(2)(B)(ii) of this title;

(II) a plan of safe care is in place, in accordance with section 5106a(b)(2)(B)(iii) of this title, before the infant is discharged from the birth or health care facility; and

(III) such health and related agency professionals are trained on how to follow such protocols and are aware of the supports that may be provided under a plan of safe care.

(iii) Training health professionals and health system leaders, child welfare workers, substance use disorder treatment agencies, and other related professionals such as home visiting agency staff and law enforcement in relevant topics including—

(I) State mandatory reporting laws established under section 5106a(b)(2)(B)(i) of this title and the referral and process requirements for notification to child protective services when child abuse or neglect reporting is not mandated;

(II) the co-occurrence of pregnancy and substance use disorder, and implications of prenatal exposure;

(III) the clinical guidance about treating substance use disorder in pregnant and postpartum women;

(IV) appropriate screening and interventions for infants affected by substance use disorder, withdrawal symptoms, or a fetal alcohol spectrum disorder and the requirements under section 5106a(b)(2)(B)(iii) of this title; and

(V) appropriate multigenerational strategies to address the mental health needs of the parent and child together.

(iv) Establishing partnerships, agreements, or memoranda of understanding between the lead agency and other entities (including health professionals, health facilities, child welfare professionals, juvenile and family court judges, substance use and mental disorder treatment programs, early childhood education programs, maternal and child health and early intervention professionals (including home visiting providers), peer-to-peer recovery programs such as parent mentoring programs, and housing agencies) to facilitate the implementation of, and compliance with, section 5106a(b)(2) of this title and clause (ii) of this subparagraph, in areas which may include—

(I) developing a comprehensive, multi-disciplinary assessment and intervention process for infants, pregnant women, and their families who are affected by substance use disorder, withdrawal symptoms, or a fetal alcohol spectrum disorder, that includes meaningful engagement with and takes into account the unique needs of each family and addresses differences between medically supervised substance use, including for the treatment of substance use disorder, and substance use disorder;

(II) ensuring that treatment approaches for serving infants, pregnant women, and perinatal and postnatal women whose infants may be affected by substance use, withdrawal symptoms, or a fetal alcohol spectrum disorder, are designed to, where appropriate, keep infants with their mothers during both inpatient and outpatient treatment; and

(III) increasing access to all evidence-based medication-assisted treatment approved by the Food and Drug Administration, behavioral therapy, and counseling services for the treatment of substance use disorders, as appropriate.

(v) Developing and updating systems of technology for improved data collection and monitoring under section 5106a(b)(2)(B)(iii) of this title, including existing electronic medical records, to measure the outcomes achieved through the plans of safe care, including monitoring systems to meet the requirements of this Act and submission of performance measures.

(E) Reporting

Each State that receives funds under this paragraph, for each year such funds are received, shall submit a report to the Secretary, disaggregated by geographic location, economic status, and major racial and ethnic groups, except that such disaggregation shall not be required if the results would reveal personally identifiable information on, with respect to infants identified under section 5106a(b)(2)(B)(ii) of this title—

(i) the number who experienced removal associated with parental substance use;

(ii) the number who experienced removal and subsequently are reunified with parents, and the length of time between such removal and reunification;

(iii) the number who are referred to community providers without a child protection case;

(iv) the number who receive services while in the care of their birth parents;

(v) the number who receive post-reunification services within 1 year after a reunification has occurred; and

(vi) the number who experienced a return to out-of-home care within 1 year after reunification.

(F) Secretary's report to Congress

The Secretary shall submit an annual report to the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate and the Committee on Education and the Workforce and the Committee on Appropriations of the House of Representatives that includes the information described in subparagraph (E) and recommendations or observations on the challenges, successes, and lessons derived from implementation of the grant program.

(G) Assisting States' implementation

The Secretary shall use the amount reserved under subparagraph (B)(i)(I) to provide written guidance and technical assistance to support States in complying with and implementing this paragraph, which shall include—

(i) technical assistance, including programs of in-depth technical assistance, to additional States, territories, and Indian Tribes and tribal organizations in accordance with the substance-exposed infant initiative developed by the National Center on Substance Abuse and Child Welfare;

(ii) guidance on the requirements of this Act with respect to infants born with and identified as being affected by substance use or withdrawal symptoms or fetal alcohol spectrum disorder, as described in clauses (ii) and (iii) of section 5106a(b)(2)(B) of this title, including by—

(I) enhancing States' understanding of requirements and flexibilities under the law, including by clarifying key terms;

(II) addressing state-identified challenges with developing, implementing, and monitoring plans of safe care, including those reported under subparagraph (C)(i)(II);

(III) disseminating best practices on implementation of plans of safe care, on such topics as differential response, collaboration and coordination, and identification and delivery of services for different populations, while recognizing needs of different populations and varying community approaches across States; and

(IV) helping States improve the long-term safety and well-being of young children and their families;

(iii) supporting State efforts to develop information technology systems to manage plans of safe care; and

(iv) preparing the Secretary's report to Congress described in subparagraph (F).

(H) Sunset

The authority under this paragraph shall sunset on September 30, 2023.

(8) Child sexual abuse awareness field-initiated grants

(A) In general

The Secretary may award grants under this subsection to entities, for periods of up to 5 years, in support of field-initiated innovation projects that advance, establish, or implement comprehensive, innovative, evidence-based or evidence-informed child sexual abuse awareness and prevention programs by—

(i) improving student awareness of child sexual abuse in an age-appropriate manner, including how to recognize, prevent, and safely report child sexual abuse;

(ii) training teachers, school employees, and other mandatory reporters and adults who work with children in a professional or volunteer capacity, including with respect to recognizing child sexual abuse and safely reporting child sexual abuse; or

(iii) providing information to parents and guardians of students about child sexual abuse awareness and prevention, including how to prevent, recognize, respond to, and report child sexual abuse and how to discuss child sexual abuse with a child.

(B) Reporting

Each entity receiving a grant under subparagraph (A) shall submit an annual report to the Secretary, for the duration of the grant period, on the projects carried out using such grant, including the number of participants, the services provided, and the outcomes of the projects, including participant evaluations.

(b) Discretionary grants

In addition to grants or contracts made under subsection (a), grants or contracts under this section may be used for the following:

(1) Respite and crisis nursery programs provided by community-based organizations under the direction and supervision of hospitals.

(2) Respite and crisis nursery programs provided by community-based organizations.

(3) Programs based within children's hospitals or other pediatric and adolescent care facilities, that provide model approaches for improving medical diagnosis of child abuse and neglect and for health evaluations of children for whom a report of maltreatment has been substantiated.

(4)(A) Providing hospital-based information and referral services to—

(i) parents of children with disabilities; and

(ii) children who have been victims of child abuse or neglect and their parents.

(B) Except as provided in subparagraph (C)(iii), services provided under a grant received under this paragraph shall be provided at the hospital involved—

(i) upon the birth or admission of a child with disabilities; and

(ii) upon the treatment of a child for child abuse and neglect.

(C) Services, as determined as appropriate by the grantee, provided under a grant received under this paragraph shall be hospital-based and shall consist of—

(i) the provision of notice to parents that information relating to community services is available;

(ii) the provision of appropriate information to parents of a child with disabilities regarding resources in the community, particularly parent training resources, that will assist such parents in caring for their child;

(iii) the provision of appropriate information to parents of a child who has been a victim of

child abuse or neglect regarding resources in the community, particularly parent training resources, that will assist such parents in caring for their child and reduce the possibility of child abuse and neglect;

(iv) the provision of appropriate follow-up services to parents of a child described in subparagraph (B) after the child has left the hospital; and

(v) where necessary, assistance in coordination of community services available to parents of children described in subparagraph (B).

The grantee shall assure that parental involvement described in this subparagraph is voluntary.

(D) For purposes of this paragraph, a qualified grantee is an acute care hospital that—

(i) is in a combination with—

(I) a health-care provider organization;

(II) a child welfare organization;

(III) a disability organization; and

(IV) a State child protection agency;

(ii) submits an application for a grant under this paragraph that is approved by the Secretary;

(iii) maintains an office in the hospital involved for purposes of providing services under such grant;

(iv) provides assurances to the Secretary that in the conduct of the project the confidentiality of medical, social, and personal information concerning any person described in subparagraph (A) or (B) shall be maintained, and shall be disclosed only to qualified persons providing required services described in subparagraph (C) for purposes relating to conduct of the project; and

(v) assumes legal responsibility for carrying out the terms and conditions of the grant.

(E) In awarding grants under this paragraph, the Secretary shall—

(i) give priority under this section for two grants under this paragraph, provided that one grant shall be made to provide services in an urban setting and one grant shall be made to provide services in rural setting; and

(ii) encourage qualified grantees to combine the amounts received under the grant with other funds available to such grantees.

(5) Such other innovative programs and projects that show promise of preventing and treating cases of child abuse and neglect as the Secretary may approve.

(c) Evaluation

In making grants for projects under this section, the Secretary shall require all such projects to be evaluated for their effectiveness. Funding for such evaluations shall be provided either as a stated percentage of a demonstration grant or as a separate grant or contract entered into by the Secretary for the purpose of evaluating a particular demonstration project or group of projects. In the case of an evaluation performed by the recipient of a grant, the Secretary shall make available technical assistance for the evaluation, where needed, including the use of a rigorous application of scientific evaluation techniques.

(Pub. L. 93–247, title I, §105, formerly §7, Jan. 31, 1974, 88 Stat. 8; Pub. L. 98–457, title I, §106, Oct. 9, 1984, 98 Stat. 1751; Pub. L. 100–294, title I, §101, Apr. 25, 1988, 102 Stat. 108; renumbered title I, §106, Pub. L. 101–126, §3(a)(1), (2), Oct. 25, 1989, 103 Stat. 764; Pub. L. 102–295, title I, §§113, 141(1), (2), (5), May 28, 1992, 106 Stat. 191, 199, 200; renumbered §105 and amended Pub. L. 104–235, title I, §§106, 113(a)(1)(A), Oct. 3, 1996, 110 Stat. 3069, 3079; Pub. L. 108–36, title I, §113, June 25, 2003, 117 Stat. 805; Pub. L. 111–320, title I, §114, Dec. 20, 2010, 124 Stat. 3465; Pub. L. 115–271, title VII, §7065(a), Oct. 24, 2018, 132 Stat. 4022; Pub. L. 118–193, §2(a), Dec. 23, 2024, 138 Stat. 2662.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(7)(C)(i)(III), (V), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part E of title IV of the Act is classified generally to part E (§670 et seq.) of subchapter IV of chapter 7 of this title. Title V of the Act is classified generally to subchapter V (§701 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (a)(7)(C)(i)(III), (VI), (iii), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175. Part C of the Act is classified generally to subchapter III (§1431 et seq.) of chapter 33 of Title 20, Education. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

This Act, referred to in subsec. (a)(7)(D)(v), (G)(ii), means Pub. L. 93–247, Jan. 31, 1974, 88 Stat. 4, known as the Child Abuse Prevention and Treatment Act, which is classified principally to subchapters I (§5101 et seq.) and III (§5116 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5101 of this title and Tables.

PRIOR PROVISIONS

A prior section 105 of Pub. L. 93–247 was renumbered section 104 and is classified to section 5105 of this title.

AMENDMENTS

2024—Subsec. (a)(8). Pub. L. 118–193 added par. (8).

2018—Subsec. (a)(7). Pub. L. 115–271 added par. (7).

2010—Pub. L. 111–320, §114(1), substituted "States, Indian tribes or tribal organizations," for "States" in section catchline.

Subsec. (a). Pub. L. 111–320, §114(2)(A), substituted "entities that are States, Indian tribes or tribal organizations, or" for "States," and "such entities" for "such agencies or organizations" in introductory provisions.

Subsec. (a)(1). Pub. L. 111–320, §114(2)(B)(i), substituted "this subsection" for "this section" in introductory provisions.

Subsec. (a)(1)(A). Pub. L. 111–320, §114(2)(B)(ii), inserted "health care," before "medicine,", "child care," before "and other relevant fields,", and "and neglect" before semicolon at end.

Subsec. (a)(1)(B). Pub. L. 111–320, §114(2)(B)(iii), inserted a comma after "youth".

Subsec. (a)(1)(D). Pub. L. 111–320, §114(2)(B)(iv), substituted "enhance linkages among" for "support the enhancement of linkages between", "entities providing physical and mental health services, community resources, and developmental disability agencies, to improve screening, forensic diagnosis, and health and developmental evaluations, and for partnerships" for "including physical and mental health services, to improve forensic diagnosis and health evaluations and for innovative partnerships", and "support the coordinated use of" for "offer creative approaches to using".

Subsec. (a)(1)(E) to (M). Pub. L. 111–320, §114(2)(B)(v) to (xi), added subpars. (E), (H), and (M), redesignated former subpars. (E) to (J) as (F), (G), and (I) to (L), respectively, in subpar. (J), substituted "other public and private welfare agencies, and agencies that provide early intervention services" for "and other public and private welfare agencies", and, in subpar. (L), substituted "infants or toddlers with disabilities" for "disabled infants" in two places.

Subsec. (a)(2)(C). Pub. L. 111–320, §114(2)(C), substituted "when" for "where".

Subsec. (a)(3). Pub. L. 111–320, §114(2)(D), inserted ", leadership," after "mutual support".

Subsec. (a)(4). Pub. L. 111–320, §114(2)(E), (F), struck out subpar. (A) designation and heading "In general" and struck out "in not more than 10 States" after "public and private entities".

Subsec. (a)(5). Pub. L. 111–320, §114(2)(G), in heading, substituted "among" for "between" and "substance abuse, developmental disabilities, and domestic violence service" for "and developmental disabilities" and, in text, substituted "among" for "between", "mental health, substance abuse, developmental disabilities, and domestic violence service agencies, and entities that carry out community-based programs, for" for "mental health, and developmental disabilities agencies, for", and "ensure" for "help assure".

Subsec. (a)(6). Pub. L. 111–320, §114(2)(H), added par. (6).

Subsec. (b)(4)(A)(ii). Pub. L. 111–320, §114(3)(A), substituted "victims of child abuse or neglect" for "neglected or abused".

Subsec. (b)(4)(B)(ii). Pub. L. 111–320, §114(3)(B), substituted "child abuse and neglect" for "abuse or neglect".

Subsec. (b)(4)(C)(iii). Pub. L. 111–320, §114(3)(B), (C), substituted "has been a victim of child abuse or

neglect" for "has been neglected or abused" and "possibility of child abuse and neglect" for "possibility of abuse or neglect".

Subsec. (b)(4)(D). Pub. L. 111–320, §114(3)(D), substituted "grantee is an" for "grantee is a" in introductory provisions.

2003—Pub. L. 108–36, §113(d), substituted "Grants to States and public or private agencies and organizations" for "Grants to public agencies and nonprofit private organizations for demonstration programs and projects" as section catchline.

Subsec. (a). Pub. L. 108–36, §113(a)(2), in introductory provisions, inserted "States," after "contracts with," and struck out "nonprofit" after "private" and "time limited, demonstration" after "organizations) for".

Pub. L. 108–36, §113(a)(1), substituted "Grants for" for "Demonstration" in heading.

Subsec. (a)(1). Pub. L. 108–36, §113(a)(3)(A), struck out "nonprofit" after "public or private" in introductory provisions.

Subsec. (a)(1)(A). Pub. L. 108–36, §113(a)(3)(B), substituted "law enforcement, judiciary, social work and child protection, education, and other relevant fields, or individuals such as court appointed special advocates (CASAs) and guardian ad litem," for "law, education, social work, and other relevant fields".

Subsec. (a)(1)(B). Pub. L. 108–36, §113(a)(3)(C), substituted "children, youth and family service organizations in order to prevent child abuse and neglect;" for "nonprofit children, youth and family service organizations in order to prevent child abuse and neglect through collaborative analysis of current recruitment, selection, and training programs and development of model programs for dissemination and replication nationally; and".

Subsec. (a)(1)(D) to (J). Pub. L. 108–36, §113(a)(3)(D), (E), added subpars. (D) to (J).

Subsec. (a)(2). Pub. L. 108–36, §113(a)(5), added par. (2). Former par. (2) redesignated (3).

Subsec. (a)(3). Pub. L. 108–36, §113(a)(6), substituted "organizations" for "nonprofit organizations (such as Parents Anonymous)".

Pub. L. 108–36, §113(a)(4), redesignated par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (a)(4). Pub. L. 108–36, §113(a)(7), added par. heading and struck out former heading "Other innovative programs and projects", redesignated subpar. (B) as (A), substituted "In general" for "Kinship care" in subpar. heading, and struck out "nonprofit" before "entities" and former subpars. (A) and (C), which related, respectively, to general issues of awarding grants and grants to promote safe, family-friendly physical environments for visitation and exchange.

Pub. L. 108–36, §113(a)(4), redesignated par. (3) as (4).

Subsec. (a)(5). Pub. L. 108–36, §113(a)(8), added par. (5).

Subsec. (b). Pub. L. 108–36, §113(b)(1), substituted "subsection (a)" for "subsection (b)" in introductory provisions.

Subsec. (b)(1) to (3). Pub. L. 108–36, §113(b)(2)–(4), added par. (3), redesignated former pars. (2) and (3) as (1) and (2), respectively, and struck out former par. (1) which read as follows: "Projects which provide educational identification, prevention, and treatment services in cooperation with preschool and elementary and secondary schools."

Subsec. (b)(4)(D). Pub. L. 108–36, §113(b)(5), struck out "nonprofit" before "acute care hospital" in introductory provisions.

Subsec. (c). Pub. L. 108–36, §113(c), struck out "demonstration" before "projects" in first sentence, inserted "or contract" after "or as a separate grant" in second sentence, and inserted at end "In the case of an evaluation performed by the recipient of a grant, the Secretary shall make available technical assistance for the evaluation, where needed, including the use of a rigorous application of scientific evaluation techniques."

1996—Pub. L. 104–235, §106(1), struck out "or service" after "demonstration" in section catchline.

Subsec. (a). Pub. L. 104–235, §106(2), amended heading and text of subsec. (a) generally. Prior to amendment, text consisted of pars. (1) and (2) which related to general authority of Secretary to make grants and enter into contracts for demonstration or service programs and projects and to evaluate the effectiveness of those demonstration projects.

Subsec. (b). Pub. L. 104–235, §106(3), (4), redesignated subsec. (c) as (b) and pars. (3) to (7) thereof as (1) to (5), respectively, struck out former pars. (1) and (2) which related to training programs and other innovative programs, respectively, and struck out heading and text of former subsec. (b). Text read as follows: "The Secretary shall, directly or through grants or contracts with public or private nonprofit organizations under this section, provide for the establishment of resource centers—

"(1) serving defined geographic areas;

"(2) staffed by multidisciplinary teams of personnel trained in the prevention, identification, and treatment of child abuse and neglect; and

"(3) providing advice and consultation to individuals, agencies, and organizations which request such

services."

Subsec. (c). Pub. L. 104–235, §106(6), added subsec. (c). Former subsec. (c) redesignated (b).

1992—Subsec. (a). Pub. L. 102–295, §113(a), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (c)(1)(B). Pub. L. 102–295, §141(5), substituted "disabilities" for "handicaps".

Pub. L. 102–295, §113(b)(1), inserted "culturally specific" before "instruction".

Subsec. (c)(1)(C). Pub. L. 102–295, §113(b)(2), added subpar. (C).

Subsec. (c)(6)(A)(i). Pub. L. 102–295, §141(5), substituted "children with disabilities" for "children with handicaps".

Subsec. (c)(6)(B)(i). Pub. L. 102–295, §141(1), substituted "child with disabilities" for "handicapped child".

Subsec. (c)(6)(C)(ii). Pub. L. 102–295, §141(2), substituted "child with disabilities" for "child with handicaps".

1988—Pub. L. 100–294 amended section generally, substituting provision authorizing grants to public agencies and nonprofit private organizations for demonstration or service programs and projects for provision directing the Secretary to ensure coordination among Federal programs related to child abuse and neglect. See section 5106e of this title.

1984—Pub. L. 98–457 substituted "among programs" for "between programs".

§5106a. Grants to States for child abuse or neglect prevention and treatment programs

(a) Development and operation grants

The Secretary shall make grants to the States, from allotments made under subsection (f) for each State that applies for a grant under this section, for purposes of assisting the States in improving the child protective services system of each such State in—

(1) the intake, assessment, screening, and investigation of reports of child abuse or neglect;

(2)(A) creating and improving the use of multidisciplinary teams and interagency, intra-agency, interstate, and intrastate protocols to enhance investigations; and

(B) improving legal preparation and representation, including—

(i) procedures for appealing and responding to appeals of substantiated reports of child abuse or neglect; and

(ii) provisions for the appointment of an individual appointed to represent a child in judicial proceedings;

(3) case management, including ongoing case monitoring, and delivery of services and treatment provided to children and their families;

(4) enhancing the general child protective system by developing, improving, and implementing risk and safety assessment tools and protocols, including the use of differential response;

(5) developing and updating systems of technology that support the program and track reports of child abuse and neglect from intake through final disposition and allow interstate and intrastate information exchange;

(6) developing, strengthening, and facilitating training including—

(A) training regarding research-based strategies, including the use of differential response, to promote collaboration with the families;

(B) training regarding the legal duties of such individuals;

(C) personal safety training for case workers; and

(D) training in early childhood, child, and adolescent development;

(7) improving the skills, qualifications, and availability of individuals providing services to children and families, and the supervisors of such individuals, through the child protection system, including improvements in the recruitment and retention of caseworkers;

(8) developing, facilitating the use of, and implementing research-based strategies and training protocols for individuals mandated to report child abuse and neglect;

(9) developing, implementing, or operating programs to assist in obtaining or coordinating necessary services for families of disabled infants with life-threatening conditions, including—

(A) existing social and health services;

(B) financial assistance;

(C) services necessary to facilitate adoptive placement of any such infants who have been relinquished for adoption; and

(D) the use of differential response in preventing child abuse and neglect;

(10) developing and delivering information to improve public education relating to the role and responsibilities of the child protection system and the nature and basis for reporting suspected incidents of child abuse and neglect, including the use of differential response;

(11) developing and enhancing the capacity of community-based programs to integrate shared leadership strategies between parents and professionals to prevent and treat child abuse and neglect at the neighborhood level;

(12) supporting and enhancing interagency collaboration between the child protection system and the juvenile justice system for improved delivery of services and treatment, including methods for continuity of treatment plan and services as children transition between systems;

(13) supporting and enhancing interagency collaboration among public health agencies, agencies in the child protective service system, and agencies carrying out private community-based programs—

(A) to provide child abuse and neglect prevention and treatment services (including linkages with education systems), and the use of differential response; and

(B) to address the health needs, including mental health needs, of children identified as victims of child abuse or neglect;,[1] including supporting prompt, comprehensive health and developmental evaluations for children who are the subject of substantiated child maltreatment reports; or

(14) developing and implementing procedures for collaboration among child protective services, domestic violence services, and other agencies in—

(A) investigations, interventions, and the delivery of services and treatment provided to children and families, including the use of differential response, where appropriate; and

(B) the provision of services that assist children exposed to domestic violence, and that also support the caregiving role of their nonabusing parents.

(b) Eligibility requirements

(1) State plan

(A) In general

To be eligible to receive a grant under this section, a State shall submit to the Secretary a State plan that specifies the areas of the child protective services system described in subsection (a) that the State will address with amounts received under the grant.

(B) Duration of plan

Each State plan shall—

(i) remain in effect for the duration of the State's participation under this section; and

(ii) be periodically reviewed and revised as necessary by the State to reflect changes in the State's strategies and programs under this section.

(C) Additional information

The State shall provide notice to the Secretary—

(i) of any substantive changes, including any change to State law or regulations, relating to the prevention of child abuse and neglect that may affect the eligibility of the State under this section; and

(ii) of any significant changes in how funds provided under this section are used to support

activities described in this section, which may differ from the activities described in the current State application.

(2) Contents

A State plan submitted under paragraph (1) shall contain a description of the activities that the State will carry out using amounts received under the grant to achieve the objectives of this subchapter, including—

(A) an assurance that the State plan, to the maximum extent practicable, is coordinated with the State plan under part B of title IV of the Social Security Act [42 U.S.C. 620 et seq.] relating to child welfare services and family preservation and family support services;

(B) an assurance in the form of a certification by the Governor of the State that the State has in effect and is enforcing a State law, or has in effect and is operating a statewide program, relating to child abuse and neglect that includes—

(i) provisions or procedures for an individual to report known and suspected instances of child abuse and neglect, including a State law for mandatory reporting by individuals required to report such instances;

(ii) policies and procedures (including appropriate referrals to child protection service systems and for other appropriate services) to address the needs of infants born with and identified as being affected by substance abuse or withdrawal symptoms resulting from prenatal drug exposure, or a Fetal Alcohol Spectrum Disorder, including a requirement that health care providers involved in the delivery or care of such infants notify the child protective services system of the occurrence of such condition in such infants, except that such notification shall not be construed to—

(I) establish a definition under Federal law of what constitutes child abuse or neglect; or

(II) require prosecution for any illegal action;

(iii) the development of a plan of safe care for the infant born and identified as being affected by substance abuse or withdrawal symptoms, or a Fetal Alcohol Spectrum Disorder to ensure the safety and well-being of such infant following release from the care of health care providers, including through—

(I) addressing the health and substance use disorder treatment needs of the infant and affected family or caregiver; and

(II) the development and implementation by the State of monitoring systems regarding the implementation of such plans to determine whether and in what manner local entities are providing, in accordance with State requirements, referrals to and delivery of appropriate services for the infant and affected family or caregiver;

(iv) procedures for the immediate screening, risk and safety assessment, and prompt investigation of such reports;

(v) triage procedures, including the use of differential response, for the appropriate referral of a child not at risk of imminent harm to a community organization or voluntary preventive service;

(vi) procedures for immediate steps to be taken to ensure and protect the safety of a victim of child abuse or neglect and of any other child under the same care who may also be in danger of child abuse or neglect and ensuring their placement in a safe environment;

(vii) provisions for immunity from civil or criminal liability under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect, or who otherwise provide information or assistance, including medical evaluations or consultations, in connection with a report, investigation, or legal intervention pursuant to a good faith report of child abuse or neglect;

(viii) methods to preserve the confidentiality of all records in order to protect the rights of the child and of the child's parents or guardians, including requirements ensuring that reports and records made and maintained pursuant to the purposes of this subchapter and subchapter III shall only be made available to—

(I) individuals who are the subject of the report;

(II) Federal, State, or local government entities, or any agent of such entities, as described in clause (ix);

(III) child abuse citizen review panels;

(IV) child fatality review panels;

(V) a grand jury or court, upon a finding that information in the record is necessary for the determination of an issue before the court or grand jury; and

(VI) other entities or classes of individuals statutorily authorized by the State to receive such information pursuant to a legitimate State purpose;

(ix) provisions to require a State to disclose confidential information to any Federal, State, or local government entity, or any agent of such entity, that has a need for such information in order to carry out its responsibilities under law to protect children from child abuse and neglect;

(x) provisions which allow for public disclosure of the findings or information about the case of child abuse or neglect which has resulted in a child fatality or near fatality;

(xi) the cooperation of State law enforcement officials, court of competent jurisdiction, and appropriate State agencies providing human services in the investigation, assessment, prosecution, and treatment of child abuse and neglect;

(xii) provisions requiring, and procedures in place that facilitate the prompt expungement of any records that are accessible to the general public or are used for purposes of employment or other background checks in cases determined to be unsubstantiated or false, except that nothing in this section shall prevent State child protective services agencies from keeping information on unsubstantiated reports in their casework files to assist in future risk and safety assessment;

(xiii) provisions and procedures requiring that in every case involving a victim of child abuse or neglect which results in a judicial proceeding, a guardian ad litem, who has received training appropriate to the role, including training in early childhood, child, and adolescent development, and who may be an attorney or a court appointed special advocate who has received training appropriate to that role (or both), shall be appointed to represent the child in such proceedings—

(I) to obtain first-hand, a clear understanding of the situation and needs of the child; and

(II) to make recommendations to the court concerning the best interests of the child;

(xiv) the establishment of citizen review panels in accordance with subsection (c);

(xv) provisions, procedures, and mechanisms—

(I) for the expedited termination of parental rights in the case of any infant determined to be abandoned under State law; and

(II) by which individuals who disagree with an official finding of child abuse or neglect can appeal such finding;

(xvi) provisions, procedures, and mechanisms that assure that the State does not require reunification of a surviving child with a parent who has been found by a court of competent jurisdiction—

(I) to have committed murder (which would have been an offense under section 1111(a) of title 18 if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of such parent;

(II) to have committed voluntary manslaughter (which would have been an offense under section 1112(a) of title 18 if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of such parent;

(III) to have aided or abetted, attempted, conspired, or solicited to commit such murder or voluntary manslaughter;

(IV) to have committed a felony assault that results in the serious bodily injury to the

surviving child or another child of such parent;

(V) to have committed sexual abuse against the surviving child or another child of such parent; or

(VI) to be required to register with a sex offender registry under section 20913(a) of title 34;

(xvii) an assurance that, upon the implementation by the State of the provisions, procedures, and mechanisms under clause (xvi), conviction of any one of the felonies listed in clause (xvi) constitute grounds under State law for the termination of parental rights of the convicted parent as to the surviving children (although case-by-case determinations of whether or not to seek termination of parental rights shall be within the sole discretion of the State);

(xviii) provisions and procedures to require that a representative of the child protective services agency shall, at the initial time of contact with the individual subject to a child abuse or neglect investigation, advise the individual of the complaints or allegations made against the individual, in a manner that is consistent with laws protecting the rights of the informant;

(xix) provisions addressing the training of representatives of the child protective services system regarding the legal duties of the representatives, which may consist of various methods of informing such representatives of such duties, in order to protect the legal rights and safety of children and families from the initial time of contact during investigation through treatment;

(xx) provisions and procedures for improving the training, retention, and supervision of caseworkers;

(xxi) provisions and procedures for referral of a child under the age of 3 who is involved in a substantiated case of child abuse or neglect to early intervention services funded under part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.);

(xxii) provisions and procedures for requiring criminal background record checks that meet the requirements of section 471(a)(20) of the Social Security Act (42 U.S.C. 671(a)(20)) for prospective foster and adoptive parents and other adult relatives and non-relatives residing in the household;

(xxiii) provisions for systems of technology that support the State child protective service system described in subsection (a) and track reports of child abuse and neglect from intake through final disposition;

(xxiv) provisions and procedures requiring identification and assessment of all reports involving children known or suspected to be victims of sex trafficking (as defined in section 7102(10) [2] of title 22); and

(xxv) provisions and procedures for training child protective services workers about identifying, assessing, and providing comprehensive services for children who are sex trafficking victims, including efforts to coordinate with State law enforcement, juvenile justice, and social service agencies such as runaway and homeless youth shelters to serve this population;

(C) an assurance that the State has in place procedures for responding to the reporting of medical neglect (including instances of withholding of medically indicated treatment from infants with disabilities who have life-threatening conditions), procedures or programs, or both (within the State child protective services system), to provide for—

(i) coordination and consultation with individuals designated by and within appropriate health-care facilities;

(ii) prompt notification by individuals designated by and within appropriate health-care facilities of cases of suspected medical neglect (including instances of withholding of medically indicated treatment from infants with disabilities who have life-threatening conditions); and

(iii) authority, under State law, for the State child protective services system to pursue any

legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to prevent the withholding of medically indicated treatment from infants with disabilities who have life-threatening conditions;

(D) a description of—

(i) the services to be provided under the grant to individuals, families, or communities, either directly or through referrals aimed at preventing the occurrence of child abuse and neglect;

(ii) the training to be provided under the grant to support direct line and supervisory personnel in report taking, screening, assessment, decision making, and referral for investigating suspected instances of child abuse and neglect;

(iii) the training to be provided under the grant for individuals who are required to report suspected cases of child abuse and neglect;

(iv) policies and procedures encouraging the appropriate involvement of families in decisionmaking pertaining to children who experienced child abuse or neglect;

(v) policies and procedures that promote and enhance appropriate collaboration among child protective service agencies, domestic violence service agencies, substance abuse treatment agencies, and other agencies in investigations, interventions, and the delivery of services and treatment provided to children and families affected by child abuse or neglect, including children exposed to domestic violence, where appropriate; and

(vi) policies and procedures regarding the use of differential response, as applicable;

(E) an assurance or certification that the programs or projects relating to child abuse and neglect carried out under part B of title IV of the Social Security Act [42 U.S.C. 620 et seq.] comply with the requirements set forth in paragraph (1) and this paragraph;

(F) an assurance or certification that programs and training conducted under this subchapter address the unique needs of unaccompanied homeless youth, including access to enrollment and support services and that such youth are eligible for under parts B and E of title IV of the Social Security Act [42 U.S.C. 620 et seq., 670 et seq.] and meet the requirements of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 et seq.); and

(G) an assurance that the State, in developing the State plan described in paragraph (1), has collaborated with community-based prevention agencies and with families affected by child abuse or neglect.

Nothing in subparagraph (B) shall be construed to limit the State's flexibility to determine State policies relating to public access to court proceedings to determine child abuse and neglect, except that such policies shall, at a minimum, ensure the safety and well-being of the child, parents, and families.

(3) Limitation

With regard to clauses (vi) and (vii) of paragraph (2)(B), nothing in this section shall be construed as restricting the ability of a State to refuse to disclose identifying information concerning the individual initiating a report or complaint alleging suspected instances of child abuse or neglect, except that the State may not refuse such a disclosure where a court orders such disclosure after such court has reviewed, in camera, the record of the State related to the report or complaint and has found it has reason to believe that the reporter knowingly made a false report.

(4) Definitions

For purposes of this subsection—

(A) the term "near fatality" means an act that, as certified by a physician, places the child in serious or critical condition; and

(B) the term "serious bodily injury" means bodily injury which involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(c) Citizen review panels

(1) Establishment

(A) In general

Except as provided in subparagraph (B), each State to which a grant is made under this section shall establish not less than 3 citizen review panels.

(B) Exceptions

(i) Establishment of panels by States receiving minimum allotment

A State that receives the minimum allotment of $175,000 under section 5116b(b)(1)(A) of this title for a fiscal year shall establish not less than 1 citizen review panel.

(ii) Designation of existing entities

A State may designate as panels for purposes of this subsection one or more existing entities established under State or Federal law, such as child fatality panels or foster care review panels, if such entities have the capacity to satisfy the requirements of paragraph (4) and the State ensures that such entities will satisfy such requirements.

(2) Membership

Each panel established pursuant to paragraph (1) shall be composed of volunteer members who are broadly representative of the community in which such panel is established, including members who have expertise in the prevention and treatment of child abuse and neglect, and may include adult former victims of child abuse or neglect.

(3) Meetings

Each panel established pursuant to paragraph (1) shall meet not less than once every 3 months.

(4) Functions

(A) In general

Each panel established pursuant to paragraph (1) shall, by examining the policies, procedures, and practices of State and local agencies and where appropriate, specific cases, evaluate the extent to which State and local child protection system agencies are effectively discharging their child protection responsibilities in accordance with—

(i) the State plan under subsection (b);

(ii) the child protection standards set forth in subsection (b); and

(iii) any other criteria that the panel considers important to ensure the protection of children, including—

(I) a review of the extent to which the State and local child protective services system is coordinated with the foster care and adoption programs established under part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.); and

(II) a review of child fatalities and near fatalities (as defined in subsection (b)(4)).

(B) Confidentiality

(i) In general

The members and staff of a panel established under paragraph (1)—

(I) shall not disclose to any person or government official any identifying information about any specific child protection case with respect to which the panel is provided information; and

(II) shall not make public other information unless authorized by State statute.

(ii) Civil sanctions

Each State that establishes a panel pursuant to paragraph (1) shall establish civil sanctions for a violation of clause (i).

(C) Public outreach

Each panel shall provide for public outreach and comment in order to assess the impact of current procedures and practices upon children and families in the community and in order to meet its obligations under subparagraph (A).

(5) State assistance

Each State that establishes a panel pursuant to paragraph (1)—

(A) shall provide the panel access to information on cases that the panel desires to review if such information is necessary for the panel to carry out its functions under paragraph (4); and

(B) shall provide the panel, upon its request, staff assistance for the performance of the duties of the panel.

(6) Reports

Each panel established under paragraph (1) shall prepare and make available to the State and the public, on an annual basis, a report containing a summary of the activities of the panel and recommendations to improve the child protection services system at the State and local levels. Not later than 6 months after the date on which a report is submitted by the panel to the State, the appropriate State agency shall submit a written response to State and local child protection systems and the citizen review panel that describes whether or how the State will incorporate the recommendations of such panel (where appropriate) to make measurable progress in improving the State and local child protective system.

(d) Annual State data reports

Each State to which a grant is made under this section shall annually work with the Secretary to provide, to the maximum extent practicable, a report that includes the following:

(1) The number of children who were reported to the State during the year as victims of child abuse or neglect.

(2) Of the number of children described in paragraph (1), the number with respect to whom such reports were—

(A) substantiated;

(B) unsubstantiated; or

(C) determined to be false.

(3) Of the number of children described in paragraph (2)—

(A) the number that did not receive services during the year under the State program funded under this section or an equivalent State program;

(B) the number that received services during the year under the State program funded under this section or an equivalent State program; and

(C) the number that were removed from their families during the year by disposition of the case.

(4) The number of families that received preventive services, including use of differential response, from the State during the year.

(5) The number of deaths in the State during the year resulting from child abuse or neglect.

(6) Of the number of children described in paragraph (5), the number of such children who were in foster care.

(7)(A) The number of child protective service personnel responsible for the—

(i) intake of reports filed in the previous year;

(ii) screening of such reports;

(iii) assessment of such reports; and

(iv) investigation of such reports.

(B) The average caseload for the workers described in subparagraph (A).

(8) The agency response time with respect to each such report with respect to initial investigation of reports of child abuse or neglect.

(9) The response time with respect to the provision of services to families and children where an allegation of child abuse or neglect has been made.

(10) For child protective service personnel responsible for intake, screening, assessment, and investigation of child abuse and neglect reports in the State—

(A) information on the education, qualifications, and training requirements established by the State for child protective service professionals, including for entry and advancement in the profession, including advancement to supervisory positions;

(B) data on the education, qualifications, and training of such personnel;

(C) demographic information of the child protective service personnel; and

(D) information on caseload or workload requirements for such personnel, including requirements for average number and maximum number of cases per child protective service worker and supervisor.

(11) The number of children reunited with their families or receiving family preservation services that, within five years, result in subsequent substantiated reports of child abuse or neglect, including the death of the child.

(12) The number of children for whom individuals were appointed by the court to represent the best interests of such children and the average number of out of court contacts between such individuals and children.

(13) The annual report containing the summary of the activities of the citizen review panels of the State required by subsection (c)(6).

(14) The number of children under the care of the State child protection system who are transferred into the custody of the State juvenile justice system.

(15) The number of children referred to a child protective services system under subsection (b)(2)(B)(ii).

(16) The number of children determined to be eligible for referral, and the number of children referred, under subsection (b)(2)(B)(xxi), to agencies providing early intervention services under part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.).

(17) The number of children determined to be victims described in subsection (b)(2)(B)(xxiv).

(18) The number of infants—

(A) identified under subsection (b)(2)(B)(ii);

(B) for whom a plan of safe care was developed under subsection (b)(2)(B)(iii); and

(C) for whom a referral was made for appropriate services, including services for the affected family or caregiver, under subsection (b)(2)(B)(iii).

(e) Annual report by Secretary

Within 6 months after receiving the State reports under subsection (d), the Secretary shall prepare a report based on information provided by the States for the fiscal year under such subsection and shall make the report and such information available to the Congress and the national clearinghouse for information relating to child abuse and neglect.

(f) Allotments

(1) Definitions

In this subsection:

(A) Fiscal year 2009 grant funds

The term "fiscal year 2009 grant funds" means the amount appropriated under section 5106h of this title for fiscal year 2009, and not reserved under section 5106h(a)(2) of this title.

(B) Grant funds

The term "grant funds" means the amount appropriated under section 5106h of this title for a fiscal year and not reserved under section 5106h(a)(2) of this title.

(C) State

The term "State" means each of the several States, the District of Columbia, and the

Commonwealth of Puerto Rico.

(D) Territory

The term "territory" means Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(2) In general

Except as otherwise provided in this section, the Secretary shall make allotments to each State and territory that applies for a grant under this section in an amount equal to the sum of—

(A) $50,000; and

(B) an amount that bears the same relationship to any grant funds remaining after all such States and territories have received $50,000, as the number of children under the age of 18 in the State or territory bears to the number of such children in all States and territories that apply for such a grant.

(3) Allotments for decreased appropriation years

In the case where the grant funds for a fiscal year are less than the fiscal year 2009 grant funds, the Secretary shall ratably reduce each of the allotments under paragraph (2) for such fiscal year.

(4) Allotments for increased appropriation years

(A) Minimum allotments to States for increased appropriations years

In any fiscal year for which the grant funds exceed the fiscal year 2009 grant funds by more than $1,000,000, the Secretary shall adjust the allotments under paragraph (2), as necessary, such that no State that applies for a grant under this section receives an allotment in an amount that is less than—

(i) $100,000, for a fiscal year in which the grant funds exceed the fiscal year 2009 grant funds by more than $1,000,000 but less than $2,000,000;

(ii) $125,000, for a fiscal year in which the grant funds exceed the fiscal year 2009 grant funds by at least $2,000,000 but less than $3,000,000; and

(iii) $150,000, for a fiscal year in which the grant funds exceed the fiscal year 2009 grant funds by at least $3,000,000.

(B) Allotment adjustment

In the case of a fiscal year for which subparagraph (A) applies and the grant funds are insufficient to satisfy the requirements of such subparagraph (A), paragraph (2), and paragraph (5), the Secretary shall, subject to paragraph (5), ratably reduce the allotment of each State for which the allotment under paragraph (2) is an amount that exceeds the applicable minimum under subparagraph (A), as necessary to ensure that each State receives the applicable minimum allotment under subparagraph (A).

(5) Hold harmless

Notwithstanding paragraphs (2) and (4), except as provided in paragraph (3), no State or territory shall receive a grant under this section in an amount that is less than the amount such State or territory received under this section for fiscal year 2009.

(Pub. L. 93–247, title I, §106, formerly §8, as added Pub. L. 100–294, title I, §101, Apr. 25, 1988, 102 Stat. 110; renumbered title I, §107, Pub. L. 101–126, §3(a)(1), (2), Oct. 25, 1989, 103 Stat. 764; amended Pub. L. 102–295, title I, §114(a)–(c), May 28, 1992, 106 Stat. 192, 195; Pub. L. 102–586, §9(b), Nov. 4, 1992, 106 Stat. 5037; renumbered §106 and amended Pub. L. 104–235, title I, §§107, 113(a)(1)(A), Oct. 3, 1996, 110 Stat. 3071, 3079; Pub. L. 108–36, title I, §114(a)–(d), June 25, 2003, 117 Stat. 808–812; Pub. L. 111–320, title I, §115, Dec. 20, 2010, 124 Stat. 3467; Pub. L. 114–22, title VIII, §802(b), May 29, 2015, 129 Stat. 263; Pub. L. 114–198, title V, §503(b), (c), July 22, 2016, 130 Stat. 729, 730; Pub. L. 115–424, §3(a), Jan. 7, 2019, 132 Stat. 5470.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (b)(2)(A), (E), (F) and (c)(4)(A), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Parts B and E of title IV of the Act are classified generally to part B (§620 et seq.) and part E (§670 et seq.), respectively, of subchapter IV of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Individuals with Disabilities Education Act, referred to in subsecs. (b)(2)(B)(xxi) and (d)(16), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175. Part C of the Act is classified generally to subchapter III (§1431 et seq.) of chapter 33 of Title 20, Education. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

Section 7102(10) of title 22, referred to in subsec. (b)(2)(B)(xxiv), was redesignated section 7102(12) of title 22 by Pub. L. 115–427, §2(1), Jan. 9, 2019, 132 Stat. 5503.

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (b)(2)(F), is Pub. L. 100–77, July 22, 1987, 101 Stat. 482, which is classified principally to chapter 119 (§11301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of this title and Tables.

PRIOR PROVISIONS

A prior section 106 of Pub. L. 93–247 was renumbered section 105 and is classified to section 5106 of this title.

AMENDMENTS

2019—Subsec. (b)(2)(B)(vii). Pub. L. 115–424 amended cl. (vii) generally. Prior to amendment, cl. (vii) read as follows: "provisions for immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect;".

2016—Subsec. (b)(2)(B)(ii). Pub. L. 114–198, §503(b)(1), substituted "substance abuse" for "illegal substance abuse" in introductory provisions.

Subsec. (b)(2)(B)(iii). Pub. L. 114–198, §503(b)(2), substituted "substance abuse" for "illegal substance abuse" and inserted before semicolon at end "to ensure the safety and well-being of such infant following release from the care of health care providers, including through—

"(I) addressing the health and substance use disorder treatment needs of the infant and affected family or caregiver; and

"(II) the development and implementation by the State of monitoring systems regarding the implementation of such plans to determine whether and in what manner local entities are providing, in accordance with State requirements, referrals to and delivery of appropriate services for the infant and affected family or caregiver".

Subsec. (d)(17). Pub. L. 114–198, §503(c)(1), added par. (17) relating to the number of infants described in subsec. (b)(2)(B)(ii) and (iii).

Subsec. (d)(18). Pub. L. 114–198, §503(c)(2), redesignated par. (17) relating to the number of infants described in subsec. (b)(2)(B)(ii) and (iii) as (18).

2015—Subsec. (b)(2)(B)(xxiv), (xxv). Pub. L. 114–22, §802(b)(1), added cls. (xxiv) and (xxv).

Subsec. (d)(17). Pub. L. 114–22, §802(b)(2), added par. (17) relating to the number of children determined to be victims described in subsection (b)(2)(B)(xxiv).

2010—Pub. L. 111–320, §115(a), substituted "child abuse or neglect" for "child abuse and neglect" in section catchline.

Subsec. (a). Pub. L. 111–320, §115(b)(1), substituted "from allotments made under subsection (f) for" for "based on the population of children under the age of 18 in" in introductory provisions.

Subsec. (a)(1). Pub. L. 111–320, §115(b)(2), substituted "child abuse or neglect" for "abuse and neglect".

Subsec. (a)(2)(A). Pub. L. 111–320, §115(b)(3)(A), inserted ", intra-agency, interstate, and intrastate" after "interagency".

Subsec. (a)(2)(B)(i). Pub. L. 111–320, §115(b)(3)(B), substituted "child abuse or neglect" for "abuse and neglect".

Subsec. (a)(4). Pub. L. 111–320, §115(b)(4), inserted ", including the use of differential response" after "protocols".

Subsec. (a)(6)(A). Pub. L. 111–320, §115(b)(5)(A), inserted ", including the use of differential response," after "strategies".

Subsec. (a)(6)(B) to (D). Pub. L. 111–320, §115(b)(5)(B)–(D), in subpar. (B), struck out "and" at end, in subpar. (C), substituted "workers; and" for "workers;;", and added subpar. (D).

Subsec. (a)(8), (9). Pub. L. 111–320, §115(b)(6)–(8), added par. (8), redesignated par. (10) as (9) and added subpar. (D), and struck out former pars. (8) and (9) which read as follows:

"(8) developing and facilitating training protocols for individuals mandated to report child abuse or neglect;

"(9) developing and facilitating research-based strategies for training for individuals mandated to report child abuse or neglect;".

Subsec. (a)(10). Pub. L. 111–320, §115(b)(7), (9), redesignated par. (11) as (10) and inserted ", including the use of differential response" before semicolon at end. Former par. (10) redesignated (9).

Subsec. (a)(11). Pub. L. 111–320, §115(b)(7), redesignated par. (12) as (11). Former par. (11) redesignated (10).

Subsec. (a)(12). Pub. L. 111–320, §115(b)(7), (10), redesignated par. (13) as (12) and struck out "or" at end. Former par. (12) redesignated (11).

Subsec. (a)(13). Pub. L. 111–320, §115(b)(7), (11), redesignated par. (14) as (13), substituted "supporting and enhancing interagency collaboration among public health agencies, agencies in the child protective service system, and agencies carrying out private community-based programs—" for "supporting and enhancing collaboration among public health agencies, the child protection system, and private community-based programs", inserted subpar. (A) designation before "to provide" and substituted "systems), and the use of differential response; and" for "systems) and", and inserted subpar. (B) designation before "to address" and substituted "victims of child abuse or neglect;" for "abused or neglected" and "; or" for period at end.

Subsec. (a)(14). Pub. L. 111–320, §115(b)(12), added par. (14). Former par. (14) redesignated (13).

Subsec. (b)(1). Pub. L. 111–320, §115(c)(1), added par. (1) and struck out former par. (1) which related to requirement that a State submit a plan at the time of the initial grant application and every 5 years thereafter and additional requirement to provide notice of substantive changes and significant changes in how funds have been used.

Subsec. (b)(2). Pub. L. 111–320, §115(c)(2)(H), substituted "subparagraph (B)" for "subparagraph (A)" in concluding provisions.

Pub. L. 111–320, §115(c)(2)(B), substituted "Contents" for "Coordination" in heading and, in introductory provisions, substituted "A State plan submitted under paragraph (1) shall contain a description of the activities that the State will carry out using amounts received under the grant to achieve the objectives of this subchapter, including—" for "A State plan submitted under paragraph (1) shall, to the maximum extent practicable, be coordinated with the State plan under part B of title IV of the Social Security Act relating to child welfare services and family preservation and family support services, and shall contain an outline of the activities that the State intends to carry out using amounts received under the grant to achieve the purposes of this subchapter, including—".

Subsec. (b)(2)(A). Pub. L. 111–320, §115(c)(2)(B), added subpar. (A). Former subpar. (A) redesignated (B).

Subsec. (b)(2)(B). Pub. L. 111–320, §115(c)(2)(A), (C)(i), redesignated subpar. (A) as (B) and, in introductory provisions, substituted "Governor" for "chief executive officer" and "statewide" for "Statewide". Former subpar. (B) redesignated (C).

Subsec. (b)(2)(B)(i). Pub. L. 111–320, §115(c)(2)(C)(ii), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: "provisions or procedures for the reporting of known and suspected instances of child abuse and neglect;".

Subsec. (b)(2)(B)(ii). Pub. L. 111–320, §115(c)(2)(C)(iii), in introductory provisions, inserted "with" after "born" and "or a Fetal Alcohol Spectrum Disorder," after "drug exposure" and, in subcl. (I), inserted "or neglect" before semicolon at end.

Subsec. (b)(2)(B)(iii). Pub. L. 111–320, §115(c)(2)(C)(iv), inserted ", or a Fetal Alcohol Spectrum Disorder" before semicolon at end.

Subsec. (b)(2)(B)(v). Pub. L. 111–320, §115(c)(2)(C)(v), inserted ", including the use of differential response," after "procedures".

Subsec. (b)(2)(B)(vi). Pub. L. 111–320, §115(c)(2)(C)(vi), substituted "a victim of child abuse or neglect" for "the abused or neglected child" and "danger of child abuse or neglect" for "danger of abuse or neglect".

Subsec. (b)(2)(B)(ix). Pub. L. 111–320, §115(c)(2)(C)(vii), substituted "child abuse and neglect" for "abuse and neglect".

Subsec. (b)(2)(B)(xi). Pub. L. 111–320, §115(c)(2)(C)(viii), substituted "and neglect" for "or neglect".

Subsec. (b)(2)(B)(xiii). Pub. L. 111–320, §115(c)(2)(C)(ix), in introductory provisions, substituted "a victim of child abuse or neglect" for "an abused or neglected child" and inserted "including training in early childhood, child, and adolescent development," after "to the role,".

Subsec. (b)(2)(B)(xv)(II). Pub. L. 111–320, §115(c)(2)(C)(x), substituted "child abuse or neglect" for "abuse or neglect".

Subsec. (b)(2)(B)(xvi)(V), (VI). Pub. L. 111–320, §115(c)(2)(C)(xii), added subcls. (V) and (VI).

Subsec. (b)(2)(B)(xviii). Pub. L. 111–320, §115(c)(2)(C)(xi), substituted "abuse or" for "abuse and".

Subsec. (b)(2)(B)(xxi). Pub. L. 111–320, §115(c)(2)(C)(xiii), inserted "(20 U.S.C. 1431 et seq.)" after "Individuals with Disabilities Education Act" and struck out "and" at end.

Subsec. (b)(2)(B)(xxii). Pub. L. 111–320, §115(c)(2)(C)(xiv), struck out "not later than 2 years after June 25, 2003," before "provisions" and inserted "that meet the requirements of section 471(a)(20) of the Social Security Act (42 U.S.C. 671(a)(20))" after "checks" and "and" at end.

Subsec. (b)(2)(B)(xxiii). Pub. L. 111–320, §115(c)(2)(C)(xv), added cl. (xxiii).

Subsec. (b)(2)(C). Pub. L. 111–320, §115(c)(2)(A), (D), redesignated subpar. (B) as (C), substituted "infants with disabilities who have" for "disabled infants with" wherever appearing, and in cl. (iii) substituted "life-threatening" for "life threatening". Former subpar. (C) redesignated (D).

Subsec. (b)(2)(D). Pub. L. 111–320, §115(c)(2)(A), (E), redesignated subpar. (C) as (D) and added cls. (iv) to (vi). Former subpar. (D) redesignated (E).

Subsec. (b)(2)(E). Pub. L. 111–320, §115(c)(2)(A), (F)(i), redesignated subpar. (D) as (E) and inserted "(42 U.S.C. 621 et seq.)", which was translated as "[42 U.S.C. 620 et seq.]", after "part B of title IV of the Social Security Act".

Subsec. (b)(2)(F), (G). Pub. L. 111–320, §115(c)(2)(F)(ii), (G), added subpars. (F) and (G).

Subsec. (b)(3). Pub. L. 111–320, §115(c)(3), substituted "paragraph (2)(B)" for "paragraph (2)(A)".

Subsec. (c)(2). Pub. L. 111–320, §115(d)(1), inserted ", and may include adult former victims of child abuse or neglect" before period at end.

Subsec. (c)(4)(A)(iii)(I). Pub. L. 111–320, §115(d)(2), inserted "(42 U.S.C. 670 et seq.)" after "Act".

Subsec. (d)(1). Pub. L. 111–320, §115(e)(1), substituted "as victims of child abuse or neglect" for "as abused or neglected".

Subsec. (d)(4). Pub. L. 111–320, §115(e)(2), inserted ", including use of differential response," after "services".

Subsec. (d)(7). Pub. L. 111–320, §115(e)(3), added par. (7) and struck out former par. (7) which read as follows: "The number of child protective services workers responsible for the intake and screening of reports filed in the previous year."

Subsec. (d)(9). Pub. L. 111–320, §115(e)(4), substituted "child abuse or neglect" for "abuse or neglect".

Subsec. (d)(10). Pub. L. 111–320, §115(e)(5), added par. (10) and struck out former par. (10) which read as follows: "The number of child protective services workers responsible for intake, assessment, and investigation of child abuse and neglect reports relative to the number of reports investigated in the previous year."

Subsec. (d)(11). Pub. L. 111–320, §115(e)(6), substituted "or neglect" for "and neglect".

Subsec. (d)(15), (16). Pub. L. 111–320, §115(e)(7), added pars. (15) and (16).

Subsec. (e). Pub. L. 111–320, §115(f), inserted "and neglect" before period at end.

Subsec. (f). Pub. L. 111–320, §115(g), added subsec. (f).

2003—Subsec. (a)(3). Pub. L. 108–36, §114(a)(1), inserted ", including ongoing case monitoring," after "case management" and "and treatment" after "and delivery of services".

Subsec. (a)(4). Pub. L. 108–36, §114(a)(2), substituted "developing, improving, and implementing risk and safety assessment tools and protocols" for "improving risk and safety assessment tools and protocols, automation systems that support the program and track reports of child abuse and neglect from intake through final disposition and information referral systems".

Subsec. (a)(5). Pub. L. 108–36, §114(a)(5), added par. (5). Former par. (5) redesignated (6).

Subsec. (a)(6). Pub. L. 108–36, §114(a)(6), substituted "including—" and subpars. (A) to (C) for "opportunities and requirements for individuals overseeing and providing services to children and their families through the child protection system".

Pub. L. 108–36, §114(a)(4), redesignated par. (5) as (6). Former par. (6) redesignated (8).

Subsec. (a)(7). Pub. L. 108–36, §114(a)(3), (7), added par. (7) and struck out former par. (7) which read as follows: "developing, strengthening, and supporting child abuse and neglect prevention, treatment, and research programs in the public and private sectors;".

Subsec. (a)(8). Pub. L. 108–36, §114(a)(4), redesignated par. (6) as (8). Former par. (8) redesignated (9).

Subsec. (a)(9). Pub. L. 108–36, §114(a)(8), added par. (9) and struck out former par. (9) which related to programs to improve the provision of services for disabled infants with life-threatening conditions.

Pub. L. 108–36, §114(a)(4), redesignated par. (8) as (9). Former par. (9) redesignated (12).

Subsec. (a)(10), (11). Pub. L. 108–36, §114(a)(8), added pars. (10) and (11).

Subsec. (a)(12). Pub. L. 108–36, §114(a)(4), (9), redesignated par. (9) as (12) and substituted a semicolon for period at end.

Subsec. (a)(13), (14). Pub. L. 108–36, §114(a)(10), added pars. (13) and (14).

Subsec. (b)(1)(B). Pub. L. 108–36, §114(b)(1)(A), substituted "Secretary—" for "Secretary", "(i) of any

substantive changes; and" for "of any substantive changes", and "under this section; and" for "under this section." and added cl. (ii).

Subsec. (b)(2). Pub. L. 108–36, §114(b)(1)(C), inserted concluding provisions.

Subsec. (b)(2)(A)(ii), (iii). Pub. L. 108–36, §114(b)(1)(B)(ii), added cls. (ii) and (iii). Former cls. (ii) and (iii) redesignated (iv) and (vi), respectively.

Subsec. (b)(2)(A)(iv). Pub. L. 108–36, §114(b)(1)(B)(iii), inserted "risk and" before "safety assessment".

Pub. L. 108–36, §114(b)(1)(B)(i), redesignated cl. (ii) as (iv). Former cl. (iv) redesignated (vii).

Subsec. (b)(2)(A)(v). Pub. L. 108–36, §114(b)(1)(B)(iv), added cl. (v). Former cl. (v) redesignated (viii).

Subsec. (b)(2)(A)(vi), (vii). Pub. L. 108–36, §114(b)(1)(B)(i), redesignated cls. (iii) and (iv) as (vi) and (vii), respectively. Former cls. (vi) and (vii) redesignated (x) and (xi), respectively.

Subsec. (b)(2)(A)(viii). Pub. L. 108–36, §114(b)(1)(B)(i), redesignated cl. (v) as (viii). Former cl. (viii) redesignated (xii).

Subsec. (b)(2)(A)(viii)(II). Pub. L. 108–36, §114(b)(1)(B)(v), substituted ", as described in clause (ix)" for ", having a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect".

Subsec. (b)(2)(A)(ix). Pub. L. 108–36, §114(b)(1)(B)(vi), added cl. (ix). Former cl. (ix) redesignated (xiii).

Subsec. (b)(2)(A)(x) to (xii). Pub. L. 108–36, §114(b)(1)(B)(i), redesignated cls. (vi) to (viii) as (x) to (xii), respectively. Former cls. (x) to (xii) redesignated (xiv) to (xvi), respectively.

Subsec. (b)(2)(A)(xiii). Pub. L. 108–36, §114(b)(1)(B)(vii), inserted "who has received training appropriate to the role, and" after "guardian ad litem," and "who has received training appropriate to that role" after "advocate".

Pub. L. 108–36, §114(b)(1)(B)(i), redesignated cl. (ix) as (xiii). Former cl. (xiii) redesignated (xvii).

Subsec. (b)(2)(A)(xiv). Pub. L. 108–36, §114(b)(1)(B)(i), redesignated cl. (x) as (xiv).

Subsec. (b)(2)(A)(xv). Pub. L. 108–36, §114(b)(1)(B)(viii), struck out "to be effective not later than 2 years after October 3, 1996" before dash at end of introductory provisions.

Pub. L. 108–36, §114(b)(1)(B)(i), redesignated cl. (xi) as (xv).

Subsec. (b)(2)(A)(xvi). Pub. L. 108–36, §114(b)(1)(B)(ix)(I), struck out "to be effective not later than 2 years after October 3, 1996," after "mechanisms" in introductory provisions.

Pub. L. 108–36, §114(b)(1)(B)(i), redesignated cl. (xii) as (xvi).

Subsec. (b)(2)(A)(xvi)(IV). Pub. L. 108–36, §114(b)(1)(B)(ix)(II), struck out "and" at end.

Subsec. (b)(2)(A)(xvii). Pub. L. 108–36, §114(b)(1)(B)(x), substituted "clause (xvi)" for "clause (xii)" in two places.

Pub. L. 108–36, §114(b)(1)(B)(i), redesignated cl. (xiii) as (xvii).

Subsec. (b)(2)(A)(xviii) to (xxii). Pub. L. 108–36, §114(b)(1)(B)(xi), added cls. (xviii) to (xxii).

Subsec. (b)(3). Pub. L. 108–36, §114(b)(2), substituted "With regard to clauses (vi) and (vii) of paragraph (2)(A)" for "With regard to clauses (v) and (vi) of paragraph (2)(A)".

Subsec. (c)(4)(A). Pub. L. 108–36, §114(c)(1)(A)(i), in introductory provisions, substituted ", procedures, and practices" for "and procedures" and "State and local child protection system agencies" for "the agencies".

Subsec. (c)(4)(A)(iii)(I). Pub. L. 108–36, §114(c)(1)(A)(ii), substituted "State and local" for "State".

Subsec. (c)(4)(C). Pub. L. 108–36, §114(c)(1)(B), added subpar. (C).

Subsec. (c)(6). Pub. L. 108–36, §114(c)(2), substituted "State and the public" for "public" and inserted before period at end "and recommendations to improve the child protection services system at the State and local levels. Not later than 6 months after the date on which a report is submitted by the panel to the State, the appropriate State agency shall submit a written response to State and local child protection systems and the citizen review panel that describes whether or how the State will incorporate the recommendations of such panel (where appropriate) to make measurable progress in improving the State and local child protective system".

Subsec. (d)(13), (14). Pub. L. 108–36, §114(d), added pars. (13) and (14).

1996—Pub. L. 104–235 reenacted section catchline without change and amended text generally, revising and restating subsecs. (a) and (b), substituting provisions relating to citizen review panels for provisions relating to State program plan in subsec. (c), provisions relating to annual State data reports for provisions relating to waivers in subsec. (d), provisions relating to annual report by Secretary for provisions relating to reduction of funds in case of failure to obligate in subsec. (e), and striking out subsecs. (f) and (g) which related to child welfare services and compliance and education grants, respectively.

1992—Subsec. (a). Pub. L. 102–295, §114(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "The Secretary, through the Center, is authorized to make grants to the States for purposes of assisting the States in developing, strengthening, and carrying out child abuse and neglect prevention and treatment programs."

Subsec. (b)(4). Pub. L. 102–586 amended par. (4) generally. Prior to amendment, par. (4) read as follows: "provide for methods to preserve the confidentiality of all records in order to protect the rights of the child and of the child's parents or guardians;".

Subsec. (c). Pub. L. 102–295, §114(b), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 102–295, §114(b)(1), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(1). Pub. L. 102–295, §114(c), which directed the amendment of subsec. (d) by substituting "subsection (a) of this section" for "this subsection" in provisions preceding subparagraph (A), was executed by making the substitution the second place that phrase appeared in introductory provisions of par. (1) of subsec. (d) to reflect the probable intent of Congress.

Subsecs. (e) to (g). Pub. L. 102–295, §114(b)(1), redesignated subsecs. (d) to (f) as (e) to (g), respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–198, title V, §503(c)(2), July 22, 2016, 130 Stat. 730, provided that the amendment made by section 503(c)(2) is effective on May 29, 2017.

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114–22, title VIII, §802(a), May 29, 2015, 129 Stat. 263, provided that: "The amendments to the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.) made by this section [amending this section and section 5106g of this title and provisions set out as a note under section 5101 of this title] shall take effect 2 years after the date of the enactment of this Act [May 29, 2015]."

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–295, title I, §114(d), May 28, 1992, 106 Stat. 195, as amended by Pub. L. 103–171, §9(a), Dec. 2, 1993, 107 Stat. 1994, provided that: "The amendments described in subsections (a) and (b) [amending this section] are made upon the date of the enactment of this Act [May 28, 1992]. Such amendments take effect on October 1 of the first fiscal year for which $40,000,000 or more is made available under subsection (a)(2)(B)(ii) of section 114 of the Child Abuse Prevention and Treatment Act [section 5106h(a)(2)(B)(ii) of this title] (as amended by section 117 of this Act). Prior to such amendments taking effect, section 107(a) of the Child Abuse Prevention and Treatment Act [subsec. (a) of this section], as in effect on the day before the date of the enactment of this Act, continues to be in effect."

[Pub. L. 103–171, §9(b), Dec. 2, 1993, 107 Stat. 1994, provided that: "The amendments made by subsection (a) [amending section 114(d) of Pub. L. 102–295, set out above] take effect on September 30, 1993."]

CONSTRUCTION OF 2016 AMENDMENT

Pub. L. 114–198, title V, §503(e), July 22, 2016, 130 Stat. 731, provided that: "Nothing in this section [enacting section 5108 of this title, amending this section and section 5104 of this title, and enacting provisions set out as a note above], or the amendments made by this section, shall be construed to authorize the Secretary of Health and Human Services or any other officer of the Federal Government to add new requirements to section 106(b) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a(b)), as amended by this section."

REPORT

Pub. L. 108–36, title I, §114(e), June 25, 2003, 117 Stat. 812, required the Secretary of Health and Human Services to prepare and submit to Congress, not later than 2 years after June 25, 2003, a report describing the extent of State implementation of the policies and procedures required under section 5106a(b)(2)(B)(ii) of this title.

CONGRESSIONAL FINDINGS

Pub. L. 102–586, §9(a), Nov. 4, 1992, 106 Stat. 5036, provided that: "The Congress finds that—

"(1) circumstances surrounding the death of a young boy named Adam Mann in New York City prompted a shocking documentary focusing on the inability of child protection services to protect suffering children;

"(2) the documentary described in paragraph (1) showed the serious need for systemic changes in our child welfare protection system;

"(3) thorough, coordinated, and comprehensive investigation will, it is hoped, lead to the prevention of abuse, neglect, or death in the future;

"(4) an undue burden is placed on investigation due to strict Federal and State laws and regulations regarding confidentiality;

"(5) while the Congress recognizes the importance of maintaining the confidentiality of records pertaining to child abuse, neglect, and death, often the purpose of confidentiality laws and regulations are [sic] defeated when they have the effect of protecting those responsible;

"(6) comprehensive and coordinated interagency communication needs to be established, with adequate provisions to protect against the public disclosure of any detrimental information need to be established [sic];

"(7) certain States, including Georgia, North Carolina, California, Missouri, Arizona, Minnesota, Oklahoma, and Oregon, have taken steps to establish by statute interagency, multidisciplinary fatality review teams to fully investigate incidents of death believed to be caused by child abuse or neglect;

"(8) teams such as those described in paragraph (7) should be established in every State, and their scope of review should be expanded to include egregious incidents of child abuse and neglect before the child in question dies; and

"(9) teams such as those described in paragraph (7) will increase the accountability of child protection services."

[1] *So in original.*

[2] *See References in Text note below.*

§5106a–1. Repealed. Pub. L. 103–252, title IV, §401(b)(2), May 18, 1994, 108 Stat. 672

Section, Pub. L. 93–247, title I, §107A, as added Pub. L. 101–226, §21, Dec. 12, 1989, 103 Stat. 1937; amended Pub. L. 102–295, title I, §115(a), May 28, 1992, 106 Stat. 195, related to emergency child abuse prevention services grants.

§5106b. Repealed. Pub. L. 104–235, title I, §108, Oct. 3, 1996, 110 Stat. 3078

Section, Pub. L. 93–247, title I, §108, formerly §9, as added Pub. L. 100–294, title I, §101, Apr. 25, 1988, 102 Stat. 113; renumbered title I, §108, and amended Pub. L. 101–126, §3(a)(1), (2), (b)(4), Oct. 25, 1989, 103 Stat. 764, 765, related to technical assistance to States for child abuse prevention and treatment programs.

§5106c. Grants to States for programs relating to investigation and prosecution of child abuse and neglect cases

(a) Grants to States

The Secretary, in consultation with the Attorney General, is authorized to make grants to the States for the purpose of assisting States in developing, establishing, and operating programs designed to improve—

(1) the assessment and investigation of suspected child abuse and neglect cases, including cases of suspected child sexual abuse and exploitation, in a manner that limits additional trauma to the child and the child's family;

(2) the assessment and investigation of cases of suspected child abuse-related fatalities and suspected child neglect-related fatalities;

(3) the investigation and prosecution of cases of child abuse and neglect, including child sexual abuse and exploitation; and

(4) the assessment and investigation of cases involving children with disabilities or serious health-related problems who are suspected victims of child abuse or neglect.

(b) Eligibility requirements

In order for a State to qualify for assistance under this section, such State shall—

(1) fulfill the requirements of section 5106a(b) of this title;
(2) establish a task force as provided in subsection (c);
(3) fulfill the requirements of subsection (d);
(4) submit annually an application to the Secretary at such time and containing such information and assurances as the Secretary considers necessary, including an assurance that the State will—
(A) make such reports to the Secretary as may reasonably be required; and
(B) maintain and provide access to records relating to activities under subsections (a) and (b); and

(5) submit annually to the Secretary a report on the manner in which assistance received under this program was expended throughout the State, with particular attention focused on the areas described in paragraphs (1) through (3) of subsection (a).

(c) State task forces

(1) General rule

Except as provided in paragraph (2), a State requesting assistance under this section shall establish or designate, and maintain, a State multidisciplinary task force on children's justice (hereinafter referred to as "State task force") composed of professionals with knowledge and experience relating to the criminal justice system and issues of child physical abuse, child neglect, child sexual abuse and exploitation, and child maltreatment related fatalities. The State task force shall include—
(A) individuals representing the law enforcement community;
(B) judges and attorneys involved in both civil and criminal court proceedings related to child abuse and neglect (including individuals involved with the defense as well as the prosecution of such cases);
(C) child advocates, including both attorneys for children and, where such programs are in operation, court appointed special advocates;
(D) health and mental health professionals;
(E) individuals representing child protective service agencies;
(F) individuals experienced in working with children with disabilities;
(G) parents;
(H) representatives of parents' groups;
(I) adult former victims of child abuse or neglect; and
(J) individuals experienced in working with homeless children and youths (as defined in section 11434a of this title).

(2) Existing task force

As determined by the Secretary, a State commission or task force established after January 1, 1983, with substantially comparable membership and functions, may be considered the State task force for purposes of this subsection.

(d) State task force study

Before a State receives assistance under this section, and at three year intervals thereafter, the State task force shall comprehensively—
(1) review and evaluate State investigative, administrative and both civil and criminal judicial handling of cases of child abuse and neglect, including child sexual abuse and exploitation, as well as cases involving suspected child maltreatment related fatalities and cases involving a potential combination of jurisdictions, such as intrastate, interstate, Federal-State, and State-Tribal; and
(2) make policy and training recommendations in each of the categories described in subsection (e).

The task force may make such other comments and recommendations as are considered relevant and useful.

(e) Adoption of State task force recommendations

(1) General rule

Subject to the provisions of paragraph (2), before a State receives assistance under this section, a State shall adopt recommendations of the State task force in each of the following categories—

(A) investigative, administrative, and judicial handling of cases of child abuse and neglect, including child sexual abuse and exploitation, as well as cases involving suspected child maltreatment related fatalities and cases involving a potential combination of jurisdictions, such as intrastate, interstate, Federal-State, and State-Tribal, in a manner which reduces the additional trauma to the child victim and the victim's family and which also ensures procedural fairness to the accused;

(B) experimental, model, and demonstration programs for testing innovative approaches and techniques which may improve the prompt and successful resolution of civil and criminal court proceedings or enhance the effectiveness of judicial and administrative action in child abuse and neglect cases, particularly child sexual abuse and exploitation cases, including the enhancement of performance of court-appointed attorneys and guardians ad litem for children, and which also ensure procedural fairness to the accused; and

(C) reform of State laws, ordinances, regulations, protocols, and procedures to provide comprehensive protection for children, which may include those children involved in reports of child abuse or neglect with a potential combination of jurisdictions, such as intrastate, interstate, Federal-State, and State-Tribal, from child abuse and neglect, including child sexual abuse and exploitation, while ensuring fairness to all affected persons.

(2) Exemption

As determined by the Secretary, a State shall be considered to be in fulfillment of the requirements of this subsection if—

(A) the State adopts an alternative to the recommendations of the State task force, which carries out the purpose of this section, in each of the categories under paragraph (1) for which the State task force's recommendations are not adopted; or

(B) the State is making substantial progress toward adopting recommendations of the State task force or a comparable alternative to such recommendations.

(f) Funds available

For grants under this section, the Secretary shall use the amount authorized by section 20104 of title 34.

(Pub. L. 93–247, title I, §107, formerly §10, as added Pub. L. 100–294, title I, §101, Apr. 25, 1988, 102 Stat. 113; renumbered title I, §109, and amended Pub. L. 101–126, §3(a)(1), (2), (b)(5), Oct. 25, 1989, 103 Stat. 764, 765; Pub. L. 102–295, title I, §116(a), May 28, 1992, 106 Stat. 195; renumbered §107 and amended Pub. L. 104–235, title I, §113(a)(1)(B), (2), Oct. 3, 1996, 110 Stat. 3079; Pub. L. 108–36, title I, §115, June 25, 2003, 117 Stat. 812; Pub. L. 111–320, title I, §116, Dec. 20, 2010, 124 Stat. 3474.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 107 of Pub. L. 93–247 was renumbered section 106 and is classified to section 5106a of this title.

AMENDMENTS

2010—Subsec. (a)(1), (2). Pub. L. 111–320, §116(1)(A), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

"(1) the handling of child abuse and neglect cases, particularly cases of child sexual abuse and exploitation, in a manner which limits additional trauma to the child victim;

"(2) the handling of cases of suspected child abuse or neglect related fatalities;".

Subsec. (a)(3). Pub. L. 111–320, §116(1)(B), substituted "including" for "particularly".

Subsec. (a)(4). Pub. L. 111–320, §116(1)(C), substituted "the assessment and investigation" for "the

handling" and "suspected victims of child abuse" for "victims of abuse".

Subsec. (b)(1). Pub. L. 111–320, §116(2), made technical amendment to reference in original act which appears in text as reference to section 5106a(b) of this title.

Subsec. (c)(1)(I), (J). Pub. L. 111–320, §116(3), added subpars. (I) and (J).

Subsec. (d)(1). Pub. L. 111–320, §116(4), substituted "including" for "particularly" and inserted "intrastate," before "interstate".

Subsec. (e)(1)(A). Pub. L. 111–320, §116(5)(A), substituted "including" for "particularly" and inserted "intrastate," before "interstate,".

Subsec. (e)(1)(B). Pub. L. 111–320, §116(5)(B), inserted a comma after "model" and substituted "improve the prompt and successful resolution of civil and criminal court proceedings or enhance the effectiveness of judicial and administrative action in child abuse and neglect cases, particularly child sexual abuse and exploitation cases, including the enhancement of performance of court-appointed attorneys and guardians ad litem for children" for "improve the rate of successful prosecution or enhance the effectiveness of judicial and administrative action in child abuse cases, particularly child sexual abuse cases".

Subsec. (e)(1)(C). Pub. L. 111–320, §116(5)(C), inserted a comma after "protocols" and ", which may include those children involved in reports of child abuse or neglect with a potential combination of jurisdictions, such as intrastate, interstate, Federal-State, and State-Tribal," after "protection for children" and substituted "from child abuse and neglect" for "from abuse" and "including" for "particularly".

Subsec. (f). Pub. L. 111–320, §116(6), made technical amendment to reference in original act which appears in text as reference to section 20104 of title 34.

2003—Subsec. (a)(4). Pub. L. 108–36 added par. (4).

1996—Subsec. (a). Pub. L. 104–235, §113(a)(2)(A), substituted "The Secretary, in consultation" for "The Secretary, acting through the Center and in consultation" in introductory provisions.

Subsec. (b)(1). Pub. L. 104–235, §113(a)(2)(B), substituted "section" for "sections".

Subsec. (c)(1). Pub. L. 104–235, §113(a)(2)(C), inserted comma after "maintain" in introductory provisions and semicolon at end of subpar. (F).

Subsec. (d)(1). Pub. L. 104–235, §113(a)(2)(D), inserted "and" at end.

1992—Pub. L. 102–295, §116(a)(1), in section catchline inserted "and neglect" after "child abuse".

Subsec. (a). Pub. L. 102–295, §116(a)(2), added pars. (1) to (3) and struck out former pars. (1) and (2) which read as follows:

"(1) the handling of child abuse cases, particularly cases of child sexual abuse, in a manner which limits additional trauma to the child victim; and

"(2) the investigation and prosecution of cases of child abuse, particularly child sexual abuse."

Subsec. (b)(1). Pub. L. 102–295, §116(a)(3)(A), substituted "sections 5106a(b) of this title" for "sections 5106a(b) and 5106a(e) of this title or receive a waiver under section 5106a(c) of this title".

Subsec. (b)(4). Pub. L. 102–295, §116(a)(3)(C), inserted "annually" after "submit".

Subsec. (b)(5). Pub. L. 102–295, §116(a)(3)(B), (D), added par. (5).

Subsec. (c)(1). Pub. L. 102–295, §116(a)(4), in introductory provisions inserted ", and maintain" after "designate" and substituted "child physical abuse, child neglect, child sexual abuse and exploitation, and child maltreatment related fatalities" for "child abuse", in subpar. (B) substituted "judges and attorneys involved in both civil and criminal court proceedings related to child abuse and neglect" for "judicial and legal officers", in subpar. (C) inserted ", including both attorneys for children and, where such programs are in operation, court appointed special advocates", and in subpar. (F) substituted "disabilities" for "handicaps;".

Subsec. (d). Pub. L. 102–295, §116(a)(5), in introductory provisions substituted "and at three year intervals thereafter, the State task force shall comprehensively" for "the State task force shall", in par. (1) substituted "both civil and criminal judicial handling of cases of child abuse and neglect, particularly child sexual abuse and exploitation, as well as cases involving suspected child maltreatment related fatalities and cases involving a potential combination of jurisdictions, such as interstate, Federal-State, and State-Tribal;" for "judicial handling of cases of child abuse, particularly child sexual abuse; and" and in par. (2) inserted "policy and training" before "recommendations".

Subsec. (e)(1)(A). Pub. L. 102–295, §116(a)(6)(A), substituted "child abuse and neglect, particularly child sexual abuse and exploitation, as well as cases involving suspected child maltreatment related fatalities and cases involving a potential combination of jurisdictions, such as interstate, Federal-State, and State-Tribal, in a manner which reduces the additional trauma to the child victim and the victim's family" for "child abuse, particularly child sexual abuse cases, in a manner which reduces the additional trauma to the child victim".

Subsec. (e)(1)(B). Pub. L. 102–295, §116(a)(6)(B), which directed substitution of "improve the prompt and successful resolution of civil and criminal court proceedings or enhance the effectiveness of judicial and administrative action in child abuse and neglect cases, particularly child sexual abuse and exploitation cases,

including the enhancement of performance of court-appointed attorneys and guardians ad litem for children" for "improve the rate" and all that followed through "abuse cases", could not be executed because the phrase "abuse cases" appeared twice. See 2010 Amendment note above.

Subsec. (e)(1)(C). Pub. L. 102–295, §116(a)(6)(C), inserted ", protocols" after "regulations" and "and exploitation" after "sexual abuse".

1989—Subsec. (b)(1). Pub. L. 101–126, §3(b)(5), made technical amendments to references to section 5106a of this title to reflect renumbering of corresponding section of original act.

§5106d. Miscellaneous requirements relating to assistance

(a) Construction of facilities

(1) Restriction on use of funds

Assistance provided under this subchapter and subchapter III may not be used for construction of facilities.

(2) Lease, rental, or repair

The Secretary may authorize the use of funds received under this subchapter and subchapter III—

(A) where adequate facilities are not otherwise available, for the lease or rental of facilities; or

(B) for the repair or minor remodeling or alteration of existing facilities.

(b) Geographical distribution

The Secretary shall establish criteria designed to achieve equitable distribution of assistance under this subchapter and subchapter III among the States, among geographic areas of the Nation, and among rural and urban areas of the Nation. To the extent possible, the Secretary shall ensure that the citizens of each State receive assistance from at least one project under this subchapter and subchapter III.

(c) Limitation

No funds appropriated for any grant or contract pursuant to authorizations made in this subchapter and subchapter III may be used for any purpose other than that for which such funds were authorized to be appropriated.

(d) Sense of Congress

It is the sense of Congress that the Secretary should encourage all States and public and private entities that receive assistance under this subchapter to—

(1) ensure that children and families with limited English proficiency who participate in programs under this subchapter are provided with materials and services through such programs in an appropriate language other than English; and

(2) ensure that individuals with disabilities who participate in programs under this subchapter are provided with materials and services through such programs that are appropriate to their disabilities.

(e) Annual report

A State that receives funds under section 5106a(a) of this title shall annually prepare and submit to the Secretary a report describing the manner in which funds provided under this subchapter and subchapter III, alone or in combination with other Federal funds, were used to address the purposes and achieve the objectives of section 5106a of this title.

(Pub. L. 93–247, title I, §108, formerly §11, as added Pub. L. 100–294, title I, §101, Apr. 25, 1988, 102 Stat. 115; renumbered title I, §110, Pub. L. 101–126, §3(a)(1), (2), Oct. 25, 1989, 103 Stat. 764; renumbered §108 and amended Pub. L. 104–235, title I, §§109, 113(a)(1)(B), Oct. 3, 1996, 110 Stat. 3078, 3079; Pub. L. 108–36, title I, §116, June 25, 2003, 117 Stat. 812; Pub. L. 111–320, title I, §117, Dec. 20, 2010, 124 Stat. 3475.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 108 of Pub. L. 93–247 was classified to section 5106b of this title prior to repeal by Pub. L. 104–235.

AMENDMENTS

2010—Subsec. (d). Pub. L. 111–320 amended subsec. (d) generally. Prior to amendment, text read as follows: "It is the sense of Congress that the Secretary should encourage all States and public and private agencies or organizations that receive assistance under this subchapter to ensure that children and families with limited English proficiency who participate in programs under this subchapter are provided materials and services under such programs in an appropriate language other than English."

2003—Subsecs. (d), (e). Pub. L. 108–36 added subsecs. (d) and (e).

1996—Subsecs. (c), (d). Pub. L. 104–235 redesignated subsec. (d) as (c) and struck out heading and text of former subsec. (c). Text read as follows: "The Secretary, in consultation with the task force and the board, shall ensure that a majority share of assistance under this subchapter and subchapters III and V of this chapter is available for discretionary research and demonstration grants."

§5106e. Coordination of child abuse and neglect programs

The Secretary shall prescribe regulations and make such arrangements as may be necessary or appropriate to ensure that there is effective coordination among programs related to child abuse and neglect under this subchapter and subchapter III and other such programs which are assisted by Federal funds.

(Pub. L. 93–247, title I, §109, formerly §12, as added Pub. L. 100–294, title I, §101, Apr. 25, 1988, 102 Stat. 116; renumbered title I, §111, Pub. L. 101–126, §3(a)(1), (2), Oct. 25, 1989, 103 Stat. 764; renumbered §109, Pub. L. 104–235, title I, §113(a)(1)(B), Oct. 3, 1996, 110 Stat. 3079.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 109 of Pub. L. 93–247 was renumbered section 107 and is classified to section 5106c of this title.

§5106f. Reports

(a) Coordination efforts

Not later than 1 year after December 20, 2010, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on efforts to coordinate the objectives and activities of agencies and organizations that are responsible for programs and activities related to child abuse and neglect. Not later than 3 years after December 20, 2010, the Secretary shall submit to those committees a second report on such efforts during the 3-year period following December 20, 2010. Not later than 5 years after December 20, 2010, the Secretary shall submit to those committees a third report on such efforts during the 5-year period following December 20, 2010.

(b) Effectiveness of State programs and technical assistance

Not later than 2 years after December 20, 2010, and every 2 years thereafter, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report evaluating the effectiveness of programs receiving assistance under section 5106a of this title in achieving the objectives of section 5106a of this title.

(c) Study and report relating to citizen review panels

(1) In general

The Secretary shall conduct a study to determine the effectiveness of citizen review panels, established under section 5106a(c) of this title, in achieving the stated function of such panels under section 5106a(c)(4)(A) of this title of—

(A) examining the policies, procedures, and practices of State and local child protection agencies; and

(B) evaluating the extent to which such State and local child protection agencies are fulfilling their child protection responsibilities, as described in clauses (i) through (iii) of section 5106a(c)(4)(A) of this title.

(2) Content of study

The study described in paragraph (1) shall be completed in a manner suited to the unique design of citizen review panels, including consideration of the variability among the panels within and between States. The study shall include the following:

(A) Data describing the membership, organizational structure, operation, and administration of all citizen review panels and the total number of such panels in each State.

(B) A detailed summary of the extent to which collaboration and information-sharing occurs between citizen review panels and State child protective services agencies or any other entities or State agencies. The summary shall include a description of the outcomes that result from collaboration and information sharing.

(C) Evidence of the adherence and responsiveness to the reporting requirements under section 5106a(c)(6) of this title by citizen review panels and States.

(3) Report

Not later than 2 years after December 20, 2010, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor of the House of Representatives a report that contains the results of the study conducted under paragraph (1).

(d) Study and report relating to immunity from prosecution for professional consultation in suspected and known instances of child abuse and neglect

(1) Study

The Secretary shall complete a study, in consultation with experts in the provision of healthcare, law enforcement, education, and local child welfare administration, that examines how provisions for immunity from prosecution under State and local laws and regulations facilitate and inhibit individuals cooperating, consulting, or assisting in making good faith reports, including mandatory reports, of suspected or known instances of child abuse or neglect.

(2) Report

Not later than 1 year after December 20, 2010, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor of the House of Representatives a report that contains the results of the study conducted under paragraph (1) and any recommendations for statutory or regulatory changes the Secretary determines appropriate. Such report may be submitted electronically.

(Pub. L. 93–247, title I, §110, formerly §13, as added Pub. L. 100–294, title I, §101, Apr. 25, 1988, 102 Stat. 116; renumbered title I, §112, and amended Pub. L. 101–126, §3(a)(1), (2), (b)(6), Oct. 25, 1989, 103 Stat. 764, 765; renumbered §110 and amended Pub. L. 104–235, title I, §113(a)(1)(B), (3), Oct. 3, 1996, 110 Stat. 3079; Pub. L. 108–36, title I, §118, June 25, 2003, 117 Stat. 813; Pub. L. 111–320, title I, §118, Dec. 20, 2010, 124 Stat. 3475.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 110 of Pub. L. 93–247 was renumbered section 108 and is classified to section 5106d of this title.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111–320, §118(a), added subsec. (a) and struck out former subsec. (a) which required the Secretary to submit to the appropriate committees of Congress a biennial report on efforts to coordinate the objectives and activities of agencies and organizations which are responsible for programs and activities related to child abuse and neglect.

Subsec. (b). Pub. L. 111–320, §118(a), added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows: "Not later than two years after the first fiscal year for which funds are obligated under section 10603a of this title, the Secretary shall submit to the appropriate committees of Congress a report evaluating the effectiveness of assisted programs in achieving the objectives of section 5106c of this title."

Subsec. (c). Pub. L. 111–320, §118(b), amended subsec. (c) generally. Prior to amendment, text read as follows:

"(1) STUDY.—The Secretary shall conduct a study by random sample of the effectiveness of the citizen review panels established under section 5106a(c) of this title.

"(2) REPORT.—Not later than 3 years after June 25, 2003, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report that contains the results of the study conducted under paragraph (1)."

Subsec. (d). Pub. L. 111–320, §118(c), added subsec. (d).

2003—Subsec. (c). Pub. L. 108–36 added subsec. (c).

1996—Subsec. (b). Pub. L. 104–235 substituted "effectiveness of assisted programs in achieving the objectives of section 5106c of this title" for "effectiveness of—

"(1) assisted programs in achieving the objectives of section 5106c of this title; and

"(2) the technical assistance provided under section 5106b of this title".

1989—Subsec. (b). Pub. L. 101–126, §3(b)(6), made technical amendments to references to sections 5106b and 5106c of this title to reflect renumbering of corresponding sections of original act.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

§5106f–1. Report concerning voluntary reporting system

Not later than April 30, 1993, and annually thereafter, the Secretary of Health and Human Services, acting through the Director of the National Center on Child Abuse and Neglect, shall prepare and submit to the appropriate committees of Congress a report concerning the measures being taken to assist States in implementing a voluntary reporting system for child abuse and neglect. Such reports shall contain information concerning the extent to which the child abuse and neglect reporting systems developed by the States are coordinated with the automated foster care and adoption reporting system required under section 679 of this title.

(Pub. L. 102–295, title I, §142, May 28, 1992, 106 Stat. 200.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Child Abuse, Domestic Violence, Adoption and Family Services Act of 1992, and not as part of title I of the Child Abuse Prevention and Treatment Act which comprises this subchapter.

§5106g. Definitions

(a) Definitions

For purposes of this subchapter—

(1) the term "Alaska Native" has the meaning given the term "Native" in section 1602 of title 43;

(2) the term "infant or toddler with a disability" has the meaning given the term in section 1432 of title 20;

(3) the term "Native Hawaiian" has the meaning given the term in section 7517 of title 20;

(4) the term "sexual abuse" includes—

(A) the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct for the purpose of producing a visual depiction of such conduct; or

(B) the rape, and in cases of caretaker or inter-familial relationships, statutory rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children; and

(5) the term "withholding of medically indicated treatment" means the failure to respond to the infant's life-threatening conditions by providing treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all such conditions, except that the term does not include the failure to provide treatment (other than appropriate nutrition, hydration, or medication) to an infant when, in the treating physician's or physicians' reasonable medical judgment—

(A) the infant is chronically and irreversibly comatose;

(B) the provision of such treatment would—

(i) merely prolong dying;

(ii) not be effective in ameliorating or correcting all of the infant's life-threatening conditions; or

(iii) otherwise be futile in terms of the survival of the infant; or

(C) the provision of such treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.

(b) Special rule

(1) In general

For purposes of section 3(2) [1] and subsection (a)(4), a child shall be considered a victim of "child abuse and neglect" and of "sexual abuse" if the child is identified, by a State or local agency employee of the State or locality involved, as being a victim of human trafficking.

(2) State option

Notwithstanding the definition of "child" in section 3(1),[1] a State may elect to define that term for purposes of the application of paragraph (1) to section 3(2) [1] and subsection (a)(4) as a person who has not attained the age of 24.

(Pub. L. 93–247, title I, §111, formerly §14, as added Pub. L. 100–294, title I, §101, Apr. 25, 1988, 102 Stat. 116; renumbered title I, §113, and amended Pub. L. 101–126, §3(a)(1), (2), (b)(7), Oct. 25, 1989, 103 Stat. 764, 765; renumbered §111 and amended Pub. L. 104–235, title I, §§110, 113(a)(1)(B), Oct. 3, 1996, 110 Stat. 3078, 3079; Pub. L. 111–320, title I, §§119, 142(b), Dec. 20, 2010, 124 Stat. 3477, 3483; Pub. L. 114–22, title VIII, §802(c)(1), (3), May 29, 2015, 129 Stat. 264; Pub. L. 114–95, title IX, §9215(o), Dec. 10, 2015, 129 Stat. 2170; Pub. L. 117–348, title I, §133, Jan. 5, 2023, 136 Stat. 6221.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 3, referred to in subsec. (b), means section 3 of Pub. L. 93–247, which is set out as a Definitions note under section 5101 of this title.

PRIOR PROVISIONS

A prior section 111 of Pub. L. 93–247 was renumbered section 109 and is classified to section 5106e of this title.

AMENDMENTS

2023—Subsec. (b)(1). Pub. L. 117–348 substituted "a victim of 'child abuse and neglect' and of 'sexual abuse' if the child is identified, by a State or local agency employee of the State or locality involved, as being a victim of human trafficking." for "a victim of 'child abuse and neglect' and of 'sexual abuse' if the child is identified, by a State or local agency employee of the State or locality involved, as being a victim of sex trafficking (as defined in paragraph (10) of section 7102 of title 22) or a victim of severe forms of trafficking in persons described in paragraph (9)(A) of that section."

2015—Pub. L. 114–22, §802(c)(1), designated existing provisions as subsec. (a) and inserted heading and added subsec. (b).

Subsec. (a)(5)(C). Pub. L. 114–22, §802(c)(3), substituted period for semicolon at end.

Par. (3). Pub. L. 114–95 made technical amendment to reference in original act which appears in text as reference to section 7517 of title 20.

2010—Pars. (1), (2). Pub. L. 111–320, §142(b)(1), (2), redesignated pars. (7) and (8) as (1) and (2), respectively, and struck out former pars. (1) and (2) which read as follows:

"(1) the term 'child' means a person who has not attained the lesser of—

"(A) the age of 18; or

"(B) except in the case of sexual abuse, the age specified by the child protection law of the State in which the child resides;

"(2) the term 'child abuse and neglect' means, at a minimum, any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation, or an act or failure to act which presents an imminent risk of serious harm;".

Par. (3). Pub. L. 111–320, §142(b)(1)–(3), redesignated par. (10) as (3), struck out "and" at end, and struck out former par. (3) which read as follows: "the term 'Secretary' means the Secretary of Health and Human Services;".

Par. (4)(B). Pub. L. 111–320, §142(b)(4), inserted "and" after semicolon at end.

Par. (5). Pub. L. 111–320, §142(b)(1), (5), redesignated par. (6) as (5) and struck out former par. (5) which read as follows: "except as provided in section 5106a(f) of this title, the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands,;".

Pub. L. 111–320, §119(1), inserted "except as provided in section 5106a(f) of this title," after "(5)", inserted "and" after "Samoa,", and struck out "and the Trust Territory of the Pacific Islands" after "Northern Mariana Islands,".

Par. (6). Pub. L. 111–320, §142(b)(5), redesignated par. (6) as (5).

Par. (6)(C). Pub. L. 111–320, §119(2), substituted a semicolon for period at end.

Pars. (7) to (11). Pub. L. 111–320, §142(b)(1), (2), redesignated pars. (7), (8), and (10) as (1), (2), and (3), respectively, and struck out pars. (9) and (11) which read as follows:

"(9) the terms 'Indian', 'Indian tribe', and 'tribal organization' have the meanings given the terms in section 450b of title 25;"

"(11) the term 'unaccompanied homeless youth' means an individual who is described in paragraphs (2) and (6) of section 11434a of this title."

Pub. L. 111–320, §119(3), added pars. (7) to (11).

1996—Par. (1). Pub. L. 104–235, §110(1), (2)(A), redesignated par. (3) as (1) and struck out former par. (1) which read as follows: "the term 'board' means the Advisory Board on Child Abuse and Neglect established under section 5102 of this title;".

Par. (2). Pub. L. 104–235, §110(2)(A), (3), redesignated par. (4) as (2) and amended it generally. Prior to amendment, par. (2) read as follows: "the term 'child abuse and neglect' means the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child by a person who is responsible for the child's welfare, under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Secretary;".

Pub. L. 104–235, §110(1) struck out par. (2) which read as follows: "the term 'Center' means the National Center on Child Abuse and Neglect established under section 5101 of this title;".

Par. (3). Pub. L. 104–235, §110(2)(A), redesignated par. (6) as (3). Former par. (3) redesignated (1).

Par. (4). Pub. L. 104–235, §110(2)(A), (4), redesignated par. (7) as (4) and in subpar. (B) inserted ", and in cases of caretaker or inter-familial relationships, statutory rape" after "rape". Former par. (4) redesignated (2).

Par. (5). Pub. L. 104–235, §110(1), (2)(A), redesignated par. (8) as (5) and struck out former par. (5) which read as follows: "the term 'person who is responsible for the child's welfare' includes—

"(A) any employee of a residential facility; and

"(B) any staff person providing out-of-home care;".

Par. (6). Pub. L. 104–235, §110(2)(B), redesignated par. (10) as (6). Former par. (6) redesignated (3).

Pars. (7), (8). Pub. L. 104–235, §110(2)(A), redesignated pars. (7) and (8) as (4) and (5), respectively.

Par. (9). Pub. L. 104–235, §110(1), struck out par. (9) which read as follows: "the term 'task force' means the Inter-Agency Task Force on Child Abuse and Neglect established under section 5103 of this title; and".

Par. (10). Pub. L. 104–235, §110(2)(B), redesignated par. (10) as (6).

1989—Pub. L. 101–126, §3(b)(7)(A), made technical amendment to reference to this subchapter to reflect the insertion of title designations in the original act.

Pars. (1), (2), (9). Pub. L. 101–126, §3(b)(7)(B)–(D), made technical amendments to references to sections 5101, 5102, and 5103 of this title to reflect renumbering of corresponding sections of original act.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of Title 20, Education.

Amendment by Pub. L. 114–22 effective 2 years after May 29, 2015, see section 802(a) of Pub. L. 114–22, set out as a note under section 5106a of this title.

[1] *See References in Text note below.*

§5106h. Authorization of appropriations

(a) In general

(1) General authorization

There are authorized to be appropriated to carry out this subchapter $120,000,000 for fiscal year 2010 and such sums as may be necessary for each of the fiscal years 2011 through 2015.

(2) Discretionary activities

(A) In general

Of the amounts appropriated for a fiscal year under paragraph (1), the Secretary shall make available 30 percent of such amounts to fund discretionary activities under this subchapter.

(B) Demonstration projects

Of the amounts made available for a fiscal year under subparagraph (A), the Secretary shall make available not more than 40 percent of such amounts to carry out section 5105 of this title.

(b) Availability of funds without fiscal year limitation

The Secretary shall ensure that funds appropriated pursuant to authorizations in this subchapter shall remain available until expended for the purposes for which they were appropriated.

(Pub. L. 93–247, title I, §112, formerly §15, as added Pub. L. 100–294, title I, §101, Apr. 25, 1988, 102 Stat. 117; renumbered title I, §114, and amended Pub. L. 101–126, §3(a)(1), (2), (b)(8), Oct. 25, 1989, 103 Stat. 764, 765; Pub. L. 102–295, title I, §117(a), May 28, 1992, 106 Stat. 197; renumbered

§112 and amended Pub. L. 104–235, title I, §§111, 113(a)(1)(B), Oct. 3, 1996, 110 Stat. 3078, 3079; Pub. L. 108–36, title I, §117, June 25, 2003, 117 Stat. 812; Pub. L. 111–320, title I, §120, Dec. 20, 2010, 124 Stat. 3477.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 112 of Pub. L. 93–247 was renumbered section 110 and is classified to section 5106f of this title.

AMENDMENTS

2010—Subsec. (a)(1). Pub. L. 111–320 substituted "2010" for "2004" and "2011 through 2015" for "2005 through 2008".

2003—Subsec. (a)(1). Pub. L. 108–36, §117(a), amended heading and text of par. (1) generally. Prior to amendment, text read as follows: "There are authorized to be appropriated to carry out this subchapter, $100,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2001."

Subsec. (a)(2)(B). Pub. L. 108–36, §117(b), substituted "Secretary shall make" for "Secretary make" and "section 5105" for "section 5106a".

1996—Subsec. (a). Pub. L. 104–235 amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows:

"(1) AUTHORIZATION.—There are authorized to be appropriated to carry out this subchapter, except for section 5106a–1 of this title, $100,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.

"(2) ALLOCATIONS.—

"(A) Of the amounts appropriated under paragraph (1) for a fiscal year, $5,000,000 shall be available for the purpose of making additional grants to the States to carry out the provisions of section 5106a(g) of this title.

"(B) Of the amounts appropriated under paragraph (1) for a fiscal year and available after compliance with subparagraph (A)—

"(i) 331/3 percent shall be available for activities under sections 5104, 5105, and 5106 of this title; and

"(ii) 662/3 percent of such amounts shall be made available in each such fiscal year for activities under sections 5106a and 5106b of this title."

1992—Subsec. (a). Pub. L. 102–295 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "There are authorized to be appropriated for purposes of carrying out this subchapter $48,000,000 for fiscal year 1988, and such sums as may be necessary for fiscal years 1989, 1990, and 1991. Of the funds appropriated for any fiscal year under this section, except as provided in the succeeding sentence (1)(A) $11,000,000 shall be available for activities under sections 5104, 5105, and 5106 of this title, and (B), $9,000,000 shall be available in each fiscal year for activities under sections 5106a(a) and 5106b of this title, giving special consideration to continued funding of child abuse and neglect programs or projects (previously funded by the Department of Health and Human Services) of national or regional scope and demonstrated effectiveness, (2) $5,000,000 shall be available in each such year for grants and contracts under section 5106(a) of this title, for identification, treatment, and prevention of sexual abuse, and (3) $5,000,000 shall be available in each such year for the purpose of making additional grants to the States to carry out the provisions of section 5106a(f) of this title. With respect to any fiscal year in which the total amount appropriated under this section is less than $30,000,000, no less than $20,000,000 of the funds appropriated in such fiscal year shall be available as provided in clause (1) in the preceding sentence and of the remainder, one-half shall be available as provided for in clause (2) and one-half as provided for in clause (3) in the preceding sentence."

1989—Pub. L. 101–126, §3(b)(8), made technical amendments to references to this subchapter and to sections 5104, 5105, 5106, 5106a, and 5106b of this title to reflect the insertion of title designations and renumbering of corresponding sections in original act.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–295, title I, §117(b), May 28, 1992, 106 Stat. 197, provided that: "Paragraph (2) of section

114(a) [42 U.S.C. 5106h(a)(2)], as amended by subsection (a), shall become effective on October 1 of the first fiscal year for which $30,000,000 or more would be available under subsection (a)(2)(B)(ii) of such section 114 (if such subsection were in effect), and until such fiscal year, the second and third sentences of section 114(a) [see 1992 Amendment note above] (as in effect prior to the amendment made by such subsection (a)) shall continue in effect."

§5106i. Rule of construction

(a) In general

Nothing in this subchapter and subchapter III shall be construed—

(1) as establishing a Federal requirement that a parent or legal guardian provide a child any medical service or treatment against the religious beliefs of the parent or legal guardian; and

(2) to require that a State find, or to prohibit a State from finding, child abuse or neglect in cases in which a parent or legal guardian relies solely or partially upon spiritual means rather than medical treatment, in accordance with the religious beliefs of the parent or legal guardian.

(b) State requirement

Notwithstanding subsection (a), a State shall, at a minimum, have in place authority under State law to permit the child protective services system of the State to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, to provide medical care or treatment for a child when such care or treatment is necessary to prevent or remedy serious harm to the child, or to prevent the withholding of medically indicated treatment from children with life threatening conditions. Except with respect to the withholding of medically indicated treatments from disabled infants with life threatening conditions, case by case determinations concerning the exercise of the authority of this subsection shall be within the sole discretion of the State.

(Pub. L. 93–247, title I, §113, formerly §115, as added and renumbered §113, Pub. L. 104–235, title I, §§112, 113(a)(1)(C), Oct. 3, 1996, 110 Stat. 3078, 3079; amended Pub. L. 111–320, title I, §121, Dec. 20, 2010, 124 Stat. 3478.)

EDITORIAL NOTES

AMENDMENTS

2010—Subsec. (a)(2). Pub. L. 111–320 substituted "child abuse or neglect" for "abuse or neglect".

§5107. Discretionary programs; authorization of appropriations

(a)(1) The Secretary of Health and Human Services, either directly, through grants to States and public and private, nonprofit organizations and agencies, or through jointly financed cooperative arrangements with States, public agencies, and other agencies and organizations, is authorized to provide for activities of national significance related to child abuse prevention and treatment and adoption reform, including operation of a national center to collect and disseminate information regarding child abuse and neglect, and operation of a national adoption information exchange system to facilitate the adoptive placement of children.

(2) The Secretary, in carrying out the provisions of this subsection, shall provide for the continued operation of the National Center on Child Abuse and Neglect in accordance with section 5101(a) of this title for each of the fiscal years 1982 and 1983.

(3) If the Secretary determines, in fiscal year 1982 or 1983, to carry out any of the activities described in section 5101(b) of this title, the Secretary shall carry out such activities through the National Center on Child Abuse and Neglect.

(b) There is authorized to be appropriated to carry out this section $12,000,000 for each of the fiscal years 1982 and 1983. Of the amounts appropriated under this subsection for any fiscal year, not less than $2,000,000 shall be available to carry out title II of the Child Abuse Prevention and

Treatment and Adoption Reform Act of 1978 [42 U.S.C. 5111 et seq.].

(Pub. L. 97–35, title VI, §610, Aug. 13, 1981, 95 Stat. 488.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, referred to in subsec. (b), is Pub. L. 95–266, Apr. 24, 1978, 92 Stat. 205. Title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 is classified generally to subchapter II (§5111 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 5101 of this title and Tables.

CODIFICATION

Section was enacted as part of the Omnibus Budget Reconciliation Act of 1981, and not as part of title I of the Child Abuse Prevention and Treatment Act which comprises this subchapter.

§5108. Monitoring and oversight

The Secretary shall conduct monitoring to ensure that each State that receives a grant under section 5106a of this title is in compliance with the requirements of section 5106a(b) of this title, which—

(1) shall—

(A) be in addition to the review of the State plan upon its submission under section 5106a(b)(1)(A) of this title; and

(B) include monitoring of State policies and procedures required under clauses (ii) and (iii) of section 5106a(b)(2)(B) of this title; and

(2) may include—

(A) a comparison of activities carried out by the State to comply with the requirements of section 5106a(b) of this title with the State plan most recently approved under section 629b of this title;

(B) a review of information available on the website of the State relating to its compliance with the requirements of section 5106a(b) of this title;

(C) site visits, as may be necessary to carry out such monitoring; and

(D) a review of information available in the State's Annual Progress and Services Report most recently submitted under section 1357.16 of title 45, Code of Federal Regulations (or successor regulations).

(Pub. L. 93–247, title I, §114, as added Pub. L. 114–198, title V, §503(d)(1), July 22, 2016, 130 Stat. 730.)

SUBCHAPTER II—ADOPTION OPPORTUNITIES

§5111. Congressional findings and declaration of purpose

(a) Findings

Congress finds that—

(1) on the last day of fiscal year 2009, some 424,000 children were living in temporary foster family homes or other foster care settings;

(2) most children in foster care are victims of child abuse or neglect by their biological parents and their entry into foster care brought them the additional trauma of separation from their homes

and often their communities;

(3) on average, children entering foster care have more physical and mental health needs than do children in the general population, and some require intensive services because the children entering foster care—

(A) were born to mothers who did not receive prenatal care;

(B) were born with life-threatening conditions or disabilities;

(C) were born addicted to alcohol or other drugs; or

(D) have HIV/AIDS;

(4) each year, thousands of children in foster care, regardless of their age, the size of the sibling group they are a part of, their racial or ethnic status, their medical condition, or any physical, mental or emotional disability they may have, are in need of placement with permanent, loving, adoptive families;

(5)(A) States have made important strides in increasing the number of children who are placed in permanent homes with adoptive parents and in reducing the length of time children wait for such a placement; and

(B) many thousands of children, however, still remain in institutions or foster homes solely because of legal and other barriers to such a placement;

(6)(A) on the last day of fiscal year 2009, there were 115,000 children waiting for adoption;

(B) children waiting for adoption have had parental rights of all living parents terminated or the children have a permanency goal of adoption;

(C)(i) the average age of children adopted with public child welfare agency involvement during fiscal year 2009 was a little more than 6 years; and

(ii) the average age of children waiting for adoption on the last day of that fiscal year was a little more than 8 years of age and more than 30,000 of those children were 12 years of age or older; and

(D)(i) 25 percent of the children adopted with public child welfare agency involvement during fiscal year 2009 were African-American; and

(ii) 30 percent of the children waiting for adoption on the last day of fiscal year 2009 were African-American;

(7) adoption may be the best alternative for assuring the healthy development of children placed in foster care;

(8) there are qualified persons seeking to adopt such children who are unable to do so because of barriers to their placement and adoption; and

(9) in order both to enhance the stability of and love in the home environments of such children and to avoid wasteful expenditures of public funds, such children—

(A) should not have medically indicated treatment withheld from them; or

(B) be maintained in foster care or institutions when adoption is appropriate and families can be found for such children.

(b) Purpose

It is the purpose of this subchapter to facilitate the elimination of barriers, including geographic barriers, to adoption and to provide permanent and loving home environments for children who would benefit from adoption, particularly older children, minority children, and children with special needs, including disabled infants with life-threatening conditions, by providing a mechanism to—

(1) promote quality standards for adoption services, pre-placement, post-placement, and post-legal adoption counseling, and standards to protect the rights of children in need of adoption;

(2) maintain an Internet-based national adoption information exchange system to—

(A) bring together children who would benefit from adoption and qualified prospective adoptive parents who are seeking such children;

(B) conduct national recruitment efforts in order to reach prospective parents for children awaiting adoption; and

(C) connect placement agencies, prospective adoptive parents, and adoptive parents to resources designed to reduce barriers to adoption, support adoptive families, and ensure

permanency; and

(3) demonstrate expeditious ways to free children for adoption for whom it has been determined that adoption is the appropriate plan.

(Pub. L. 95–266, title II, §201, Apr. 24, 1978, 92 Stat. 208; Pub. L. 98–457, title II, §201, Oct. 9, 1984, 98 Stat. 1755; Pub. L. 102–295, title IV, §401, May 28, 1992, 106 Stat. 211; Pub. L. 104–235, title II, §211, Oct. 3, 1996, 110 Stat. 3090; Pub. L. 108–36, title II, §201, June 25, 2003, 117 Stat. 818; Pub. L. 111–320, title III, §301(a), Dec. 20, 2010, 124 Stat. 3510.)

EDITORIAL NOTES

AMENDMENTS

2010—Subsec. (a). Pub. L. 111–320, §301(a)(1), added subsec. (a) and struck out former subsec. (a) which related to findings on children in institutions or foster homes.

Subsec. (b). Pub. L. 111–320, §301(a)(2)(A), inserted "older children, minority children, and" after "particularly" in introductory provisions.

Subsec. (b)(2). Pub. L. 111–320, §301(a)(2)(B), added par. (2) and struck out former par. (2) which read as follows: "maintain an Internet-based national adoption information exchange system to bring together children who would benefit from adoption and qualified prospective adoptive parents who are seeking such children, and conduct national recruitment efforts in order to reach prospective parents for children awaiting adoption; and".

2003—Subsec. (a)(1) to (3). Pub. L. 108–36, §201(1)(A), added pars. (1) to (3) and struck out former pars. (1) to (3) which read as follows:

"(1) the number of children in substitute care increased by nearly 61 percent between 1986 and 1994, as our Nation's foster care population included more than 452,000 as of June 1994;

"(2) increasingly children entering foster care have complex problems which require intensive services;

"(3) an increasing number of infants are born to mothers who did not receive prenatal care, are born addicted to alcohol and other drugs, and exposed to infection with the etiologic agent for the human immunodeficiency virus, are medically fragile, and technology dependent;".

Subsec. (a)(4). Pub. L. 108–36, §201(1)(A), (D), redesignated par. (5) as (4) and struck out former par. (4) which read as follows: "the welfare of thousands of children in institutions and foster homes and disabled infants with life-threatening conditions may be in serious jeopardy and some such children are in need of placement in permanent, adoptive homes;".

Subsec. (a)(5). Pub. L. 108–36, §201(1)(D), redesignated par. (7) as (5). Former par. (5) redesignated (4).

Subsec. (a)(6). Pub. L. 108–36, §201(1)(B), (D), redesignated par. (8) as (6) and struck out former par. (6) which read as follows: "the majority of such children are of school age, members of sibling groups or disabled;".

Subsec. (a)(7). Pub. L. 108–36, §201(1)(D), redesignated par. (9) as (7). Former par. (7) redesignated (5).

Subsec. (a)(7)(A). Pub. L. 108–36, §201(1)(C), added subpar. (A) and struck out former subpar. (A) which read as follows: "currently, 40,000 children are free for adoption and awaiting placement;".

Subsec. (a)(8) to (10). Pub. L. 108–36, §201(1)(D), redesignated pars. (8) to (10) as (6) to (8), respectively.

Subsec. (b). Pub. L. 108–36, §201(2)(A), inserted ", including geographic barriers," after "barriers" in introductory provisions.

Subsec. (b)(2). Pub. L. 108–36, §201(2)(B), substituted "an Internet-based national" for "a national".

1996—Subsec. (a)(1). Pub. L. 104–235, §211(1)(A), substituted "61 percent between 1986 and 1994" for "50 percent between 1985 and 1990" and "452,000 as of June 1994" for "400,000 children at the end of June, 1990".

Subsec. (a)(5). Pub. L. 104–235, §211(1)(B), substituted "legal" for "local".

Subsec. (a)(7). Pub. L. 104–235, §211(1)(C), amended par. (7) generally. Prior to amendment, par. (7) read as follows: "currently one-half of children free for adoption and awaiting placement are minorities;".

Subsec. (b). Pub. L. 104–235, §211(2), substituted "conditions, by providing a mechanism to—" for "conditions, by—

"(1) promoting model adoption legislation and procedures in the States and territories of the United States in order to eliminate jurisdictional and legal obstacles to adoption; and

"(2) providing a mechanism for the Department of Health and Human Services to—",

redesignated subpars. (A) to (C) of former par. (2) as pars. (1) to (3), respectively, and realigned margins.

1992—Pub. L. 102–295 amended section generally, designating existing provisions as subsecs. (a) and (b), inserting findings relating to the number of children in substitute care, foster care children with complex problems which require intensive services, infants born without prenatal care, addicted to alcohol or other drugs, or exposed to infection with the etiologic agent for human immunodeficiency virus, and percentage of children awaiting adoption who are minorities, inserting as purposes of this subchapter to provide a mechanism to recruit prospective parents for children awaiting adoption and to demonstrate expeditious ways to free children for adoption, and striking out as a purpose to provide a mechanism to coordinate with Federal departments and agencies to provide national adoption and foster care information data-gathering and analysis system.

1984—Pub. L. 98–457, §201(a), (b)(1), in provisions before par. (1), inserted "the welfare of thousands of children in institutions and foster homes and disabled infants with life-threatening conditions may be in serious jeopardy and that some such children are in need of placement in permanent, adoptive homes, that" and substituted "should not have medically indicated treatment withheld from them, nor be maintained in foster care" for "should not be maintained in foster care" and "children with special needs, including disabled infants with life-threatening conditions, by" for "children with special needs by".

Par. (2). Pub. L. 98–457, §201(b)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "providing a mechanism for the Department of Health and Human Services to (A) promote quality standards for adoption services (including pre-placement, post-placement, and post-adoption counseling and standards to protect the rights of children in need of adoption), and (B) provide for a national adoption and foster care information data gathering and analysis system and a national adoption information exchange system to bring together children who would benefit by adoption and qualified prospective adoptive parents who are seeking such children."

STATUTORY NOTES AND RELATED SUBSIDIARIES

STUDY OF INTERJURISDICTIONAL ADOPTION ISSUES

Pub. L. 105–89, title II, §202(c), Nov. 19, 1997, 111 Stat. 2126, provided that the Comptroller General of the United States would study and consider improvement of procedures and policies to facilitate the timely and permanent adoptions of children across State and county jurisdictions, examine various interjurisdictional adoption issues, and report the results of the study and improvement recommendation no later than 1 year after Nov. 19, 1997.

§5112. Repealed. Pub. L. 102–295, title IV, §402, May 28, 1992, 106 Stat. 213

Section, Pub. L. 95–266, title II, §202, Apr. 24, 1978, 92 Stat. 208; Pub. L. 98–457, title II, §202, Oct. 9, 1984, 98 Stat. 1756, related to model adoption legislation and procedures.

§5113. Information and services

(a) In general

The Secretary shall establish in the Department of Health and Human Services an appropriate administrative arrangement to provide a centralized focus for planning and coordinating of all departmental activities affecting adoption and foster care and for carrying out the provisions of this subchapter. The Secretary shall make available such consultant services, on-site technical assistance and personnel, together with appropriate administrative expenses, including salaries and travel costs, as are necessary for carrying out such purposes, including services to facilitate the adoption of older children, minority children, and children with special needs, particularly infants and toddlers with disabilities who have life-threatening conditions, and services to families considering adoption of children with special needs.

(b) Required activities

In connection with carrying out the provisions of this subchapter, the Secretary shall—

(1) conduct (directly or by grant to or contract with public or private agencies or organizations) an education and training program on adoption, and prepare, publish, and disseminate (directly or

by grant to or contract with public or private agencies and organizations) to all interested parties, public and private agencies and organizations (including, but not limited to, hospitals, health care and family planning clinics, and social services agencies), and governmental bodies, information and education and training materials regarding adoption, adoption assistance programs, and post-legal adoption services;

(2) conduct, directly or by grant or contract with public or private organizations, ongoing, extensive recruitment efforts on a national level, including efforts to promote the adoption of older children, minority children, and children with special needs, develop national public awareness efforts to unite children in need of adoption with appropriate adoptive parents, and establish a coordinated referral system of recruited families with appropriate State or regional adoption resources to ensure that families are served in a timely fashion;

(3) notwithstanding any other provision of law, provide (directly or by grant to or contract with public or private agencies or organizations) for (A) the operation of a national adoption information exchange system (including only such information as is necessary to facilitate the adoptive placement of children, utilizing computers and data processing methods to assist in the location of children who would benefit by adoption and in the placement in adoptive homes of children awaiting adoption); and (B) the coordination of such system with similar State and regional systems;

(4) provide (directly or by grant to or contract with public or private agencies or organizations, including adoptive family groups and minority groups) for the provision of technical assistance in the planning, improving, developing, and carrying out of programs and activities relating to adoption, and to promote professional leadership training of minorities in the adoption field;

(5) encourage involvement of corporations and small businesses in supporting adoption as a positive family-strengthening option, including the establishment of adoption benefit programs for employees who adopt children;

(6) support the placement of children in kinship care arrangements, pre-adoptive, or adoptive homes;

(7) increase the effective use of public or private agencies (including community-based and other organizations) by States, or sectarian institutions, for the recruitment of potential adoptive and foster families and to provide assistance in the placement of children for adoption, including assisting in efforts to work with organizations that promote the placement of older children, minority children, and children with special needs;

(8) consult with other appropriate Federal departments and agencies in order to promote maximum coordination of the services and benefits provided under programs carried out by such departments and agencies with those carried out by the Secretary, and provide for the coordination of such aspects of all programs within the Department of Health and Human Services relating to adoption;

(9) maintain (directly or by grant to or contract with public or private agencies or organizations) a National Resource Center for Special Needs Adoption to—

(A) promote professional leadership development of minorities in the adoption field;

(B) provide training and technical assistance to service providers and State agencies to improve professional competency in the field of adoption and the adoption of children with special needs;

(C) facilitate the development of interdisciplinary approaches to meet the needs of children who are waiting for adoption and the needs of adoptive families; and

(D) identify best practices to reduce adoption disruption and termination;

(10) provide (directly or by grant to or contract with States, local government entities, tribal child welfare agencies, public or private licensed child welfare or adoption agencies or adoptive family groups and community-based organizations with experience in working with minority populations) for the provision of programs aimed at increasing the number of minority children (who are in foster care and have the goal of adoption) placed in adoptive families, with a special emphasis on recruitment of minority families—

(A) which may include such activities as—

(i) outreach, public education, or media campaigns to inform the public of the needs and numbers of such children;

(ii) recruitment of prospective adoptive families for such children, including developing and using procedures to notify family and relatives when a child enters the child welfare system;

(iii) expediting, where appropriate, the legal availability of such children;

(iv) expediting, where appropriate, the agency assessment of prospective adoptive families identified for such children;

(v) formation of prospective adoptive family support groups;

(vi) training of personnel of—

(I) public agencies;

(II) private child welfare and adoption agencies that are licensed by the State; and

(III) adoptive parents organizations and community-based organizations with experience in working with minority populations;

(vii) education and training of prospective adoptive or adoptive parents;

(viii) use of volunteers and adoptive parent groups; and

(ix) any other activities determined by the Secretary to further the purposes of this subchapter; and

(B) shall be subject to the condition that such grants or contracts may be renewed if documentation is provided to the Secretary demonstrating that appropriate and sufficient placements of such children have occurred during the previous funding period; and

(11) provide (directly or by grant to or contract with States, local government entities, or public or private licensed child welfare or adoption agencies) for the implementation of programs that are intended to increase the number of older children (who are in foster care and with the goal of adoption) placed in adoptive families, with a special emphasis on child-specific recruitment strategies, including—

(A) outreach, public education, or media campaigns to inform the public of the needs and numbers of older youth available for adoption;

(B) training of personnel in the special needs of older youth and the successful strategies of child-focused, child-specific recruitment efforts; and

(C) recruitment of prospective families for such children.

(c) Services for families adopting special needs children

(1) In general

The Secretary shall provide (directly or by grant to or contract with States, local government entities, public or private licensed child welfare or adoption agencies or adoptive family groups) for the provision of post legal adoption services for families who have adopted special needs children.

(2) Services

Services provided under grants made under this subsection shall supplement, not supplant, services from any other funds available for the same general purposes, including—

(A) individual counseling;

(B) group counseling;

(C) family counseling;

(D) case management;

(E) training public agency adoption personnel, personnel of private, child welfare and adoption agencies licensed by the State to provide adoption services, mental health services professionals, and other support personnel to provide services under this subsection;

(F) assistance to adoptive parent organizations;

(G) assistance to support groups for adoptive parents, adopted children, and siblings of adopted children;

(H) day treatment; and

(I) respite care.

(d) Improving placement rate of children in foster care

(1) In general

The Secretary shall make grants for improving State efforts to increase the placement of foster care children legally free for adoption, according to a pre-established plan and goals for improvement.

(2) Applications; technical and other assistance

(A) Applications

Each State entering into an agreement under this subsection shall submit an application to the Secretary that describes the manner in which the State will use funds during the 3 fiscal years subsequent to the date of the application to accomplish the purposes of this section. Such application shall be in a form and manner determined to be appropriate by the Secretary, consistent with the purpose of this subchapter. Each application shall contain information that—

(i) describes how the State plans to improve the placement rate of children in permanent homes;

(ii) describes the methods the State, prior to submitting the application, has used to improve the placement of older children, minority children, and children with special needs, who are legally free for adoption;

(iii) describes the evaluation the State plans to conduct, to identify the effectiveness of programs and methods of placement under this subsection, and submit to the Secretary; and

(iv) describes how the State plans to coordinate activities under this subsection with relevant activities under section 673 of title 42.

(B) Technical and other assistance

The Secretary shall provide, directly or by grant to or contract with public or private agencies or organizations—

(i) technical assistance and resource and referral information to assist State or local governments with termination of parental rights issues, in recruiting and retaining adoptive families, in the successful placement of older children, minority children, and children with special needs, and in the provision of pre- and post-placement services, including post-legal adoption services; and

(ii) other assistance to help State and local governments replicate successful adoption-related projects from other areas in the United States.

(C) Evaluation

The Secretary shall compile the results of evaluations submitted by States (described in subparagraph (A)(iii)) and submit a report containing the compiled results to the appropriate committees of Congress.

(3) Payments

(A) In general

Payments under this subsection shall begin during fiscal year 1989. Payments under this section during any fiscal year shall not exceed $1,000,000. No payment may be made under this subsection unless an amount in excess of $5,000,000 is appropriated for such fiscal year under section 5115(a) of this title.

(B) Reversion of unused funds

Any payment made to a State under this subsection which is not used by such State for the purpose provided in paragraph (1) during the fiscal year payment is made shall revert to the

Secretary on October 1st of the next fiscal year and shall be used to carry out the purposes of this subchapter.

(e) Elimination of barriers to adoptions across jurisdictional boundaries

(1) In general

The Secretary shall award grants to, or enter into contracts with, States, local government entities, public or private child welfare or adoption agencies, adoption exchanges, or adoption family groups to carry out initiatives to improve efforts to eliminate barriers to placing children for adoption across jurisdictional boundaries.

(2) Services to supplement not supplant

Services provided under grants made under this subsection shall supplement, not supplant, services provided using any other funds made available for the same general purposes including—

(A) developing a uniform homestudy standard and protocol for acceptance of homestudies between States and jurisdictions;

(B) developing models of financing cross-jurisdictional placements;

(C) expanding the capacity of all adoption exchanges to serve increasing numbers of children;

(D) developing training materials and training social workers on preparing and moving children across State lines; and

(E) developing and supporting initiative models for networking among agencies, adoption exchanges, and parent support groups across jurisdictional boundaries.

(Pub. L. 95–266, title II, §203, Apr. 24, 1978, 92 Stat. 209; Pub. L. 98–457, title II, §203, Oct. 9, 1984, 98 Stat. 1756; Pub. L. 100–294, title II, §202, Apr. 25, 1988, 102 Stat. 122; Pub. L. 102–295, title IV, §403, May 28, 1992, 106 Stat. 213; Pub. L. 104–235, title II, §212, Oct. 3, 1996, 110 Stat. 3090; Pub. L. 108–36, title II, §202, June 25, 2003, 117 Stat. 819; Pub. L. 111–320, title III, §301(b), Dec. 20, 2010, 124 Stat. 3511.)

EDITORIAL NOTES

AMENDMENTS

2010—Subsec. (a). Pub. L. 111–320, §301(b)(1), substituted "older children, minority children, and children with special needs, particularly infants and toddlers with disabilities who have life-threatening conditions, and services to families considering adoption of children with special needs." for "children with special needs and particularly of disabled infants with life-threatening conditions and services to couples considering adoption of children with special needs."

Subsec. (b)(1). Pub. L. 111–320, §301(b)(2)(A), substituted a comma for "and" after "regarding adoption" and inserted ", and post-legal adoption services" after "adoption assistance programs".

Subsec. (b)(2). Pub. L. 111–320, §301(b)(2)(B), inserted ", including efforts to promote the adoption of older children, minority children, and children with special needs" after "national level".

Subsec. (b)(7). Pub. L. 111–320, §301(b)(2)(C), substituted "increase the effective use of" for "study the efficacy of States contracting with" and "by States," for the comma after "organizations)" and inserted a comma after "institutions" and ", including assisting in efforts to work with organizations that promote the placement of older children, minority children, and children with special needs" after "children for adoption".

Subsec. (b)(9)(D). Pub. L. 111–320, §301(b)(2)(D), added subpar. (D).

Subsec. (b)(10). Pub. L. 111–320, §301(b)(2)(E)(i), inserted "tribal child welfare agencies," after "local government entities," in introductory provisions.

Subsec. (b)(10)(A)(ii). Pub. L. 111–320, §301(b)(2)(E)(ii)(I), inserted ", including developing and using procedures to notify family and relatives when a child enters the child welfare system" before semicolon at end.

Subsec. (b)(10)(A)(vii) to (ix). Pub. L. 111–320, §301(b)(2)(E)(ii)(II), (III), added cl. (vii) and redesignated former cls. (vii) and (viii) as (viii) and (ix), respectively.

Subsec. (d)(1). Pub. L. 111–320, §301(b)(3)(A), struck out at end: "Grants funded by this section must include a strong evaluation component which outlines the innovations used to improve the placement of special needs children who are legally free for adoption, and the successes and failures of the initiative. The

evaluations will be submitted to the Secretary who will compile the results of projects funded by this section and submit a report to the appropriate committees of Congress. The emphasis of this program must focus on the improvement of the placement rate—not the aggregate number of special needs children placed in permanent homes. The Secretary, when reviewing grant applications shall give priority to grantees who propose improvements designed to continue in the absence of Federal funds."

Subsec. (d)(2)(A). Pub. L. 111–320, §301(b)(3)(B)(i), inserted ", consistent with the purpose of this subchapter" after "by the Secretary", substituted "Each application shall contain information that—" for "Each application shall include verification of the placements described in paragraph (1).", and added cls. (i) to (iv).

Subsec. (d)(2)(B)(i). Pub. L. 111–320, §301(b)(3)(B)(ii), inserted "older children, minority children, and" after "successful placement of".

Subsec. (d)(2)(C). Pub. L. 111–320, §301(b)(3)(B)(iii), added subpar. (C).

2003—Pub. L. 108–36, §202(1), added section catchline and struck out former catchline.

Subsec. (a). Pub. L. 108–36, §202(2), inserted heading.

Subsec. (b). Pub. L. 108–36, §202(3)(A), inserted heading.

Subsec. (b)(1). Pub. L. 108–36, §202(3)(B), struck out "nonprofit" before "agencies or" in two places.

Subsec. (b)(2). Pub. L. 108–36, §202(3)(C), struck out "nonprofit" before "organizations,".

Subsec. (b)(3). Pub. L. 108–36, §202(3)(D), struck out "nonprofit" before "agencies or organizations)".

Subsec. (b)(4). Pub. L. 108–36, §202(3)(E), struck out "nonprofit" before "agencies or organizations,".

Subsec. (b)(6). Pub. L. 108–36, §202(3)(F), substituted "support" for "study the nature, scope, and effects of".

Subsec. (b)(7). Pub. L. 108–36, §202(3)(G), struck out "nonprofit" before "agencies (including".

Subsec. (b)(9). Pub. L. 108–36, §202(3)(H), struck out "nonprofit" before "agencies or organizations)" in introductory provisions and "and" at end.

Subsec. (b)(10). Pub. L. 108–36, §202(3)(I), struck out "nonprofit" before "licensed child" in introductory provisions and before "child welfare and adoption" in subpar. (A)(vi)(II), and substituted "; and" for period at end.

Subsec. (b)(11). Pub. L. 108–36, §202(3)(J), added par. (11).

Subsec. (c). Pub. L. 108–36, §202(4)(A), inserted heading.

Subsec. (c)(1). Pub. L. 108–36, §202(4)(A), (D), inserted heading and struck out "nonprofit" before "licensed child" in text.

Subsec. (c)(2). Pub. L. 108–36, §202(4)(B)–(D), inserted heading, realigned margins, struck out "nonprofit" before "child welfare" in subpar. (E), and added subpars. (H) and (I).

Subsec. (d). Pub. L. 108–36, §202(5), inserted subsec., par., and subpar. headings and, in par. (2)(B), struck out "nonprofit" before "agencies" and realigned cl. margins.

Subsec. (e). Pub. L. 108–36, §202(6), added subsec. (e).

1996—Subsec. (a). Pub. L. 104–235, §212(1), struck out at end "The Secretary shall, not later than 12 months after May 28, 1992, prepare and submit to the committees of Congress having jurisdiction over such services reports, as appropriate, containing appropriate data concerning the manner in which activities were carried out under this subchapter, and such reports shall be made available to the public."

Subsec. (b)(6). Pub. L. 104–235, §212(2)(A), amended par. (6) generally. Prior to amendment, par. (6) read as follows: "continue to study the nature, scope, and effects of the placement of children in adoptive homes (not including the homes of stepparents or relatives of the child in question) by persons or agencies which are not licensed by or subject to regulation by any governmental entity;".

Subsec. (b)(7) to (10). Pub. L. 104–235, §212(2)(B), (C), added par. (7) and redesignated former pars. (7) to (9) as (8) to (10), respectively.

Subsec. (d)(2). Pub. L. 104–235, §212(3), designated existing provisions as subpar. (A), substituted "that describes the manner in which the State will use funds during the 3 fiscal years subsequent to the date of the application to accomplish the purposes of this section. Such application shall be" for "for each fiscal year", and added subpar. (B).

1992—Subsec. (a). Pub. L. 102–295, §403(1), inserted ", on-site technical assistance" after "consultant services" and "including salaries and travel costs," after "administrative expenses," and inserted at end "The Secretary shall, not later than 12 months after May 28, 1992, prepare and submit to the committees of Congress having jurisdiction over such services reports, as appropriate, containing appropriate data concerning the manner in which activities were carried out under this subchapter, and such reports shall be made available to the public."

Subsec. (b)(1), (2). Pub. L. 102–295, §403(2)(A), (B), added par. (2), redesignated former par. (2) as (1), and struck out former par. (1) which read as follows: "provide (after consultation with other appropriate Federal departments and agencies, including the Bureau of the Census and appropriate State and local

agencies) for the establishment and operation of a Federal adoption and foster care data-gathering and analysis system;".

Subsec. (b)(4). Pub. L. 102–295, §403(2)(C), inserted ", and to promote professional leadership training of minorities in the adoption field".

Subsec. (b)(8), (9). Pub. L. 102–295, §403(2)(D), added par. (8) and redesignated former par. (8) as (9).

1988—Subsec. (b)(8). Pub. L. 100–294, §202(a), added par. (8).

Subsecs. (c), (d). Pub. L. 100–294, §202(b), (c), added subsecs. (c) and (d).

1984—Subsec. (a). Pub. L. 98–457, §203(a), (b)(1), substituted "Health and Human Services" for "Health, Education, and Welfare" and inserted provision requiring the Secretary to make available services to facilitate the adoption of children with special needs and particularly of disabled infants with life-threatening conditions and services to couples considering adoption of children with special needs.

Subsec. (b). Pub. L. 98–457, §203(c)(1), substituted "this subchapter" for "subsection (a) of this section" in provisions preceding par. (1).

Subsec. (b)(1). Pub. L. 98–457, §203(c)(2), substituted "provide (after consultation with other appropriate Federal departments and agencies, including the Bureau of the Census and appropriate State and local agencies) for the establishment and operation of a Federal adoption and foster care data-gathering and analysis system" for "provide (directly or by grant to or contract with public or private nonprofit agencies and organizations) for the establishment and operation of a national adoption and foster care data gathering and analysis system utilizing data collected by States pursuant to requirements of law".

Subsec. (b)(4). Pub. L. 98–457, §203(c)(3)(A), substituted "adoptive family groups and minority groups" for "parent groups".

Subsec. (b)(5), (6). Pub. L. 98–457, §203(c)(3)(B), (C), added pars. (5) and (6). Former par. (5) redesignated (7).

Subsec. (b)(7). Pub. L. 98–457, §203(c)(3)(C), (D), redesignated former par. (5) as (7) and substituted "Health and Human Services" for "Health, Education, and Welfare".

STATUTORY NOTES AND RELATED SUBSIDIARIES

KINSHIP CARE

Pub. L. 105–89, title III, §303, Nov. 19, 1997, 111 Stat. 2129, provided that:

"(a) REPORT.—

"(1) IN GENERAL.—The Secretary of Health and Human Services shall—

"(A) not later than June 1, 1998, convene the advisory panel provided for in subsection (b)(1) and prepare and submit to the advisory panel an initial report on the extent to which children in foster care are placed in the care of a relative (in this section referred to as 'kinship care'); and

"(B) not later than June 1, 1999, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a final report on the matter described in subparagraph (A), which shall—

"(i) be based on the comments submitted by the advisory panel pursuant to subsection (b)(2) and other information and considerations; and

"(ii) include the policy recommendations of the Secretary with respect to the matter.

"(2) REQUIRED CONTENTS.—Each report required by paragraph (1) shall—

"(A) include, to the extent available for each State, information on—

"(i) the policy of the State regarding kinship care;

"(ii) the characteristics of the kinship care providers (including age, income, ethnicity, and race, and the relationship of the kinship care providers to the children);

"(iii) the characteristics of the household of such providers (such as number of other persons in the household and family composition);

"(iv) how much access to the child is afforded to the parent from whom the child has been removed;

"(v) the cost of, and source of funds for, kinship care (including any subsidies such as medicaid and cash assistance);

"(vi) the permanency plan for the child and the actions being taken by the State to achieve the plan;

"(vii) the services being provided to the parent from whom the child has been removed; and

"(viii) the services being provided to the kinship care provider; and

"(B) specifically note the circumstances or conditions under which children enter kinship care.

"(b) ADVISORY PANEL.—

"(1) ESTABLISHMENT.—The Secretary of Health and Human Services, in consultation with the Chairman of the Committee on Ways and Means of the House of Representatives and the Chairman of the Committee on Finance of the Senate, shall convene an advisory panel which shall include parents, foster parents, relative caregivers, former foster children, State and local public officials responsible for administering child welfare programs, private persons involved in the delivery of child welfare services, representatives of tribal governments and tribal courts, judges, and academic experts.

"(2) DUTIES.—The advisory panel convened pursuant to paragraph (1) shall review the report prepared pursuant to subsection (a), and, not later than October 1, 1998, submit to the Secretary comments on the report."

§5114. Study and report of unlicensed or unregulated adoption placements

(a) In general

The Secretary shall provide for a study (the results of which shall be reported to the appropriate committees of the Congress not later than eighteen months after June 25, 2003) designed to determine—

(1) the nature, scope, and effects of the interstate (and, to the extent feasible, intrastate) placement of children in adoptive homes (not including the homes of stepparents or relatives of the child in question) by persons or agencies.[1]

(2) how interstate placements are being financed across State lines;

(3) recommendations on best practice models for both interstate and intrastate adoptions; and

(4) how State policies in defining special needs children differentiate or group similar categories of children.

(b) Dynamics of successful adoption

The Secretary shall conduct research (directly or by grant to, or contract with, public or private nonprofit research agencies or organizations) about adoption outcomes and the factors affecting those outcomes. The Secretary shall submit a report containing the results of such research to the appropriate committees of the Congress not later than the date that is 36 months after June 25, 2003.

(c) Interjurisdictional adoption

Not later than 1 year after June 25, 2003, the Secretary shall submit to the appropriate committees of the Congress a report that contains recommendations for an action plan to facilitate the interjurisdictional adoption of foster children.

(Pub. L. 95–266, title II, §204, Apr. 24, 1978, 92 Stat. 210; Pub. L. 108–36, title II, §§203, 204, June 25, 2003, 117 Stat. 821.)

EDITORIAL NOTES

AMENDMENTS

2003—Pub. L. 108–36 designated existing provisions as subsec. (a), inserted subsec. heading and par. (1) designation, substituted "June 25, 2003" for "April 24, 1978" and "to determine—" for "to determine", struck out "which are not licensed by or subject to regulation by any governmental entity" after "by persons or agencies", and added pars. (2) to (4) and subsecs. (b) and (c).

[1] *So in original. The period probably should be a semicolon.*

§5115. Authorization of appropriations

(a) There are authorized to be appropriated $40,000,000 for fiscal year 2010 and such sums as may be necessary for fiscal years 2011 through 2015 to carry out programs and activities authorized under this subchapter.

(b) Not less than 30 percent and not more than 50 percent of the funds appropriated under

subsection (a) shall be allocated for activities under subsections (b)(10) and (c) of section 5113 of this title.

(c) The Secretary shall ensure that funds appropriated pursuant to authorizations in this subchapter shall remain available until expended for the purposes for which they were appropriated.

(Pub. L. 95–266, title II, §205, Apr. 24, 1978, 92 Stat. 211; Pub. L. 98–457, title II, §204, Oct. 9, 1984, 98 Stat. 1757; Pub. L. 100–294, title II, §201, Apr. 25, 1988, 102 Stat. 122; Pub. L. 102–295, title IV, §404, May 28, 1992, 106 Stat. 214; Pub. L. 104–235, title II, §213, Oct. 3, 1996, 110 Stat. 3091; Pub. L. 108–36, title II, §205, June 25, 2003, 117 Stat. 822; Pub. L. 111–320, title III, §301(c), Dec. 20, 2010, 124 Stat. 3513.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in subsec. (a), was in the original "this subtitle", and was translated as reading "this title", meaning title II of Pub. L. 95–266, to reflect the probable intent of Congress, because Pub. L. 95–266 does not contain subtitles.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111–320, §301(c)(1), substituted "2010" for "2004" and "2011 through 2015" for "2005 through 2008".

Subsecs. (b), (c). Pub. L. 111–320, §301(c)(2), (3), added subsec. (b) and redesignated former subsec. (b) as (c).

2003—Subsec. (a). Pub. L. 108–36 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "There are authorized to be appropriated, $20,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2001 to carry out programs and activities authorized."

1996—Subsec. (a). Pub. L. 104–235, §213(1), substituted "$20,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2001 to carry out programs and activities authorized" for "$10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995, to carry out programs and activities under this subchapter except for programs and activities authorized under sections 5113(b)(9) and 5113(c)(1) of this title".

Subsecs. (b), (c). Pub. L. 104–235, §213(2), (3), redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: "For any fiscal year in which appropriations under subsection (a) of this section exceeds $5,000,000, there are authorized to be appropriated $10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995, to carry out section 5113(b)(9) of this title, and there are authorized to be appropriated $10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995, to carry out section 5113(c)(1) of this title."

1992—Subsec. (a). Pub. L. 102–295, §404(1), added subsec. (a) and struck out former subsec. (a) which read as follows: "There are hereby authorized to be appropriated $6,000,000 for the fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989, 1990, and 1991 to carry out programs and activities under this subchapter except for programs and activities authorized under sections 5113(b)(8) and 5113(c)(1) of this title."

Subsec. (b). Pub. L. 102–295, §404(2), substituted "$10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995, to carry out section 5113(b)(9) of this title, and there are authorized to be appropriated $10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995, to carry out section 5113(c)(1) of this title" for "$3,000,000 for fiscal year 1988, and such sums as may be necessary for fiscal years 1989, 1990, and 1991 for the purpose of carrying out section 5113(b)(8) of this title, and there are authorized to be appropriated $3,000,000 for fiscal year 1988, and such sums as may be necessary for fiscal years 1989, 1990, and 1991 for the purpose of carrying out section 5113(c)(1) of this title".

1988—Pub. L. 100–294 amended section generally. Prior to amendment, section read as follows: "There are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1978, such sums as may be necessary for the succeeding three fiscal years, and $5,000,000 for each of the fiscal years 1984, 1985, 1986, and 1987, to carry out this subchapter."

1984—Pub. L. 98–457 inserted provisions authorizing appropriations of $5,000,000 for each of fiscal years 1984, 1985, 1986, and 1987.

§5115a. Repealed. Pub. L. 104–188, title I, §1808(d), Aug. 20, 1996, 110 Stat. 1904

Section, Pub. L. 103–382, title V, §553, Oct. 20, 1994, 108 Stat. 4056, related to multiethnic placements.

SUBCHAPTER III—COMMUNITY-BASED GRANTS FOR THE PREVENTION OF CHILD ABUSE AND NEGLECT

EDITORIAL NOTES

CODIFICATION

Subchapter is comprised of title II of the Child Abuse Prevention and Treatment Act, Pub. L. 93–247. Title I of that Act is classified to subchapter I (§5101 et seq.) of this chapter.

Pub. L. 111–320, title I, §131, Dec. 20, 2010, 124 Stat. 3478, substituted "COMMUNITY-BASED" for "COMMUNITY–BASED" in subchapter heading.

Pub. L. 108–36, title I, §121(c), June 25, 2003, 117 Stat. 814, substituted "COMMUNITY–BASED GRANTS FOR THE PREVENTION OF CHILD ABUSE AND NEGLECT" for "COMMUNITY-BASED FAMILY RESOURCE AND SUPPORT GRANTS" in subchapter heading.

§5116. Purpose and authority

(a) Purpose

It is the purpose of this subchapter—

(1) to support community-based efforts to develop, operate, expand, enhance, and coordinate initiatives, programs, and activities to prevent child abuse and neglect and to support the coordination of resources and activities, to better strengthen and support families to reduce the likelihood of child abuse and neglect; and

(2) to foster an understanding, appreciation, and knowledge of diverse populations in order to be effective in preventing and treating child abuse and neglect.

(b) Authority

The Secretary shall make grants under this subchapter on a formula basis to the entity designated by the State as the lead entity (referred to in this subchapter as the "lead entity") under section 5116a(1) of this title for the purpose of—

(1) developing, operating, expanding, and enhancing community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect that are accessible, effective, culturally appropriate, and build upon existing strengths that—

(A) offer assistance to families;

(B) provide early, comprehensive support for parents;

(C) promote the development of parenting skills, especially in young parents and parents with very young children;

(D) increase family stability;

(E) improve family access to other formal and informal resources and opportunities for assistance available within communities, including access to such resources and opportunities for unaccompanied homeless youth;

(F) support the additional needs of families with children with disabilities through respite care and other services;

(G) demonstrate a commitment to involving parents in the planning and program implementation of the lead agency and entities carrying out local programs funded under this

title, including involvement of parents of children with disabilities, parents who are individuals with disabilities, racial and ethnic minorities, and members of other underrepresented or underserved groups; and

(H) provide referrals to early health and developmental services;

(2) fostering the development of a continuum of preventive services for children and families, including unaccompanied homeless youth, through State and community-based collaborations and partnerships both public and private;

(3) financing the start-up, maintenance, expansion, or redesign of specific community-based child abuse and neglect prevention program services (such as respite care services, child abuse and neglect prevention activities, disability services, mental health services, substance abuse treatment services, domestic violence services, housing services, transportation, adult education, home visiting and other similar services) identified by the inventory and description of current services required under section 5116d(3) [1] of this title as an unmet need, and integrated with the network of community-based child abuse and neglect prevention programs to the extent practicable given funding levels and community priorities;

(4) maximizing funding through leveraging of funds for the financing, planning, community mobilization, collaboration, assessment, information and referral, startup, training and technical assistance, information management and reporting, reporting and evaluation costs for establishing, operating, or expanding community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect; and

(5) financing public information activities that focus on the healthy and positive development of parents and children and the promotion of child abuse and neglect prevention activities.

(Pub. L. 93–247, title II, §201, as added Pub. L. 104–235, title I, §121, Oct. 3, 1996, 110 Stat. 3080; amended Pub. L. 108–36, title I, §121(a), (b), June 25, 2003, 117 Stat. 813; Pub. L. 111–320, title I, §132, Dec. 20, 2010, 124 Stat. 3478.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 5116d(3) of this title, referred to in subsec. (b)(3), was in the original "section 205(a)(3)" and was translated as meaning section 204(3) of Pub. L. 93–247 to reflect the probable intent of Congress and the redesignation of section 205 as 204 by Pub. L. 111–320, title I, §141, Dec. 20, 2010, 124 Stat. 3482, and because section 204 does not contain subsections.

PRIOR PROVISIONS

A prior section 5116, Pub. L. 93–247, title II, §201, as added Pub. L. 103–252, title IV, §401(a), May 18, 1994, 108 Stat. 666, related to community-based family resource programs, prior to the general amendment of this subchapter by Pub. L. 104–235, §121.

Another prior section 5116, Pub. L. 93–247, title II, §201, formerly Pub. L. 98–473, title IV, §402, Oct. 12, 1984, 98 Stat. 2197; renumbered §201 of Pub. L. 93–247, and amended Pub. L. 101–126, §§2(a), 3(a)(3), (c)(1), 4(a), Oct. 25, 1989, 103 Stat. 764, 766; Pub. L. 102–295, title I, §121(b), May 28, 1992, 106 Stat. 198, set forth purpose of subchapter to assist States in supporting child abuse and neglect prevention activities through community based grants, prior to the general amendment of this subchapter by Pub. L. 103–252, §401(a).

AMENDMENTS

2010—Subsec. (a)(1). Pub. L. 111–320, §132(1), added par. (1) and struck out former par. (1) which read as follows: "to support community-based efforts to develop, operate, expand, enhance, and, where appropriate to network, initiatives aimed at the prevention of child abuse and neglect, and to support networks of coordinated resources and activities to better strengthen and support families to reduce the likelihood of child abuse and neglect; and".

Subsec. (b). Pub. L. 111–320, §132(2)(A), struck out "hereafter" before "referred" in introductory provisions.

Subsec. (b)(1). Pub. L. 111–320, §132(2)(B)(i), in introductory provisions, inserted a comma after

"expanding" and struck out "(through networks where appropriate)" after "child abuse and neglect".

Subsec. (b)(1)(E). Pub. L. 111–320, §132(2)(B)(ii), inserted ", including access to such resources and opportunities for unaccompanied homeless youth" before semicolon at end.

Subsec. (b)(1)(G). Pub. L. 111–320, §132(2)(B)(iii), added subpar. (G) and struck out former subpar. (G) which read as follows: "demonstrate a commitment to meaningful parent leadership, including among parents of children with disabilities, parents with disabilities, racial and ethnic minorities, and members of other underrepresented or underserved groups; and".

Subsec. (b)(2). Pub. L. 111–320, §132(2)(C), inserted ", including unaccompanied homeless youth," after "children and families".

Subsec. (b)(3). Pub. L. 111–320, §132(2)(D), substituted "specific community-based child abuse and neglect prevention program services" for "specific family resource and support program services", inserted "substance abuse treatment services, domestic violence services," after "mental health services,", and substituted "the network of community-based child abuse and neglect prevention programs" for "the network of community-based family resource and support program".

Subsec. (b)(4). Pub. L. 111–320, §132(2)(E), inserted "and reporting" after "information management" and struck out comma after "prevention-focused" and "(through networks where appropriate)" after "child abuse and neglect".

2003—Subsec. (a)(1). Pub. L. 108–36, §121(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "to support State efforts to develop, operate, expand and enhance a network of community-based, prevention-focused, family resource and support programs that coordinate resources among existing education, vocational rehabilitation, disability, respite care, health, mental health, job readiness, self-sufficiency, child and family development, community action, Head Start, child care, child abuse and neglect prevention, juvenile justice, domestic violence prevention and intervention, housing, and other human service organizations within the State; and".

Subsec. (b)(1). Pub. L. 108–36, §121(b)(1)(A), in introductory provisions, substituted "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate) that are accessible, effective, culturally appropriate, and build upon existing strengths that" for "Statewide networks of community-based, prevention-focused, family resource and support programs that".

Subsec. (b)(1)(G), (H). Pub. L. 108–36, §121(b)(1)(B), (C), added subpars. (G) and (H) and struck out former subpar. (G) which read as follows: "decrease the risk of homelessness;".

Subsec. (b)(4). Pub. L. 108–36, §121(b)(2), inserted "through leveraging of funds" after "maximizing funding" and substituted "community-based and prevention-focused" for "a Statewide network of community-based, prevention-focused" and "programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate)" for "family resource and support program".

[1] *See References in Text note below.*

§5116a. Eligibility

A State shall be eligible for a grant under this subchapter for a fiscal year if—

(1)(A) the Governor of the State has designated a lead entity to administer funds under this subchapter for the purposes identified under the authority of this subchapter, including to develop, implement, operate, enhance, or expand community-based and prevention-focused, programs and activities designed to strengthen and support families to prevent child abuse and neglect;

(B) such lead entity is an existing public, quasi-public, or nonprofit private entity (which may be an entity that has not been established pursuant to State legislation, executive order, or any other written authority of the State) that exists to strengthen and support families to prevent child abuse and neglect with a demonstrated ability to work with other State and community-based agencies to provide training and technical assistance, and that has the capacity and commitment to ensure the meaningful involvement of parents who are consumers and who can provide leadership in the planning, implementation, and evaluation of programs and policy decisions of the applicant agency in accomplishing the desired outcomes for such efforts;

(C) in determining which entity to designate under subparagraph (A), the Governor should give

priority consideration equally to a trust fund advisory board of the State or to an existing entity that leverages Federal, State, and private funds for a broad range of child abuse and neglect prevention activities and family resource programs, and that is directed by an interdisciplinary, public-private structure, including participants from communities; and

(D) in the case of a State that has designated a State trust fund advisory board for purposes of administering funds under this subchapter (as such subchapter was in effect on October 3, 1996) and in which one or more entities that leverage Federal, State, and private funds (as described in subparagraph (C)) exist, the Governor shall designate the lead entity only after full consideration of the capacity and expertise of all entities desiring to be designated under subparagraph (A);

(2) the Governor of the State provides assurances that the lead entity will provide or will be responsible for providing—

(A) community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect composed of local, collaborative, public-private partnerships directed by interdisciplinary structures with balanced representation from private and public sector members, parents, adult former victims of child abuse or neglect, and public and private nonprofit service providers and individuals and organizations experienced in working in partnership with families with children with disabilities;

(B) direction through an interdisciplinary, collaborative, public-private structure with balanced representation from private and public sector members, parents, adult former victims of child abuse or neglect, and public sector and private nonprofit sector service providers, and parents with disabilities; and

(C) direction and oversight through identified goals and objectives, clear lines of communication and accountability, the provision of leveraged or combined funding from Federal, State, and private sources, centralized assessment and planning activities, the provision of training and technical assistance, and reporting and evaluation functions; and

(3) the Governor of the State provides assurances that the lead entity—

(A) has a demonstrated commitment to parental participation in the development, operation, and oversight of the community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect;

(B) has a demonstrated ability to work with State and community-based public and private nonprofit organizations to develop a continuum of preventive, family centered, comprehensive services for children and families through the community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect;

(C) has the capacity to provide operational support (both financial and programmatic) [1] training, technical assistance, and evaluation assistance, to community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect, through innovative, interagency funding and interdisciplinary service delivery mechanisms; and

(D) will integrate its efforts with individuals and organizations experienced in working in partnership with families with children with disabilities, parents with disabilities, and with the child abuse and neglect prevention activities of the State, and demonstrate a financial commitment to those activities.

(Pub. L. 93–247, title II, §202, as added Pub. L. 104–235, title I, §121, Oct. 3, 1996, 110 Stat. 3081; amended Pub. L. 108–36, title I, §122, June 25, 2003, 117 Stat. 814; Pub. L. 111–320, title I, §133, Dec. 20, 2010, 124 Stat. 3479.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 5116a, Pub. L. 93–247, title II, §202, formerly Pub. L. 98–473, title IV, §403, Oct. 12, 1984, 98 Stat. 2197; renumbered §202 of Pub. L. 93–247, and amended Pub. L. 101–126, §§2(a), 3(a)(3), (c)(1),

4(b), Oct. 25, 1989, 103 Stat. 764, 766, defined "Secretary" and "State" as used in this subchapter, prior to the general amendment of this subchapter by Pub. L. 103–252, §401(a).

AMENDMENTS

2010—Par. (1). Pub. L. 111–320, §133(1), (2), substituted "Governor" for "chief executive officer" wherever appearing, and, in subpar. (A), inserted a comma after "enhance" and struck out "(through networks where appropriate)" after "child abuse and neglect".

Par. (2). Pub. L. 111–320, §133(2)–(4), in introductory provisions, substituted "Governor" for "chief executive officer", in subpar. (A), struck out "(through networks where appropriate)" after "child abuse and neglect", in subpars. (A) and (B), inserted "adult former victims of child abuse or neglect," after "parents,", and in subpar. (C), inserted a comma after "State".

Par. (3). Pub. L. 111–320, §133(2), (3), in introductory provisions, substituted "Governor" for "chief executive officer", and, in subpars. (A) to (C), struck out "(through networks where appropriate)" after "child abuse and neglect".

2003—Par. (1)(A). Pub. L. 108–36, §122(1)(A), substituted "community-based and prevention-focused" for "a Statewide network of community-based, prevention-focused" and "programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate)" for "family resource and support programs, child abuse and neglect prevention activities and access to respite care services integrated with the Statewide network".

Par. (1)(B). Pub. L. 108–36, §122(1)(B), inserted "that exists to strengthen and support families to prevent child abuse and neglect" after "written authority of the State)".

Par. (2)(A). Pub. L. 108–36, §122(2)(A), substituted "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate)" for "a network of community-based family resource and support programs".

Par. (2)(B). Pub. L. 108–36, §122(2)(B), struck out "to the network" after "direction" and inserted ", and parents with disabilities" before semicolon.

Par. (2)(C). Pub. L. 108–36, §122(2)(C), struck out "to the network" after "direction and oversight".

Par. (3)(A). Pub. L. 108–36, §122(3)(A), substituted "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate)" for "Statewide network of community-based, prevention-focused, family resource and support programs".

Par. (3)(B). Pub. L. 108–36, §122(3)(B), substituted "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate)" for "Statewide network of community-based, prevention-focused, family resource and support programs".

Par. (3)(C). Pub. L. 108–36, §122(3)(C), substituted "training, technical assistance, and evaluation assistance, to community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate)" for "and training and technical assistance, to the Statewide network of community-based, prevention-focused, family resource and support programs".

Par. (3)(D). Pub. L. 108–36, §122(3)(D), inserted ", parents with disabilities," after "children with disabilities".

[1] So in original. Probably should be followed by a comma.

§5116b. Amount of grant

(a) Reservation

The Secretary shall reserve 1 percent of the amount appropriated under section 5116i [1] of this title for a fiscal year to make allotments to Indian tribes and tribal organizations and migrant programs.

(b) Remaining amounts

(1) In general

The Secretary shall allot the amount appropriated under section 5116i [1] of this title for a fiscal year and remaining after the reservation under subsection (a) among the States as follows:

(A) 70 percent

70 percent of such amount appropriated shall be allotted among the States by allotting to each State an amount that bears the same proportion to such amount appropriated as the number of children under the age of 18 residing in the State bears to the total number of children under the age of 18 residing in all States (except that no State shall receive less than $175,000 under this subparagraph).

(B) 30 percent

30 percent of such amount appropriated shall be allotted among the States by allotting to each State an amount that bears the same proportion to such amount appropriated as the amount of private, State or other non-Federal funds leveraged and directed through the currently designated State lead entity in the preceding fiscal year bears to the aggregate of the amounts leveraged by all States from private, State, or other non-Federal sources and directed through the current lead entity of such States in the preceding fiscal year.

(2) Additional requirement

The Secretary shall provide allotments under paragraph (1) to the State lead entity.

(c) Allocation

Funds allotted to a State under this section—

(1) shall be for a 3-year period; and

(2) shall be provided by the Secretary to the State on an annual basis, as described in subsection (b).

(Pub. L. 93–247, title II, §203, as added Pub. L. 104–235, title I, §121, Oct. 3, 1996, 110 Stat. 3082; amended Pub. L. 108–36, title I, §123, June 25, 2003, 117 Stat. 815; Pub. L. 111–320, title I, §134, Dec. 20, 2010, 124 Stat. 3479.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 5116i of this title, referred to in subsecs. (a) and (b)(1), was in the original "section 210", and was translated as meaning section 209 of Pub. L. 93–247 to reflect the probable intent of Congress and the redesignation of section 210 as 209 by Pub. L. 111–320, title I, §141, Dec. 20, 2010, 124 Stat. 3482.

PRIOR PROVISIONS

A prior section 5116b, Pub. L. 93–247, title II, §203, formerly Pub. L. 98–473, title IV, §404, Oct. 12, 1984, 98 Stat. 2197; renumbered §203 of Pub. L. 93–247, and amended Pub. L. 101–126, §§2(a), 3(a)(3), (c)(1), 4(c), 5, Oct. 25, 1989, 103 Stat. 764, 766–768; Pub. L. 102–295, title I, §122, May 28, 1992, 106 Stat. 198, authorized Secretary to make grants and authorized appropriations to carry out this subchapter, prior to the general amendment of this subchapter by Pub. L. 103–252, §401(a).

AMENDMENTS

2010—Subsec. (b)(1). Pub. L. 111–320 inserted subpar. headings.

2003—Subsec. (b)(1)(B). Pub. L. 108–36, §123(1), substituted "as the amount of private, State or other non-Federal funds leveraged and directed through the currently designated" for "as the amount leveraged by the State from private, State, or other non-Federal sources and directed through the", "State lead entity" for "State lead agency", and "the current lead entity" for "the lead agency".

Subsec. (c)(2). Pub. L. 108–36, §123(2), substituted "subsection (b)" for "subsection (a)".

[1] *See References in Text note below.*

§5116c. Repealed. Pub. L. 108–36, title I, §124, June 25, 2003, 117 Stat. 815

Section, Pub. L. 93–247, title II, §204, as added Pub. L. 104–235, title I, §121, Oct. 3, 1996, 110 Stat. 3083; amended Pub. L. 106–400, §2, Oct. 30, 2000, 114 Stat. 1675, related to continuation of grants and agreements

in effect on October 3, 1996.

A prior section 5116c, Pub. L. 93–247, title II, §204, formerly Pub. L. 98–473, title IV, §405, Oct. 12, 1984, 98 Stat. 2198; renumbered §204 of Pub. L. 93–247, and amended Pub. L. 101–126, §§2(a), 3(a)(3), (c)(1), 4(d), Oct. 25, 1989, 103 Stat. 764, 766, 767; Pub. L. 102–295, title I, §123, May 28, 1992, 106 Stat. 198, established requirement for State grant eligibility, prior to the general amendment of this subchapter by Pub. L. 103–252, §401(a).

§5116d. Application

A grant may not be made to a State under this subchapter unless an application therefor is submitted by the State to the Secretary and such application contains the types of information specified by the Secretary as essential to carrying out the provisions of section 5116a of this title, including—

(1) a description of the lead entity that will be responsible for the administration of funds provided under this subchapter and the oversight of programs funded through the community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect which meets the requirements of section 5116a of this title;

(2) a description of how the community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect will operate, including how community-based child abuse and neglect prevention programs provided by public and private, nonprofit organizations will be integrated into a developing continuum of family centered, holistic, preventive services for children and families;

(3) a description of the inventory of current unmet needs and current community-based and prevention-focused programs and activities to prevent child abuse and neglect, and other family resource services operating in the State;

(4) a budget for the development, operation, and expansion of the community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect that verifies that the State will expend in non-Federal funds an amount equal to not less than 20 percent of the amount received under this subchapter (in cash, not in-kind) for activities under this subchapter;

(5) an assurance that funds received under this subchapter will supplement, not supplant, other State and local public funds designated for the start up, maintenance, expansion, and redesign of community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect;

(6) a description of the State's capacity to ensure the meaningful involvement of parents who are consumers, of family advocates, and of adult former victims of child abuse or neglect, who can provide leadership in the planning, implementation, and evaluation of the programs and policy decisions of the applicant agency in accomplishing the desired outcomes for such efforts;

(7) a description of the criteria that the entity will use to develop, or select and fund, community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect as part of network development, expansion, or enhancement;

(8) a description of outreach activities that the entity and the community-based and prevention-focused programs designed to strengthen and support families to prevent child abuse and neglect will undertake to maximize the participation of racial and ethnic minorities, children and adults with disabilities, homeless families and those at risk of homelessness, unaccompanied homeless youth, and members of other underserved or underrepresented groups;

(9) a plan for providing operational support, training, and technical assistance to community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect for development, operation, expansion and enhancement activities;

(10) a description of how the applicant entity's activities and those of the network and its

members (where appropriate) will be evaluated;

(11) a description of the actions that the applicant entity will take to advocate systemic changes in State policies, practices, procedures, and regulations to improve the delivery of community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect services to children and families; and

(12) an assurance that the applicant entity will provide the Secretary with reports at such time and containing such information as the Secretary may require.

(Pub. L. 93–247, title II, §204, formerly §205, as added Pub. L. 104–235, title I, §121, Oct. 3, 1996, 110 Stat. 3083; amended Pub. L. 108–36, title I, §125, June 25, 2003, 117 Stat. 815; renumbered §204 and amended Pub. L. 111–320, title I, §§135, 141, Dec. 20, 2010, 124 Stat. 3479, 3482.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 5116d, Pub. L. 93–247, title II, §205, formerly Pub. L. 98–473, title IV, §406, Oct. 12, 1984, 98 Stat. 2198; renumbered §205 of Pub. L. 93–247, and amended Pub. L. 101–126, §§2(a), 3(a)(3), (c)(1), (2), 4(e), Oct. 25, 1989, 103 Stat. 764, 766, 767; Pub. L. 102–295, title I, §124, May 28, 1992, 106 Stat. 198, related to grant allotments, required use of grants, and grant application requirements, prior to the general amendment of this subchapter by Pub. L. 103–252, §401(a).

A prior section 204 of Pub. L. 93–247 was classified to section 5116c of this title, prior to repeal by Pub. L. 108–36, title I, §124, June 25, 2003, 117 Stat. 815.

Another prior section 204 of Pub. L. 93–247 was classified to section 5116c of this title prior to the general amendment of this subchapter by Pub. L. 103–252, §401(a).

AMENDMENTS

2010—Par. (1). Pub. L. 111–320, §135(1), struck out "(through networks where appropriate)" after "child abuse and neglect".

Par. (2). Pub. L. 111–320, §135(1), (2), struck out "(through networks where appropriate)" after "child abuse and neglect", and substituted ", including how community-based child abuse and neglect prevention" for "and how family resource and support" and "programs provided" for "services provided".

Par. (4). Pub. L. 111–320, §135(3), inserted a comma after "operation".

Par. (6). Pub. L. 111–320, §135(4), substituted "a description of the State's" for "an assurance that the State has the" and "consumers, of family advocates, and of adult former victims of child abuse or neglect," for "consumers and".

Par. (7). Pub. L. 111–320, §135(5), inserted a comma after "expansion".

Par. (8). Pub. L. 111–320, §135(6), struck out "and activities" after "prevention-focused programs" and inserted "unaccompanied homeless youth," after "homelessness,".

Par. (9). Pub. L. 111–320, §135(7), inserted a comma after "training".

Par. (11). Pub. L. 111–320, §135(8), inserted a comma after "procedures".

2003—Par. (1). Pub. L. 108–36, §125(1), substituted "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate)" for "Statewide network of community-based, prevention-focused, family resource and support programs".

Par. (2). Pub. L. 108–36, §125(2), substituted "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate)" for "network of community-based, prevention-focused, family resource and support programs" and struck out ", including those funded by programs consolidated under this subchapter and subchapter I of this chapter," before "will be integrated".

Par. (3). Pub. L. 108–36, §125(3), added par. (3) and struck out former par. (3) which read as follows: "an assurance that an inventory of current family resource programs, respite care, child abuse and neglect prevention activities, and other family resource services operating in the State, and a description of current unmet needs, will be provided;".

Par. (4). Pub. L. 108–36, §125(4), substituted "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect" for "State's network of community-based, prevention-focused, family resource and support programs".

Par. (5). Pub. L. 108–36, §125(5), substituted "start up, maintenance, expansion, and redesign of community-based and prevention-focused programs and activities designed to strengthen and support families

to prevent child abuse and neglect" for "Statewide network of community-based, prevention-focused, family resource and support programs".

Par. (7). Pub. L. 108–36, §125(6), substituted "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect" for "individual community-based, prevention-focused, family resource and support programs".

Par. (8). Pub. L. 108–36, §125(7), substituted "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect" for "community-based, prevention-focused, family resource and support programs".

Par. (9). Pub. L. 108–36, §125(8), substituted "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect" for "community-based, prevention-focused, family resource and support programs".

Par. (10). Pub. L. 108–36, §125(9), inserted "(where appropriate)" after "members".

Par. (11). Pub. L. 108–36, §125(10), substituted "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect" for "prevention-focused, family resource and support program".

Pars. (12), (13). Pub. L. 108–36, §125(11), redesignated par. (13) as (12).

§5116e. Local program requirements

(a) In general

Grants made under this subchapter shall be used to develop, implement, operate, expand, and enhance community-based, and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect that—

(1) assess community assets and needs through a planning process that involves parents, local public agencies, local nonprofit organizations, and private sector representatives in meaningful roles;

(2) develop a comprehensive strategy to provide a continuum of preventive, family-centered services to children and families, especially to young parents, to parents with young children, and to parents who are adult former victims of domestic violence or child abuse or neglect, through public-private partnerships;

(3)(A) provide for core child abuse and neglect prevention services, which may be provided directly by the local recipient of the grant funds or through grants or agreements with other local agencies, such as—

(i) parent education, mutual support and self help, and parent leadership services;

(ii) respite care services;

(iii) outreach and followup services, which may include voluntary home visiting services; and

(iv) community and social service referrals; and

(B) provide access to optional services, including—

(i) referral to and counseling for adoption services for individuals interested in adopting a child or relinquishing their child for adoption;

(ii) child care, early childhood education and care, and intervention services;

(iii) referral to services and supports to meet the additional needs of families with children with disabilities and parents who are individuals with disabilities;

(iv) referral to job readiness services;

(v) referral to educational services, such as academic tutoring, literacy training, and General Educational Degree services;

(vi) self-sufficiency and life management skills training;

(vii) community referral services, including early developmental screening of children;

(viii) peer counseling; and

(ix) domestic violence service programs that provide services and treatment to children and their non-abusing caregivers.

(4) develop leadership roles for the meaningful involvement of parents in the development,

operation, evaluation, and oversight of the programs and services;

(5) provide leadership in mobilizing local public and private resources to support the provision of needed child abuse and neglect prevention program services; and

(6) participate with other community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect in the development, operation, and expansion of networks where appropriate.

(b) Priority

In awarding local grants under this subchapter, a lead entity shall give priority to effective community-based programs serving low-income communities and those serving young parents or parents with young children, including community-based child abuse and neglect prevention programs..[1]

(Pub. L. 93–247, title II, §205, formerly §206, as added Pub. L. 104–235, title I, §121, Oct. 3, 1996, 110 Stat. 3085; amended Pub. L. 108–36, title I, §126, June 25, 2003, 117 Stat. 816; renumbered §205 and amended Pub. L. 111–320, title I, §§136, 141, Dec. 20, 2010, 124 Stat. 3480, 3482.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 5116e, Pub. L. 93–247, title II, §206, formerly Pub. L. 98–473, title IV, §407, Oct. 12, 1984, 98 Stat. 2199; renumbered §206 of Pub. L. 93–247, and amended Pub. L. 101–126, §§2(a), 3(a)(3), (c)(1), 4(f), Oct. 25, 1989, 103 Stat. 764, 766, 768, related to withholding of grant payments upon failure to comply with provisions of this subchapter, prior to the general amendment of this subchapter by Pub. L. 103–252, §401(a).

A prior section 205 of Pub. L. 93–247 was renumbered section 204 and is classified to section 5116d of this title.

Another prior section 205 of Pub. L. 93–247 was classified to section 5116d of this title prior to the general amendment of this subchapter by Pub. L. 103–252, §401(a).

AMENDMENTS

2010—Subsec. (a). Pub. L. 111–320, §136(a)(1), inserted a comma after "expand" in introductory provisions.

Subsec. (a)(1). Pub. L. 111–320, §136(a)(2), substituted "parents," for "parents and" and inserted "in meaningful roles" before semicolon at end.

Subsec. (a)(2). Pub. L. 111–320, §136(a)(3), substituted "a comprehensive strategy to provide" for "a strategy to provide, over time,", "family-centered" for "family centered", and ", to parents with young children, and to parents who are adult former victims of domestic violence or child abuse or neglect," for "and parents with young children,".

Subsec. (a)(3). Pub. L. 111–320, §136(a)(4)(A), struck out introductory provisions which read as follows: "provide—".

Subsec. (a)(3)(A). Pub. L. 111–320, §136(a)(4)(A), added subpar. (A) and struck out former subpar. (A) which read as follows:

"(A) core family resource and support services such as—

"(i) parent education, mutual support and self help, and leadership services;

"(ii) outreach services;

"(iii) community and social service referrals; and

"(iv) follow-up services;".

Subsec. (a)(3)(B). Pub. L. 111–320, §136(a)(4)(A), (B)(i), redesignated subpar. (C) as (B), inserted "provide" before "access", and struck out former subpar. (B) which read as follows: "other core services, which must be provided or arranged for through contracts or agreements with other local agencies, including voluntary home visiting and all forms of respite care services to the extent practicable; and".

Subsec. (a)(3)(B)(ii). Pub. L. 111–320, §136(a)(4)(B)(ii), added cl. (ii) and struck out former cl. (ii) which read as follows: "child care, early childhood development and intervention services;".

Subsec. (a)(3)(B)(iii). Pub. L. 111–320, §136(a)(4)(B)(iii), inserted "and parents who are individuals with disabilities" before semicolon at end.

Subsec. (a)(3)(B)(v). Pub. L. 111–320, §136(a)(4)(B)(iv), (viii), amended cl. (v) identically, substituting

"academic tutoring" for "scholastic tutoring".

Subsec. (a)(3)(B)(ix). Pub. L. 111–320, §136(a)(4)(B)(v)–(vii), added cl. (ix).

Subsec. (a)(3)(C). Pub. L. 111–320, §136(a)(4)(B)(i), redesignated subpar. (C) as (B).

Subsec. (a)(5). Pub. L. 111–320, §136(a)(5), substituted "child abuse and neglect prevention program" for "family resource and support program".

Subsec. (a)(6). Pub. L. 111–320, §136(a)(6), inserted a comma after "operation".

Subsec. (b). Pub. L. 111–320, §136(b), substituted "low-income" for "low income" and "child abuse and neglect prevention programs." for "family resource and support programs".

2003—Subsec. (a). Pub. L. 108–36, §126(1), substituted "and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect" for "prevention-focused, family resource and support programs" in introductory provisions.

Subsec. (a)(3)(B). Pub. L. 108–36, §126(2), inserted "voluntary home visiting and" after "including".

Subsec. (a)(6). Pub. L. 108–36, §126(3), added par. (6) and struck out former par. (6) which read as follows: "participate with other community-based, prevention-focused, family resource and support program grantees in the development, operation and expansion of the Statewide network."

[1] *So in original.*

§5116f. Performance measures

A State receiving a grant under this subchapter, through reports provided to the Secretary—

(1) shall demonstrate the effective development, operation, and expansion of community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect that meets the requirements of this subchapter;

(2) shall supply an inventory and description of the services provided to families by local programs that meet identified community needs, including core and optional services as described in section 5116a of this title which description shall specify whether those services are supported by research;

(3) shall demonstrate that they will have addressed unmet needs identified by the inventory and description of current services required under section 5116d(3) of this title;

(4) shall describe the number of families served, including families with children with disabilities, and parents with disabilities, and the involvement of a diverse representation of families in the design, operation, and evaluation of community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect, and in the design, operation, and evaluation of the networks of such community-based and prevention-focused programs;

(5) shall demonstrate a high level of satisfaction among families who have used the services of the community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect;

(6) shall demonstrate the establishment or maintenance of innovative funding mechanisms, at the State or community level, that blend Federal, State, local, and private funds, and innovative, interdisciplinary service delivery mechanisms, for the development, operation, expansion, and enhancement of the community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect;

(7) shall describe the results of evaluation, or the outcomes of monitoring, conducted under the State program to demonstrate the effectiveness of activities conducted under this subchapter in meeting the purposes of the program; and

(8) shall demonstrate an implementation plan to ensure the continued leadership of parents in the on-going planning, implementation, and evaluation of such community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect.

(Pub. L. 93–247, title II, §206, formerly §207, as added Pub. L. 104–235, title I, §121, Oct. 3, 1996, 110 Stat. 3086; amended Pub. L. 108–36, title I, §127, June 25, 2003, 117 Stat. 817; renumbered

§206 and amended Pub. L. 111–320, title I, §§137, 141, Dec. 20, 2010, 124 Stat. 3481, 3482.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 5116f, Pub. L. 93–247, title II, §207, formerly Pub. L. 98–473, title IV, §408, Oct. 12, 1984, 98 Stat. 2199; renumbered §207 of Pub. L. 93–247, and amended Pub. L. 101–126, §§2(a), 3(a)(3), (c)(1), 4(g), Oct. 25, 1989, 103 Stat. 764, 766, 768, related to audits of grant recipients, prior to the general amendment of this subchapter by Pub. L. 103–252, §401(a).

A prior section 206 of Pub. L. 93–247 was renumbered section 205 and is classified to section 5116e of this title.

Another prior section 206 of Pub. L. 93–247 was classified to section 5116e of this title prior to the general amendment of this subchapter by Pub. L. 103–252, §401(a).

AMENDMENTS

2010—Par. (1). Pub. L. 111–320, §137(1), inserted a comma after "operation".

Par. (2). Pub. L. 111–320, §137(2), inserted "which description shall specify whether those services are supported by research" after "section 5116a of this title".

Par. (3). Pub. L. 111–320, §137(3)(A), which directed the making of a technical amendment in par. (4) to a reference in the original act which appears in text as a reference to section 5116d(3) of this title, was executed by making the technical amendment to such reference in par. (3) to reflect the probable intent of Congress.

Par. (4). Pub. L. 111–320, §137(3)(B), which directed amendment of par. (4) by inserting a comma after "operation", was executed by making the insertion after "operation" the second place appearing to reflect the probable intent of Congress.

Par. (6). Pub. L. 111–320, §137(4), inserted a comma after "local" and after "expansion".

Par. (7). Pub. L. 111–320, §137(5), substituted "the results of evaluation, or the outcomes of monitoring, conducted under the State program to demonstrate the effectiveness of activities conducted under this subchapter in meeting the purposes of the program; and" for "the results of a peer review process conducted under the State program; and".

2003—Par. (1). Pub. L. 108–36, §127(1), substituted "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect" for "a Statewide network of community-based, prevention-focused, family resource and support programs".

Par. (3). Pub. L. 108–36, §127(2), added par. (3) and struck out former par. (3) which read as follows: "shall demonstrate the establishment of new respite care and other specific new family resources services, and the expansion of existing services, to address unmet needs identified by the inventory and description of current services required under section 5116d(3) of this title;".

Par. (4). Pub. L. 108–36, §127(3), inserted "and parents with disabilities," after "children with disabilities," and substituted "evaluation of community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect, and in the design, operation and evaluation of the networks of such community-based and prevention-focused programs" for "evaluation of the Statewide network of community-based, prevention-focused, family resource and support programs, and in the design, operation and evaluation of the individual community-based family resource and support programs that are part of the Statewide network funded under this subchapter".

Par. (5). Pub. L. 108–36, §127(4), substituted "and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect" for ", prevention-focused, family resource and support programs".

Par. (6). Pub. L. 108–36, §127(5), substituted "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect" for "Statewide network of community-based, prevention-focused, family resource and support programs".

Par. (8). Pub. L. 108–36, §127(6), substituted "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect" for "community based, prevention-focused, family resource and support programs".

§5116g. National network for community-based family resource programs

The Secretary may allocate such sums as may be necessary from the amount provided under the State allotment to support the activities of the lead entity in the State—

(1) to create, operate, and maintain a peer review process;

(2) to create, operate, and maintain an information clearinghouse;

(3) to fund a yearly symposium on State system change efforts that result from the operation of the community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect;

(4) to create, operate, and maintain a computerized communication system between lead entities; and

(5) to fund State-to-State technical assistance through bi-annual conferences.

(Pub. L. 93–247, title II, §207, formerly §208, as added Pub. L. 104–235, title I, §121, Oct. 3, 1996, 110 Stat. 3086; amended Pub. L. 108–36, title I, §128, June 25, 2003, 117 Stat. 817; renumbered §207 and amended Pub. L. 111–320, title I, §§138, 141, Dec. 20, 2010, 124 Stat. 3481, 3482.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 5116g, Pub. L. 93–247, title II, §208, formerly Pub. L. 98–473, title IV, §409, Oct. 12, 1984, 98 Stat. 2199; renumbered §208 of Pub. L. 93–247, and amended Pub. L. 101–126, §§2(a), 3(a)(3), (c)(3), 4(h), Oct. 25, 1989, 103 Stat. 764, 766, 768, related to reports to Congress, prior to the general amendment of this subchapter by Pub. L. 103–252, §401(a).

A prior section 207 of Pub. L. 93–247 was renumbered section 206 and is classified to section 5116f of this title.

Another prior section 207 of Pub. L. 93–247 was classified to section 5116f of this title prior to the general amendment of this subchapter by Pub. L. 103–252, §401(a).

AMENDMENTS

2010—Pars. (1), (2), (4). Pub. L. 111–320, §138, inserted a comma after "operate".

2003—Par. (3). Pub. L. 108–36 substituted "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect" for "Statewide networks of community-based, prevention-focused, family resource and support programs".

§5116h. Definitions

For purposes of this subchapter:

(1) Community referral services

The term "community referral services" means services provided under contract or through interagency agreements to assist families in obtaining needed information, mutual support and community resources, including respite care services, health and mental health services, employability development and job training, and other social services, including early developmental screening of children, through help lines or other methods.

(2) Community-based and prevention-focused programs and activities to prevent child abuse and neglect

The term "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect" includes organizations such as family resource programs, family support programs, voluntary home visiting programs, respite care programs, parenting education, mutual support programs, and other community programs or networks of such programs that provide activities that are designed to prevent or respond to child abuse and neglect.

(3) Respite care services

The term "respite care services" means short term care services, including the services of crisis nurseries, provided in the temporary absence of the regular caregiver (parent, other relative, foster parent, adoptive parent, or guardian) to children who—

(A) are in danger of child abuse or neglect;

(B) have experienced child abuse or neglect; or
(C) have disabilities or chronic or terminal illnesses.

Such services shall be provided within or outside the home of the child, be short-term care (ranging from a few hours to a few weeks of time, per year), and be intended to enable the family to stay together and to keep the child living in the home and community of the child.

(Pub. L. 93–247, title II, §208, formerly §209, as added Pub. L. 104–235, title I, §121, Oct. 3, 1996, 110 Stat. 3087; amended Pub. L. 108–36, title I, §129, June 25, 2003, 117 Stat. 817; renumbered §208 and amended Pub. L. 111–320, title I, §§139, 141, Dec. 20, 2010, 124 Stat. 3481, 3482.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 208 of Pub. L. 93–247 was renumbered section 207 and is classified to section 5116g of this title.

Another prior section 208 of Pub. L. 93–247 was classified to section 5116g of this title prior to the general amendment of this subchapter by Pub. L. 103–252, §401(a).

AMENDMENTS

2010—Par. (1). Pub. L. 111–320, §139(1), (2), redesignated par. (2) as (1) and struck out former par. (1). Prior to amendment, text of par. (1) read as follows: "The term 'children with disabilities' has the same meaning given the term 'child with a disability' in section 1401(3) or 'infant or toddler with a disability' in section 1432(5) of title 20."

Par. (2). Pub. L. 111–320, §139(2), redesignated par. (3) as (2). Former par. (2) redesignated (1).

Par. (3). Pub. L. 111–320, §139(2), (3)(A), redesignated par. (5) as (3) and inserted ", including the services of crisis nurseries," after "short term care services" in introductory provisions. Former par. (3) redesignated (2).

Par. (3)(A), (B). Pub. L. 111–320, §139(3)(B), substituted "child abuse or neglect" for "abuse or neglect".

Par. (3)(C). Pub. L. 111–320, §139(3)(C), substituted "have disabilities or chronic or terminal illnesses." for "have disabilities, chronic, or terminal illnesses."

Par. (5). Pub. L. 111–320, §139(2), redesignated par. (5) as (3).

2003—Par. (1). Pub. L. 108–36, §129(a), substituted "given the term 'child with a disability' in section 1401(3) or 'infant or toddler with a disability' in section 1432(5) of title 20" for "given such term in section 1401(a)(2) of title 20".

Pars. (3), (4). Pub. L. 108–36, §129(b), added par. (3) and struck out former pars. (3) and (4), which related, respectively, to family resource and support programs and outreach services.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 3 of Pub. L. 93–247, set out as a note under section 5101 of this title.

§5116i. Authorization of appropriations

There are authorized to be appropriated to carry out this subchapter $80,000,000 for fiscal year 2010 and such sums as may be necessary for each of the fiscal years 2011 through 2015.

(Pub. L. 93–247, title II, §209, formerly §210, as added Pub. L. 104–235, title I, §121, Oct. 3, 1996, 110 Stat. 3088; amended Pub. L. 108–36, title I, §130, June 25, 2003, 117 Stat. 818; renumbered §209 and amended Pub. L. 111–320, title I, §§140, 141, Dec. 20, 2010, 124 Stat. 3482.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 209 of Pub. L. 93–247 was renumbered section 208 and is classified to section 5116h of this title.

AMENDMENTS

2010—Pub. L. 111–320, §140, substituted "2010" for "2004" and "2011 through 2015" for "2005 through 2008".

2003—Pub. L. 108–36 amended section catchline and text generally. Prior to amendment, text read as follows: "There are authorized to be appropriated to carry out this subchapter, $66,000,000 for fiscal year 1997 and such sums as may be necessary for each of the fiscal years 1998 through 2001."

SUBCHAPTER IV—TEMPORARY CHILD CARE FOR CHILDREN WITH DISABILITIES AND CRISIS NURSERIES

§§5117 to 5117d. Repealed. Pub. L. 104–235, title I, §142(a), Oct. 3, 1996, 110 Stat. 3089

Section 5117, Pub. L. 99–401, title II, §202, Aug. 27, 1986, 100 Stat. 907, related to congressional findings for this subchapter.

Section 5117a, Pub. L. 99–401, title II, §203, Aug. 27, 1986, 100 Stat. 907; Pub. L. 101–127, §2(1), Oct. 25, 1989, 103 Stat. 770, related to temporary child care for children with disabilities and chronically ill children.

Section 5117b, Pub. L. 99–401, title II, §204, Aug. 27, 1986, 100 Stat. 907, related to crisis nurseries for children who are abused and neglected, at high risk of abuse and neglect, or who are in families receiving child protective services.

Section 5117c, Pub. L. 99–401, title II, §205, Aug. 27, 1986, 100 Stat. 908; Pub. L. 101–127, §§2(2), 3, 4, Oct. 25, 1989, 103 Stat. 770, 771; Pub. L. 101–476, title IX, §901(a)(3), (g), Oct. 30, 1990, 104 Stat. 1142, 1151; Pub. L. 102–295, title II, §202, May 28, 1992, 106 Stat. 200, related to administrative provisions.

Section 5117d, Pub. L. 99–401, title II, §206, Aug. 27, 1986, 100 Stat. 909; Pub. L. 100–403, §1, Aug. 19, 1988, 102 Stat. 1013; Pub. L. 101–127, §5, Oct. 25, 1989, 103 Stat. 771; Pub. L. 102–295, title II, §203, May 28, 1992, 106 Stat. 200, related to authorization of appropriations for carrying out this subchapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 99–401, title II, §207, Aug. 27, 1986, 100 Stat. 909, which provided that title II of Pub. L. 99–401 was effective Oct. 1, 1986, was repealed by Pub. L. 104–235, title I, §142(a), Oct. 3, 1996, 110 Stat. 3089.

SHORT TITLE

Pub. L. 99–401, title II, §201, Aug. 27, 1986, 100 Stat. 907, as amended by Pub. L. 101–127, §6, Oct. 25, 1989, 103 Stat. 772, which provided that title II of Pub. L. 99–401 be cited as the "Temporary Child Care for Children With Disabilities and Crisis Nurseries Act of 1986", was repealed by Pub. L. 104–235, title I, §142(a), Oct. 3, 1996, 110 Stat. 3089.

SUBCHAPTER IV–A—ABANDONED INFANTS ASSISTANCE

EDITORIAL NOTES

CODIFICATION

This subchapter was comprised generally of Pub. L. 100–505, Oct. 18, 1988, 102 Stat. 2533, and was formerly set out as a note under section 670 of this title prior to its transfer to this subchapter and subsequent repeal by Pub. L. 115–271.

§§5117aa to 5117aa–22. Repealed. Pub. L. 115–271, title VII, §7065(b), Oct. 24, 2018, 132 Stat. 4028

Section 5117aa, Pub. L. 100–505, §2, Oct. 18, 1988, 102 Stat. 2533; Pub. L. 102–236, §2, Dec. 12, 1991, 105 Stat. 1812; Pub. L. 108–36, title III, §301, June 25, 2003, 117 Stat. 822; Pub. L. 111–320, title IV, §401(a), Dec. 20, 2010, 124 Stat. 3513, related to congressional findings.

Sections 5117aa–11 and 5117aa–12 comprised part A of this subchapter "Projects Regarding Abandonment of Infants and Young Children in Hospitals".

Section 5117aa–11, Pub. L. 100–505, title I, §101, Oct. 18, 1988, 102 Stat. 2534; Pub. L. 102–236, §3, Dec. 12, 1991, 105 Stat. 1812; Pub. L. 104–235, title II, §221, Oct. 3, 1996, 110 Stat. 3091; Pub. L. 108–36, title III, §302, June 25, 2003, 117 Stat. 823, related to establishment of local projects.

Section 5117aa–12, Pub. L. 100–505, title I, §102, Oct. 18, 1988, 102 Stat. 2535; Pub. L. 102–236, §4, Dec. 12, 1991, 105 Stat. 1814; Pub. L. 108–36, title III, §303, June 25, 2003, 117 Stat. 823, related to evaluations, study, and reports by Secretary.

Sections 5117aa–21 and 5117aa–22 comprised part B of this subchapter "General Provisions".

Section 5117aa–21, Pub. L. 100–505, title III, §301, Oct. 18, 1988, 102 Stat. 2537; Pub. L. 108–36, title III, §305(a), June 25, 2003, 117 Stat. 824; Pub. L. 111–320, title IV, §401(c), Dec. 20, 2010, 124 Stat. 3513, provided definitions for this subchapter.

Section 5117aa–22, Pub. L. 100–505, title III, §302, formerly title I, §104, Oct. 18, 1988, 102 Stat. 2536; Pub. L. 102–236, §6, Dec. 12, 1991, 105 Stat. 1815; Pub. L. 104–235, title II, §222, Oct. 3, 1996, 110 Stat. 3092; renumbered title III, §302, and amended Pub. L. 108–36, title III, §304, June 25, 2003, 117 Stat. 824; Pub. L. 111–320, title IV, §401(d), Dec. 20, 2010, 124 Stat. 3513, related to authorization of appropriations.

SUBCHAPTER V—CERTAIN PREVENTIVE SERVICES REGARDING CHILDREN OF HOMELESS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS

§§5118 to 5118e. Repealed. Pub. L. 104–235, title I, §131, Oct. 3, 1996, 110 Stat. 3088

Section 5118, Pub. L. 93–247, title III, §301, as added Pub. L. 101–645, title VI, §661(b), Nov. 29, 1990, 104 Stat. 4755, related to demonstration grants for prevention of inappropriate separation from family and for prevention of child abuse and neglect.

Section 5118a, Pub. L. 93–247, title III, §302, as added Pub. L. 101–645, title VI, §661(b), Nov. 29, 1990, 104 Stat. 4757, related to joint training of appropriate service personnel with respect to certain subjects and additional authorized activities for which a grantee may expend grant funds.

Section 5118b, Pub. L. 93–247, title III, §303, as added Pub. L. 101–645, title VI, §661(b), Nov. 29, 1990, 104 Stat. 4757, related to additional agreements required of agencies, evaluations of effectiveness of demonstration programs, report to Congress, and restriction on use of grant to purchase or improve real property.

Section 5118c, Pub. L. 93–247, title III, §304, as added Pub. L. 101–645, title VI, §661(b), Nov. 29, 1990, 104 Stat. 4759, related to required submission of description of intended uses of grant.

Section 5118d, Pub. L. 93–247, title III, §305, as added Pub. L. 101–645, title VI, §661(b), Nov. 29, 1990, 104 Stat. 4759, related to requirement of submission of application for grant.

Section 5118e, Pub. L. 93–247, title III, §306, as added Pub. L. 101–645, title VI, §661(b), Nov. 29, 1990, 104 Stat. 4760; amended Pub. L. 102–295, title I, §131, May 28, 1992, 106 Stat. 199, related to authorization of appropriations for carrying out this subchapter.

SUBCHAPTER VI—CHILD ABUSE CRIME INFORMATION AND BACKGROUND CHECKS

§5119. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5119 was editorially reclassified as section 40101 of Title 34, Crime Control and Law Enforcement.

§5119a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5119a was editorially reclassified as section 40102 of Title 34, Crime Control and Law Enforcement.

§5119b. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5119b was editorially reclassified as section 40103 of Title 34, Crime Control and Law Enforcement.

§5119c. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5119c was editorially reclassified as section 40104 of Title 34, Crime Control and Law Enforcement.

CHAPTER 68—DISASTER RELIEF

SUBCHAPTER I—FINDINGS, DECLARATIONS, AND DEFINITIONS

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5121. Congressional findings and declarations.
5122. Definitions.
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SUBCHAPTER II—DISASTER PREPAREDNESS AND MITIGATION ASSISTANCE

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5132. Disaster warnings.
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5135. Grants to entities for establishment of hazard mitigation revolving loan funds.

5136. Natural hazard risk assessment.
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SUBCHAPTER III—MAJOR DISASTER AND EMERGENCY ASSISTANCE ADMINISTRATION

5141. Waiver of administrative conditions.
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§5121. Congressional findings and declarations

(a) The Congress hereby finds and declares that—

(1) because disasters often cause loss of life, human suffering, loss of income, and property loss and damage; and

(2) because disasters often disrupt the normal functioning of governments and communities, and adversely affect individuals and families with great severity;

special measures, designed to assist the efforts of the affected States in expediting the rendering of aid, assistance, and emergency services, and the reconstruction and rehabilitation of devastated areas, are necessary.

(b) It is the intent of the Congress, by this chapter, to provide an orderly and continuing means of assistance by the Federal Government to State and local governments in carrying out their responsibilities to alleviate the suffering and damage which result from such disasters by—

(1) revising and broadening the scope of existing disaster relief programs;

(2) encouraging the development of comprehensive disaster preparedness and assistance plans, programs, capabilities, and organizations by the States and by local governments;

(3) achieving greater coordination and responsiveness of disaster preparedness and relief programs;

(4) encouraging individuals, States, and local governments to protect themselves by obtaining insurance coverage to supplement or replace governmental assistance;

(5) encouraging hazard mitigation measures to reduce losses from disasters, including development of land use and construction regulations;

(6) providing Federal assistance programs for both public and private losses sustained in disasters; and

(7) identifying and improving the climate and natural hazard resilience of vulnerable communities.

(Pub. L. 93–288, title I, §101, May 22, 1974, 88 Stat. 143; Pub. L. 100–707, title I, §103(a), Nov. 23, 1988, 102 Stat. 4689; Pub. L. 117–255, §2, Dec. 20, 2022, 136 Stat. 2363.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

AMENDMENTS

2022—Subsec. (b)(7). Pub. L. 117–255 added par. (7).

1988—Subsec. (b)(7). Pub. L. 100–707 struck out par. (7) expressing Congressional intent to provide disaster assistance through a long-range economic recovery program for major disaster areas.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115–254, div. D, §1202, Oct. 5, 2018, 132 Stat. 3438, provided that:

"(a) APPLICABILITY FOR STAFFORD ACT.—Except as otherwise expressly provided, the amendments in this division [see section 1201 of Pub. L. 115–254, set out as a Short Title of 2018 Amendment note below] to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) apply to each major disaster and emergency declared by the President on or after August 1, 2017, under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

"(b) DIVISION APPLICABILITY.—Except as otherwise expressly provided, the authorities provided under this division [div. D (§§1201–1246) of Pub. L. 115–254] apply to each major disaster and emergency declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act on or after January 1, 2016."

EFFECTIVE DATE

Pub. L. 93–288, title VI, §605, May 22, 1974, 88 Stat. 164, provided that Pub. L. 93–288 was effective Apr. 1, 1974, with the exception of section 5178 of this title, prior to repeal by Pub. L. 100–707, title I, §108(b), Nov. 23, 1988, 102 Stat. 4708.

SHORT TITLE OF 2024 AMENDMENT

Pub. L. 118–44, §1, Mar. 18, 2024, 138 Stat. 455, provided that: "This Act [amending section 5177 of this title and enacting provisions set out as a note under section 5177 of this title] may be cited as the 'Disaster Assistance Deadlines Alignment Act'."

SHORT TITLE OF 2022 AMENDMENT

Pub. L. 117–263, div. G, title LXXIII, §7311, Dec. 23, 2022, 136 Stat. 3689, provided that: "This subtitle [subtitle B (§§7311–7315) of title LXXIII of div. G of Pub. L. 117–263, enacting section 5136a of this title and provisions set out as notes under section 5136a of this title] may be cited as the 'Technological Hazards Preparedness and Training Act of 2022'."

Pub. L. 117–255, §1, Dec. 20, 2022, 136 Stat. 2363, provided that: "This Act [enacting section 5136 of this title, amending this section, and enacting provisions set out as notes under section 5136 of this title] may be cited as the 'Community Disaster Resilience Zones Act of 2022'."

Pub. L. 117–251, §1, Dec. 20, 2022, 136 Stat. 2354, provided that: "This Act [amending sections 5183, 5189d, and 5196c of this title and enacting provisions set out as notes under sections 5131, 5183, 5189d, and 5196c of this title] may be cited as the 'FEMA Improvement, Reform, and Efficiency Act of 2022' or the 'FIRE Act'."

Pub. L. 117–189, §1, Oct. 10, 2022, 136 Stat. 2204, provided that: "This Act [amending section 5189 of this title and enacting provisions set out as a note under section 5189 of this title] may be cited as the 'Small Project Efficient and Effective Disaster Recovery Act' or the 'SPEED Recovery Act'."

SHORT TITLE OF 2021 AMENDMENT

Pub. L. 116–284, §1, Jan. 1, 2021, 134 Stat. 4869, provided that: "This Act [enacting section 5135 of this title] may be cited as the 'Safeguarding Tomorrow through Ongoing Risk Mitigation Act' or the 'STORM Act'."

SHORT TITLE OF 2018 AMENDMENT

Pub. L. 115–254, div. D, §1201, Oct. 5, 2018, 132 Stat. 3438, provided that: "This division [div. D (§§1201–1246) of Pub. L. 115–254, enacting sections 5161a, 5165g, 5174a, 5174b, 5189h, 5196g, and 5205a of this title, and section 748a of Title 6, Domestic Security, amending sections 3149, 5122, 5133, 5149, 5152, 5155, 5165, 5165b, 5170a to 5170c, 5172, 5174, 5187, 5189a, 5189f, 5205 of this title, and sections 761 and 762 of Title 6, enacting provisions set out as notes under this section and sections 5122, 5133, 5155, 5170, 5170c, 5172, 5174, 5187, 5189g, 5205 of this title, and section 721 of Title 6, and amending provisions set out as a note under section 5172 of this title] may be cited as the 'Disaster Recovery Reform Act of 2018'."

SHORT TITLE OF 2017 AMENDMENT

Pub. L. 115–87, §1, Nov. 21, 2017, 131 Stat. 1277, provided that: "This Act [enacting provisions set out as a note under this section] may be cited as the 'FEMA Accountability, Modernization and Transparency Act of 2017'."

SHORT TITLE OF 2016 AMENDMENT

Pub. L. 114–326, §1, Dec. 16, 2016, 130 Stat. 1968, provided that: "This Act [enacting section 5165f of this

title, amending section 8101 of Title 5, Government Organization and Employees, and section 4303 of Title 38, Veterans' Benefits, and enacting and amending provisions set out as notes under section 3791 of this title] may be cited as the 'National Urban Search and Rescue Response System Act of 2016'."

Pub. L. 114–132, §1, Feb. 29, 2016, 130 Stat. 293, provided that: "This Act [enacting section 5165e of this title and provisions set out as notes under section 5165e of this title] may be cited as the 'Directing Dollars to Disaster Relief Act of 2015'."

SHORT TITLE OF 2015 AMENDMENT

Pub. L. 114–111, §1, Dec. 18, 2015, 129 Stat. 2240, provided that: "This Act [amending sections 5122 and 5172 of this title] may be cited as the 'Emergency Information Improvement Act of 2015'."

SHORT TITLE OF 2013 AMENDMENT

Pub. L. 113–2, div. B, §1101(a), Jan. 29, 2013, 127 Stat. 39, provided that: "This division [enacting sections 5123, 5189f, and 5189g of this title, amending sections 5122, 5170, 5170b, 5170c, 5174, 5189, 5189e, and 5191 of this title, and enacting provisions set out as notes under sections 5122, 5170, 5170c, and 5189a of this title] may be cited as the 'Sandy Recovery Improvement Act of 2013'."

SHORT TITLE OF 2011 AMENDMENT

Pub. L. 111–351, §1, Jan. 4, 2011, 124 Stat. 3863, provided that: "This Act [amending sections 5133, 5134, 5144, 5165d, 5170c, 5172, 5195a, 5195b, 5196 to 5196b, 5196f, 5197 to 5197c, and 5197h of this title and enacting provisions set out as a note under section 5133 of this title] may be cited as the 'Predisaster Hazard Mitigation Act of 2010'."

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109–308, §1, Oct. 6, 2006, 120 Stat. 1725, provided that: "This Act [amending sections 5170b, 5196, and 5196b of this title] may be cited as the 'Pets Evacuation and Transportation Standards Act of 2006'."

Pub. L. 109–218, §1, Apr. 20, 2006, 120 Stat. 333, provided that: "This Act [amending section 5150 of this title] may be cited as the 'Local Community Recovery Act of 2006'."

SHORT TITLE OF 2005 AMENDMENT

Pub. L. 109–139, §1, Dec. 22, 2005, 119 Stat. 2649, provided that: "This Act [amending section 5133 of this title and provisions set out as a note under this section] may be cited as the 'Predisaster Mitigation Program Reauthorization Act of 2005'."

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–390, §1(a), Oct. 30, 2000, 114 Stat. 1552, provided that: "This Act [enacting sections 5133, 5134, 5165 to 5165c, 5205, and 5206 of this title, amending sections 3796b, 5122, 5154, 5170c, 5172, 5174, 5184, 5187, and 5192 of this title, repealing sections 5176 and 5178 of this title, and enacting provisions set out as notes under this section and sections 3796b, 5133, 5165b, 5172, 5174, and 5187 of this title] may be cited as the 'Disaster Mitigation Act of 2000'."

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103–181, §1, Dec. 3, 1993, 107 Stat. 2054, provided that: "This Act [amending section 5170c of this title and enacting provisions set out as notes under sections 4601 and 5170c of this title] may be cited as the 'Hazard Mitigation and Relocation Assistance Act of 1993'."

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–707, title I, §101(a), Nov. 23, 1988, 102 Stat. 4689, provided that: "This title [enacting sections 5141, 5153 to 5157, 5159 to 5164, 5170 to 5170c, 5172, 5174, 5178, 5189 to 5189b, and 5191 to 5193 of this title, amending this section, sections 1382a, 3030, 3231, 3232, 3539, 4003, 4013, 5122, 5131, 5143, 5144, 5147 to 5152, 5158, 5171, 5173, 5176, 5177, 5179 to 5188, 5201, 7704, and 9601 of this title, sections 1421, 1427, 1427a, 1961, 1964, and 2014 of Title 7, Agriculture, sections 1706c, 1709, and 1715l of Title 12, Banks and Banking, section 636 of Title 15, Commerce and Trade, sections 1536 and 3505 of Title 16, Conservation, sections 241–1 and 646 of Title 20, Education, section 125 of Title 23, Highways, sections 165, 5064, and 5708 of Title 26, Internal Revenue Code, section 701n of Title 33, Navigation and Navigable Waters, and section 1820 [now 3720] of Title 38, Veterans' Benefits, repealing sections 5142, 5145, 5146, 5175, and 5202 of this title and former sections 5141, 5153 to 5157, 5172, 5174, 5178, and 5189 of this title, enacting provisions set out as notes under this section and sections 3231, 5122, and 5201 of this title, amending

provisions set out as a note under this section and section 1681 of Title 48, Territories and Insular Possessions, and repealing provisions set out as notes under this section and former section 5178 of this title] may be cited as 'The Disaster Relief and Emergency Assistance Amendments of 1988'."

SHORT TITLE OF 1980 AMENDMENT

Pub. L. 96–568, §1, Dec. 23, 1980, 94 Stat. 3334, provided: "That this Act [amending section 5202 of this title] may be cited as the 'Disaster Relief Act Amendments of 1980'."

SHORT TITLE

Pub. L. 93–288, §1, May 22, 1974, 88 Stat. 143, as amended by Pub. L. 100–707, title I, §102(a), Nov. 23, 1988, 102 Stat. 4689; Pub. L. 106–390, title III, §301, Oct. 30, 2000, 114 Stat. 1572, provided: "That this Act [enacting this section, sections 3231 to 3236, 5122, 5131, 5132, 5141 to 5158, 5171 to 5189, 5201, and 5202 of this title, and section 1264 of former Title 31, Money and Finance, amending sections 1706c, 1709, 1715l of Title 12, Banks and Banking, sections 241–1, 646, 758 of Title 20, Education, sections 165, 5064, 5708 of Title 26, Internal Revenue Code, section 1820 [now 3720] of Title 38, Veterans' Benefits, section 461 of former Title 40, Public Buildings, Property, and Works, repealing sections 4401, 4402, 4411 to 4413, 4414 to 4420, 4431 to 4436, 4457 to 4462, 4481 to 4485 of this title, enacting provisions set out as notes under this section, sections 4401 and 5178 of this title, and section 1264 of former Title 31, and amending provisions set out as a note under section 1681 of Title 48, Territories and Insular Possessions] may be cited as the 'Robert T. Stafford Disaster Relief and Emergency Assistance Act'."

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

REFERENCES TO DISASTER RELIEF ACT OF 1974

Pub. L. 100–707, title I, §102(b), Nov. 23, 1988, 102 Stat. 4689, provided that: "Whenever any reference is made in any law (other than this Act [see Tables for classification]), regulation, document, rule, record, or other paper of the United States to a section or provision of the Disaster Relief Act of 1974 [former short title of Pub. L. 93–288], such reference shall be deemed to be a reference to such section or provision of the Robert T. Stafford Disaster Relief and Emergency Assistance Act [Pub. L. 93–288, see Short Title note above]."

REFERENCES TO DISASTER RELIEF ACT OF 1970

Pub. L. 93–288, title VII, §702(m), formerly title VI, §602(m), May 22, 1974, 88 Stat. 164, as renumbered by Pub. L. 103–337, div. C, title XXXIV, §3411(a)(1), (2), Oct. 5, 1994, 108 Stat. 3100, provided that: "Whenever reference is made in any provision of law (other than this Act [see Short Title note set out above]), regulation, rule, record, or documents of the United States to provisions of the Disaster Relief Act of 1970 (84 Stat. 1744), repealed by this Act such reference shall be deemed to be a reference to the appropriate provision of this Act."

REQUIREMENTS FOR GRANT SYSTEMS MODERNIZATION

Pub. L. 115–87, §2, Nov. 21, 2017, 131 Stat. 1277, provided that:

"(a) IN GENERAL.—The Administrator of the Federal Emergency Management Agency shall ensure the ongoing modernization of the grant systems for the administration of assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) includes the following:

"(1) An online interface, including online assistance, for applicants to complete application forms, submit materials, and access the status of applications.

"(2) Mechanisms to eliminate duplication of benefits.

"(3) If appropriate, enable the sharing of information among agencies and with State, local, and tribal governments, to eliminate the need to file multiple applications and speed disaster recovery.

"(4) Any additional tools the Administrator determines will improve the implementation of this section.

"(b) IMPLEMENTATION.—To the extent practicable, the Administrator shall deliver the system capabilities described in subsection (a) in increments or iterations as working components for applicant use."

REPORT ON STATE MANAGEMENT OF SMALL DISASTERS INITIATIVE

Pub. L. 106–390, title II, §208, Oct. 30, 2000, 114 Stat. 1571, provided that not later than 3 years after Oct. 30, 2000, the President would submit to Congress a report describing the results of the State Management of Small Disasters Initiative, including recommendations concerning State administration of parts of the program.

STUDY REGARDING COST REDUCTION

Pub. L. 106–390, title II, §209, Oct. 30, 2000, 114 Stat. 1571, as amended by Pub. L. 109–139, §3, Dec. 22, 2005, 119 Stat. 2649, provided that: "Not later than September 30, 2007, the Director of the Congressional Budget Office shall complete a study estimating the reduction in Federal disaster assistance that has resulted and is likely to result from the enactment of this Act [see Short Title of 2000 Amendment note above]."

STUDY OF PARTICIPATION BY INDIAN TRIBES IN EMERGENCY MANAGEMENT

Pub. L. 106–390, title III, §308, Oct. 30, 2000, 114 Stat. 1575, required the Director of the Federal Emergency Management Agency to conduct a study of participation by Indian tribes in emergency management and submit a report no later than 1 year after Oct. 30, 2000.

NATIONAL DROUGHT POLICY

Pub. L. 105–199, July 16, 1998, 112 Stat. 641, as amended by Pub. L. 106–78, title VII, §753, Oct. 22, 1999, 113 Stat. 1170, known as the "National Drought Policy Act of 1998", established the National Drought Policy Commission to study and submit a report on national drought policy and terminated the Commission 90 days after the submission of the report.

RECOMMENDATIONS CONCERNING IMPROVEMENT OF RELATIONSHIPS AMONG DISASTER MANAGEMENT OFFICIALS

Pub. L. 100–707, title I, §110, Nov. 23, 1988, 102 Stat. 4710, provided that not later than 1 year after Nov. 23, 1988, the President was to recommend to the Congress proposals to improve the operational and fiscal relationships that exist among Federal, State, and local major disaster and emergency management officials, including provisions which would decrease the amount of time for processing requests for major disaster and emergency declarations and providing Federal assistance for major disasters and emergencies, provide for more effective utilization of State and local resources in relief efforts, and improve the timeliness of reimbursement.

DECLARED DISASTERS AND EMERGENCIES NOT AFFECTED

Pub. L. 100–707, title I, §112, Nov. 23, 1988, 102 Stat. 4711, provided that: "This title [see Short Title of 1988 Amendment note above] shall not affect the administration of any assistance for a major disaster or emergency declared by the President before the date of the enactment of this Act [Nov. 23, 1988]."

EXECUTIVE DOCUMENTS

DELEGATION OF FUNCTIONS

Functions of the President under the Disaster Relief Acts of 1970 and 1974, with certain exceptions, were delegated to the Secretary of Homeland Security, see sections 4–201 and 4–203 of Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, as amended, set out as a note under section 5195 of this title.

EXECUTIVE ORDER NO. 11749

Ex. Ord. No. 11749, Dec. 10, 1973, 38 F.R. 34177, which related to consolidation of functions assigned to Secretary of Housing and Urban Development, was revoked by Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, set out as a note under section 5195 of this title.

EX. ORD. NO. 11795. DELEGATION OF PRESIDENTIAL FUNCTIONS

Ex. Ord. No. 11795, July 11, 1974, 39 F.R. 25939, as amended by Ex. Ord. No. 11910, Apr. 13, 1976, 41 F.R. 15681; Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239; Ex. Ord. No. 12673, Mar. 23, 1989, 54 F.R. 12571, provided:

By virtue of the authority vested in me by the Disaster Relief Act of 1974 (Public Law 93–288; 88 Stat. 143) [see References to Disaster Relief Act of 1974 note above], section 301 of title 3 of the United States

Code, and as President of the United States of America, it is hereby ordered as follows:

[SECTIONS 1 and 2. Revoked by Ex. Ord. No. 12148, §5–111, July 20, 1979, 44 F.R. 43239.]

SEC. 3. The Secretary of Agriculture is designated and empowered to exercise, without the approval, ratification, or other action of the President, all of the authority vested in the President by section 412 of the act [section 5179 of this title] concerning food coupons and distribution.

[SEC. 4. Revoked by Ex. Ord. No. 12148, §5–111, July 20, 1979, 44 F.R. 43239.]

[References to a "coupon" provided under the Food and Nutrition Act of 2008 considered to refer to a "benefit" under that Act, see section 4115(d) of Pub. L. 110–246, set out as a note under section 2012 of Title 7, Agriculture.]

SEISMIC SAFETY OF FEDERAL AND FEDERALLY ASSISTED OR REGULATED NEW BUILDING CONSTRUCTION

For provisions relating to seismic safety requirements for new construction or total replacement of a building under this chapter after a presidentially declared major disaster or emergency, see Ex. Ord. No. 13717, Feb. 2, 2016, 81 F.R. 6407, set out as a note under section 7704 of this title.

§5122. Definitions

As used in this chapter—

(1) EMERGENCY.—"Emergency" means any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.

(2) MAJOR DISASTER.—"Major disaster" means any natural catastrophe (including any hurricane, tornado, storm, high water, winddriven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this chapter to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

(3) "United States" means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(4) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(5) "Governor" means the chief executive of any State.

(6) INDIAN TRIBAL GOVERNMENT.—The term "Indian tribal government" means the governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe under the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a et seq.).[1]

(7) INDIVIDUAL WITH A DISABILITY.—The term "individual with a disability" means an individual with a disability as defined in section 12102(2) of this title.

(8) LOCAL GOVERNMENT.—The term "local government" means—

(A) a county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments (regardless of whether the council of governments is incorporated as a nonprofit corporation under State law), regional or interstate government entity, or agency or instrumentality of a local government;

(B) an Indian tribe or authorized tribal organization, or Alaska Native village or organization, that is not an Indian tribal government as defined in paragraph (6); and

(C) a rural community, unincorporated town or village, or other public entity, for which an application for assistance is made by a State or political subdivision of a State.

(9) "Federal agency" means any department, independent establishment, Government corporation, or other agency of the executive branch of the Federal Government, including the United States Postal Service, but shall not include the American National Red Cross.

(10) PUBLIC FACILITY.—"Public facility" means the following facilities owned by a State or local government:

(A) Any flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility.

(B) Any non-Federal-aid street, road, or highway.

(C) Any other public building, structure, or system, including those used for educational, recreational, or cultural purposes.

(D) Any park.

(11) PRIVATE NONPROFIT FACILITY.—

(A) IN GENERAL.—The term "private nonprofit facility" means private nonprofit educational (without regard to the religious character of the facility), center-based childcare, utility, irrigation, emergency, medical, rehabilitational, and temporary or permanent custodial care facilities (including those for the aged and disabled) and facilities on Indian reservations, as defined by the President.

(B) ADDITIONAL FACILITIES.—In addition to the facilities described in subparagraph (A), the term "private nonprofit facility" includes any private nonprofit facility that provides essential social services to the general public (including museums, zoos, performing arts facilities, community arts centers, community centers, libraries, homeless shelters, senior citizen centers, rehabilitation facilities, shelter workshops, food banks, broadcasting facilities, houses of worship, and facilities that provide health and safety services of a governmental nature), as defined by the President. No house of worship may be excluded from this definition because leadership or membership in the organization operating the house of worship is limited to persons who share a religious faith or practice.

(12) CHIEF EXECUTIVE.—The term "Chief Executive" means the person who is the Chief, Chairman, Governor, President, or similar executive official of an Indian tribal government.

(Pub. L. 93–288, title I, §102, May 22, 1974, 88 Stat. 144; Pub. L. 100–707, title I, §103(b)–(d), (f), Nov. 23, 1988, 102 Stat. 4689, 4690; Pub. L. 102–247, title II, §205, Feb. 24, 1992, 106 Stat. 38; Pub. L. 106–390, title III, §302, Oct. 30, 2000, 114 Stat. 1572; Pub. L. 109–295, title VI, §688, Oct. 4, 2006, 120 Stat. 1448; Pub. L. 113–2, div. B, §1110(c), Jan. 29, 2013, 127 Stat. 49; Pub. L. 114–111, §2(a), Dec. 18, 2015, 129 Stat. 2240; Pub. L. 115–123, div. B, title VI, §20604(a), Feb. 9, 2018, 132 Stat. 85; Pub. L. 115–254, div. D, §§1214, 1238(b), Oct. 5, 2018, 132 Stat. 3449, 3466.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in introductory provisions and par. (2), was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

The Federally Recognized Indian Tribe List Act of 1994, referred to in par. (6), is title I of Pub. L. 103–454, Nov. 2, 1994, 108 Stat. 4791, which was classified principally to section 479a et seq. of Title 25, Indians, prior to editorial reclassification as section 5130 et seq. of Title 25. For complete classification of this Act to the Code, see Short Title note set out under section 5101 of Title 25 and Tables.

AMENDMENTS

2018—Par. (11). Pub. L. 115–123 amended subpar. (B) generally by substituting a second subpar. (A) and a subpar. (B) for former subpar. (B). Prior to amendment, subpar. (B) read as follows: "In addition to the facilities described in subparagraph (A), the term 'private nonprofit facility' includes any private nonprofit facility that provides essential services of a governmental nature to the general public (including museums, zoos, performing arts facilities, community arts centers, libraries, homeless shelters, senior citizen centers, rehabilitation facilities, shelter workshops, broadcasting facilities, and facilities that provide health and safety services of a governmental nature), as defined by the President."

Par. (11)(A). Pub. L. 115–254, §1238(b)(2), struck out first subpar. (A) which read as follows: "The term

'private nonprofit facility' means private nonprofit educational, utility, irrigation, emergency, medical, rehabilitational, and temporary or permanent custodial care facilities (including those for the aged and disabled) and facilities on Indian reservations, as defined by the President."

Pub. L. 115–254, §1238(b)(1), inserted "center-based childcare," after "facility)," in second subpar. (A) as added by Pub. L. 115–123.

Par. (11)(B). Pub. L. 115–254, §1214, inserted "food banks," after "shelter workshops,".

2015—Par. (11)(B). Pub. L. 114–111 inserted "broadcasting facilities," after "workshops,".

2013—Par. (6). Pub. L. 113–2, §1110(c)(3), added par. (6). Former par. (6) redesignated (7).

Par. (7). Pub. L. 113–2, §1110(c)(2), redesignated par. (6) as (7). Former par. (7) redesignated (8).

Par. (7)(B). Pub. L. 113–2, §1110(c)(1), substituted ", that is not an Indian tribal government as defined in paragraph (6); and" for "; and".

Pars. (8) to (11). Pub. L. 113–2, §1110(c)(2), redesignated pars. (7) to (10) as (8) to (11), respectively.

Par. (12). Pub. L. 113–2, §1110(c)(4), added par. (12).

2006—Pars. (6) to (8). Pub. L. 109–295, §688(2), added par. (6) and redesignated former pars. (6) and (7) as (7) and (8), respectively. Former par. (8) redesignated (9).

Par. (9). Pub. L. 109–295, §688(2), redesignated par. (8) as (9). Former par. (9) redesignated (10).

Pub. L. 109–295, §688(1), amended par. (9) generally. Prior to amendment, text read as follows: " 'Private nonprofit facility' means private nonprofit educational, utility, irrigation, emergency, medical, rehabilitational, and temporary or permanent custodial care facilities (including those for the aged and disabled), other private nonprofit facilities which provide essential services of a governmental nature to the general public, and facilities on Indian reservations as defined by the President."

Par. (10). Pub. L. 109–295, §688(2), redesignated par. (9) as (10).

2000—Par. (3). Pub. L. 106–390, §302(1), substituted "and the Commonwealth of the Northern Mariana Islands" for "the Northern Mariana Islands, and the Trust Territory of the Pacific Islands".

Par. (4). Pub. L. 106–390, §302(1), substituted "and the Commonwealth of the Northern Mariana Islands" for "the Northern Mariana Islands, or the Trust Territory of the Pacific Islands".

Par. (6). Pub. L. 106–390, §302(2), added par. (6) and struck out former par. (6) which read as follows: " 'Local government' means (A) any county, city, village, town, district, or other political subdivision of any State, any Indian tribe or authorized tribal organization, or Alaska Native village or organization, and (B) includes any rural community or unincorporated town or village or any other public entity for which an application for assistance is made by a State or political subdivision thereof."

Par. (9). Pub. L. 106–390, §302(3), inserted "irrigation," after "utility,".

1992—Pars. (3), (4). Pub. L. 102–247 inserted "the Northern Mariana Islands," after "American Samoa,".

1988—Par. (1). Pub. L. 100–707, §103(b), inserted heading and amended text generally. Prior to amendment, text read as follows: " 'Emergency' means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the United States which requires Federal emergency assistance to supplement State and local efforts to save lives and protect property, public health and safety or to avert or lessen the threat of a disaster."

Par. (2). Pub. L. 100–707, §103(c), inserted heading and amended text generally. Prior to amendment, text read as follows: " 'Major disaster' means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the United States which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance under this chapter, above and beyond emergency services by the Federal Government, to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby."

Pars. (3), (4). Pub. L. 100–707, §103(d), struck out "the Canal Zone," after "American Samoa,".

Pars. (8), (9). Pub. L. 100–707, §103(f), added pars. (8) and (9).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115–254, div. D, §1238(c), Oct. 5, 2018, 132 Stat. 3466, provided that: "The amendment made by subsection (b)(1) [amending this section] shall apply to any major disaster or emergency declared by the President under section 401 or 501, respectively, of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170, 5191) on or after the date of enactment of this Act [Oct. 5, 2018]."

Amendment by Pub. L. 115–254 applicable to each major disaster and emergency declared by the President on or after Aug. 1, 2017, and authorities provided under div. D of Pub. L. 115–254 applicable to each major disaster and emergency declared by the President on or after Jan. 1, 2016, except as otherwise provided, see section 1202 of Pub. L. 115–254, set out as a note under section 5121 of this title.

Pub. L. 115–123, div. B, title VI, §20604(c), Feb. 9, 2018, 132 Stat. 86, provided that: "This section [amending this section and section 5172 of this title] and the amendments made by this section shall apply—

"(1) to the provision of assistance in response to a major disaster or emergency declared on or after August 23, 2017; or

"(2) with respect to—

"(A) any application for assistance that, as of the date of enactment of this Act [Feb. 9, 2018], is pending before Federal Emergency Management Agency; and

"(B) any application for assistance that has been denied, where a challenge to that denial is not yet finally resolved as of the date of enactment of this Act."

REGULATIONS

Pub. L. 113–2, div. B, §1110(e), Jan. 29, 2013, 127 Stat. 49, provided that:

"(1) ISSUANCE.—The President shall issue regulations to carry out the amendments made by this section [enacting section 5123 of this title and amending this section and sections 5170 and 5191 of this title].

"(2) FACTORS.—In issuing the regulations, the President shall consider the unique conditions that affect the general welfare of Indian tribal governments."

LOCAL GOVERNMENT

Pub. L. 100–707, title I, §103(e), Nov. 23, 1988, 102 Stat. 4690, provided that:

"(1) IN GENERAL.—The term 'local government' is deemed to have the same meaning in the Disaster Relief and Emergency Assistance Act [Pub. L. 93–288, see Short Title note set out under section 5121 of this title], as amended by this Act [see Short Title of 1988 Amendment note set out under section 5121 of this title], as that term had on October 1, 1988, under section 102(6) of the Disaster Relief Act of 1974 [par. (6) of this section] and regulations implementing the Disaster Relief Act of 1974.

"(2) TERMINATION OF EFFECTIVENESS.—Paragraph (1) shall not be effective on and after the 90th day after the President transmits to the Committee on Public Works and Transportation of the House of Representatives and to the Committee on Environment and Public Works of the Senate a report which includes an interpretation of the term 'local government' for purposes of the Disaster Relief and Emergency Assistance Act, as amended by this Act."

[Functions of President under section 103(e)(2) of Pub. L. 100–707 delegated to Administrator of Federal Emergency Management Agency by section 3 of Ex. Ord. No. 12673, Mar. 23, 1989, 54 F.R. 12571, set out as a note under section 5195 of this title.]

DEFINITIONS

Pub. L. 115–254, div. D, §1203, Oct. 5, 2018, 132 Stat. 3438, provided that: "In this division [see Short Title of 2018 Amendment note set out under section 5121 of this title]:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Emergency Management Agency.

"(2) AGENCY.—The term 'Agency' means the Federal Emergency Management Agency.

"(3) STATE.—The term 'State' has the meaning given that term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)."

[1] *See References in Text note below.*

§5123. References

Except as otherwise specifically provided, any reference in this chapter to "State and local", "State or local", "State, and local", "State, or local", or "State, local" (including plurals) with respect to governments or officials and any reference to a "local government" in sections 5172(d)(3) and 5184 of this title is deemed to refer also to Indian tribal governments and officials, as appropriate.

(Pub. L. 93–288, title I, §103, as added Pub. L. 113–2, div. B, §1110(d), Jan. 29, 2013, 127 Stat. 49.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

SUBCHAPTER II—DISASTER PREPAREDNESS AND MITIGATION ASSISTANCE

§5131. Federal and State disaster preparedness programs

(a) Utilization of services of other agencies

The President is authorized to establish a program of disaster preparedness that utilizes services of all appropriate agencies and includes—

(1) preparation of disaster preparedness plans for mitigation, warning, emergency operations, rehabilitation, and recovery;

(2) training and exercises;

(3) postdisaster critiques and evaluations;

(4) annual review of programs;

(5) coordination of Federal, State, and local preparedness programs;

(6) application of science and technology;

(7) research.

(b) Technical assistance for the development of plans and programs

The President shall provide technical assistance to the States in developing comprehensive plans and practicable programs for preparation against disasters, including hazard reduction, avoidance, and mitigation; for assistance to individuals, businesses, and State and local governments following such disasters; and for recovery of damaged or destroyed public and private facilities.

(c) Grants to States for development of plans and programs

Upon application by a State, the President is authorized to make grants, not to exceed in the aggregate to such State $250,000, for the development of plans, programs, and capabilities for disaster preparedness and prevention. Such grants shall be applied for within one year from May 22, 1974. Any State desiring financial assistance under this section shall designate or create an agency to plan and administer such a disaster preparedness program, and shall, through such agency, submit a State plan to the President, which shall—

(1) set forth a comprehensive and detailed State program for preparation against and assistance following, emergencies and major disasters, including provisions for assistance to individuals, businesses, and local governments; and

(2) include provisions for appointment and training of appropriate staffs, formulation of necessary regulations and procedures and conduct of required exercises.

(d) Grants for improvement, maintenance, and updating of State plans

The President is authorized to make grants not to exceed 50 per centum of the cost of improving, maintaining and updating State disaster assistance plans, including evaluations of natural hazards and development of the programs and actions required to mitigate such hazards; except that no such grant shall exceed $50,000 per annum to any State.

(Pub. L. 93–288, title II, §201, May 22, 1974, 88 Stat. 145; Pub. L. 100–707, title I, §104, Nov. 23, 1988, 102 Stat. 4690.)

EDITORIAL NOTES

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–707, §104(b)(1), struck out "(including the Defense Civil Preparedness Agency)" after "agencies".

Subsec. (d). Pub. L. 100–707, §104(a), (b)(2), inserted "including evaluations of natural hazards and development of the programs and actions required to mitigate such hazards;" after "plans," and substituted "$50,000" for "$25,000".

STATUTORY NOTES AND RELATED SUBSIDIARIES

RED FLAG WARNINGS AND PREDISASTER ACTIONS; DEFINITIONS

Pub. L. 117–251, §§2, 4, Dec. 20, 2022, 136 Stat. 2354, 2356, provided that:

"SEC. 2. DEFINITIONS.

"In this Act [see Short Title of 2022 Amendment note set out under section 5121 of this title]—

"(1) the term 'Administrator' means the Administrator of the Agency;

"(2) the term 'Agency' means the Federal Emergency Management Agency;

"(3) the term 'appropriate committees of Congress' means—

"(A) the Committee on Homeland Security and Governmental Affairs and the Committee on Appropriations of the Senate; and

"(B) the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives;

"(4) the term 'emergency' means an emergency declared or determined to exist by the President under section 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5191);

"(5) the terms 'Indian tribal government', 'local government', and 'State' have the meanings given such terms in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122); and

"(6) the term 'major disaster' means a major disaster declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

"SEC. 4. RED FLAG WARNINGS AND PREDISASTER ACTIONS.

"Not later than 1 year after the date of enactment of this Act [Dec. 20, 2022], the Administrator, in coordination with the National Weather Service of the National Oceanic and Atmospheric Administration, shall—

"(1) conduct a study of, develop recommendations for, and initiate a process for the use of forecasts and data, including information that supports the Red Flag Warnings of the National Oceanic and Atmospheric Administration and similar weather alert and notification methods, to establish—

"(A) plans and actions, consistent with law, that can be implemented prior to a wildfire event, including pre-impact disaster declarations and surge operations, that can limit the impact, duration, or severity of the fire; and

"(B) mechanisms to increase interagency collaboration to expedite the delivery of disaster assistance; and

"(2) submit to the appropriate committees of Congress a comprehensive report regarding the study described in paragraph (1), including any recommendations of the Administrator, and the activities of the Administrator to carry out paragraph (1)."

§5132. Disaster warnings

(a) Readiness of Federal agencies to issue warnings to State and local officials

The President shall insure that all appropriate Federal agencies are prepared to issue warnings of disasters to State and local officials.

(b) Technical assistance to State and local governments for effective warnings

The President shall direct appropriate Federal agencies to provide technical assistance to State and local governments to insure that timely and effective disaster warning is provided.

(c) Warnings to governmental authorities and public endangered by disaster

The President is authorized to utilize or to make available to Federal, State, and local agencies the facilities of the civil defense communications system established and maintained pursuant to section 5196(c) of this title or any other Federal communications system for the purpose of providing warning to governmental authorities and the civilian population in areas endangered by disasters.

(d) Agreements with commercial communications systems for use of facilities

The President is authorized to enter into agreements with the officers or agents of any private or commercial communications systems who volunteer the use of their systems on a reimbursable or nonreimbursable basis for the purpose of providing warning to governmental authorities and the civilian population endangered by disasters.

(Pub. L. 93–288, title II, §202, May 22, 1974, 88 Stat. 145; Pub. L. 103–337, div. C, title XXXIV, §3412(b)(1), Oct. 5, 1994, 108 Stat. 3111.)

EDITORIAL NOTES

AMENDMENTS

1994—Subsec. (c). Pub. L. 103–337 substituted "section 5196(c) of this title" for "section 2281(c) of title 50, Appendix,".

§5133. Predisaster hazard mitigation

(a) Definition of small impoverished community

In this section, the term "small impoverished community" means a community of 3,000 or fewer individuals that is economically disadvantaged, as determined by the State in which the community is located and based on criteria established by the President.

(b) Establishment of program

The President may establish a program to provide technical and financial assistance to States and local governments to assist in the implementation of predisaster hazard mitigation measures that are cost-effective and are designed to reduce injuries, loss of life, and damage and destruction of property, including damage to critical services and facilities under the jurisdiction of the States or local governments.

(c) Approval by President

If the President determines that a State or local government has identified natural disaster hazards in areas under its jurisdiction and has demonstrated the ability to form effective public-private natural disaster hazard mitigation partnerships, the President, using amounts in the National Public Infrastructure Predisaster Mitigation Fund established under subsection (i) (referred to in this section as the "Fund"), may provide technical and financial assistance to the State or local government to be used in accordance with subsection (e).

(d) State recommendations

(1) In general

(A) Recommendations

The Governor of each State may recommend to the President not fewer than five local governments to receive assistance under this section.

(B) Deadline for submission

The recommendations under subparagraph (A) shall be submitted to the President not later than October 1, 2001, and each October 1st thereafter or such later date in the year as the President may establish.

(C) Criteria

In making recommendations under subparagraph (A), a Governor shall consider the criteria specified in subsection (g).

(2) Use

(A) In general

Except as provided in subparagraph (B), in providing assistance to local governments under this section, the President shall select from local governments recommended by the Governors under this subsection.

(B) Extraordinary circumstances

In providing assistance to local governments under this section, the President may select a local government that has not been recommended by a Governor under this subsection if the President determines that extraordinary circumstances justify the selection and that making the selection will further the purpose of this section.

(3) Effect of failure to nominate

If a Governor of a State fails to submit recommendations under this subsection in a timely manner, the President may select, subject to the criteria specified in subsection (g), any local governments of the State to receive assistance under this section.

(e) Uses of technical and financial assistance

(1) In general

Technical and financial assistance provided under this section—

(A) shall be used by States and local governments principally to implement predisaster hazard mitigation measures that are cost-effective and are described in proposals approved by the President under this section; and

(B) may be used—

(i) to support effective public-private natural disaster hazard mitigation partnerships;

(ii) to improve the assessment of a community's vulnerability to natural hazards;

(iii) to establish hazard mitigation priorities, and an appropriate hazard mitigation plan, for a community; or

(iv) to establish and carry out enforcement activities and implement the latest published editions of relevant consensus-based codes, specifications, and standards that incorporate the latest hazard-resistant designs and establish minimum acceptable criteria for the design, construction, and maintenance of residential structures and facilities that may be eligible for assistance under this chapter for the purpose of protecting the health, safety, and general welfare of the buildings' users against disasters.

(2) Dissemination

A State or local government may use not more than 10 percent of the financial assistance received by the State or local government under this section for a fiscal year to fund activities to disseminate information regarding cost-effective mitigation technologies.

(f) Allocation of funds

(1) In general

The President shall award financial assistance under this section on a competitive basis for mitigation activities that are cost effective and in accordance with the criteria in subsection (g).

(2) Minimum and maximum amounts

In providing financial assistance under this section, the President shall ensure that the amount of financial assistance made available to a State (including amounts made available to local governments of the State) for a fiscal year—

(A) is not less than the lesser of—

(i) $575,000; or

(ii) the amount that is equal to 1 percent of the total funds appropriated to carry out this

section for the fiscal year; and

(B) does not exceed the amount that is equal to 15 percent of the total funds appropriated to carry out this section for the fiscal year.

(3) Redistribution of unobligated amounts

The President may—

(A) withdraw amounts of financial assistance made available to a State (including amounts made available to local governments of a State) under this subsection that remain unobligated by the end of the third fiscal year after the fiscal year for which the amounts were allocated; and

(B) in the fiscal year following a fiscal year in which amounts were withdrawn under subparagraph (A), add the amounts to any other amounts available to be awarded on a competitive basis pursuant to paragraph (1).

(g) Criteria for assistance awards

In determining whether to provide technical and financial assistance to a State or local government under this section, the President shall provide financial assistance only in States that have received a major disaster declaration in the previous 7 years, or to any Indian tribal government located partially or entirely within the boundaries of such States, and take into account—

(1) the extent and nature of the hazards to be mitigated;

(2) the degree of commitment of the State or local government to reduce damages from future natural disasters;

(3) the degree of commitment by the State or local government to support ongoing non-Federal support for the hazard mitigation measures to be carried out using the technical and financial assistance;

(4) the extent to which the hazard mitigation measures to be carried out using the technical and financial assistance contribute to the mitigation goals and priorities established by the State;

(5) the extent to which the technical and financial assistance is consistent with other assistance provided under this chapter;

(6) the extent to which prioritized, cost-effective mitigation activities that produce meaningful and definable outcomes are clearly identified;

(7) if the State or local government has submitted a mitigation plan under section 5165 of this title, the extent to which the activities identified under paragraph (6) are consistent with the mitigation plan;

(8) the opportunity to fund activities that maximize net benefits to society;

(9) the extent to which assistance will fund mitigation activities in small impoverished communities;

(10) the extent to which the State, local, Indian tribal, or territorial government has facilitated the adoption and enforcement of the latest published editions of relevant consensus-based codes, specifications, and standards, including amendments made by State, local, Indian tribal, or territorial governments during the adoption process that incorporate the latest hazard-resistant designs and establish criteria for the design, construction, and maintenance of residential structures and facilities that may be eligible for assistance under this chapter for the purpose of protecting the health, safety, and general welfare of the buildings' users against disasters;

(11) the extent to which the assistance will fund activities that increase the level of resiliency; and

(12) such other criteria as the President establishes in consultation with State and local governments.

(h) Federal share

(1) In general

Financial assistance provided under this section may contribute up to 75 percent of the total cost of mitigation activities approved by the President.

(2) Small impoverished communities

Notwithstanding paragraph (1), the President may contribute up to 90 percent of the total cost of a mitigation activity carried out in a small impoverished community.

(i) National public infrastructure predisaster mitigation assistance

(1) In general

The President may set aside from the Disaster Relief Fund, with respect to each major disaster, an amount equal to 6 percent of the estimated aggregate amount of the grants to be made pursuant to sections 5170b, 5172, 5173, 5174, 5177, 5183, and 5189f of this title for the major disaster in order to provide technical and financial assistance under this section and such set aside shall be deemed to be related to activities carried out pursuant to major disasters under this chapter.

(2) Estimated aggregate amount

Not later than 180 days after each major disaster declaration pursuant to this chapter, the estimated aggregate amount of grants for purposes of paragraph (1) shall be determined by the President and such estimated amount need not be reduced, increased, or changed due to variations in estimates.

(3) No reduction in amounts

The amount set aside pursuant to paragraph (1) shall not reduce the amounts otherwise made available for sections 5170b, 5170c, 5172, 5173, 5174, 5177, 5183, and 5189f of this title under this chapter.

(j) Multihazard advisory maps

(1) Definition of multihazard advisory map

In this subsection, the term "multihazard advisory map" means a map on which hazard data concerning each type of natural disaster is identified simultaneously for the purpose of showing areas of hazard overlap.

(2) Development of maps

In consultation with States, local governments, and appropriate Federal agencies, the President shall develop multihazard advisory maps for areas, in not fewer than five States, that are subject to commonly recurring natural hazards (including flooding, hurricanes and severe winds, and seismic events).

(3) Use of technology

In developing multihazard advisory maps under this subsection, the President shall use, to the maximum extent practicable, the most cost-effective and efficient technology available.

(4) Use of maps

(A) Advisory nature

The multihazard advisory maps shall be considered to be advisory and shall not require the development of any new policy by, or impose any new policy on, any government or private entity.

(B) Availability of maps

The multihazard advisory maps shall be made available to the appropriate State and local governments for the purposes of—

(i) informing the general public about the risks of natural hazards in the areas described in paragraph (2);

(ii) supporting the activities described in subsection (e); and

(iii) other public uses.

(k) Report on Federal and State administration

Not later than 18 months after October 30, 2000, the President, in consultation with State and local governments, shall submit to Congress a report evaluating efforts to implement this section and recommending a process for transferring greater authority and responsibility for administering the

assistance program established under this section to capable States.

(l) Prohibition on earmarks

(1) Definition

In this subsection, the term "congressionally directed spending" means a statutory provision or report language included primarily at the request of a Senator or a Member, Delegate or Resident Commissioner of the House of Representatives providing, authorizing, or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality, or Congressional district, other than through a statutory or administrative formula-driven or competitive award process.

(2) Prohibition

None of the funds appropriated or otherwise made available to carry out this section may be used for congressionally directed spending.

(3) Certification to Congress

The Administrator of the Federal Emergency Management Agency shall submit to Congress a certification regarding whether all financial assistance under this section was awarded in accordance with this section.

(Pub. L. 93–288, title II, §203, as added Pub. L. 106–390, title I, §102(a), Oct. 30, 2000, 114 Stat. 1553; amended Pub. L. 108–199, div. H, §135, Jan. 23, 2004, 118 Stat. 441; Pub. L. 108–447, div. J, title I, §105, Dec. 8, 2004, 118 Stat. 3343; Pub. L. 109–139, §2, Dec. 22, 2005, 119 Stat. 2649; Pub. L. 110–329, div. D, title V, §553, Sept. 30, 2008, 122 Stat. 3690; Pub. L. 111–83, title V, §543, Oct. 28, 2009, 123 Stat. 2176; Pub. L. 111–351, §§3(a), (b), 4, Jan. 4, 2011, 124 Stat. 3864; Pub. L. 115–254, div. D, §1234(a), (d), Oct. 5, 2018, 132 Stat. 3461, 3463.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (e)(1)(B)(iv), (g)(5), (10), and (i), was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

AMENDMENTS

2018—Subsec. (c). Pub. L. 115–254, §1234(a)(1), inserted "Public Infrastructure" after "National".

Subsec. (e)(1)(B)(iv). Pub. L. 115–254, §1234(a)(2), added cl. (iv).

Subsec. (f)(1). Pub. L. 115–254, §1234(a)(3)(A), inserted "for mitigation activities that are cost effective" after "competitive basis".

Subsec. (f)(3). Pub. L. 115–254, §1234(a)(3)(B), added par. (3).

Subsec. (g). Pub. L. 115–254, §1234(a)(4)(A), in introductory provisions, inserted "provide financial assistance only in States that have received a major disaster declaration in the previous 7 years, or to any Indian tribal government located partially or entirely within the boundaries of such States, and" after "the President shall".

Subsec. (g)(10) to (12). Pub. L. 115–254, §1234(a)(4)(B)–(D), added pars. (10) and (11) and redesignated former par. (10) as (12).

Subsec. (i). Pub. L. 115–254, §1234(a)(5), added subsec. (i) and struck out former subsec. (i) which related to National Predisaster Mitigation Fund.

Subsecs. (j) to (l). Pub. L. 115–254, §1234(a)(6), (7), redesignated subsecs. (k), (l), and (n) as (j), (k), and (l), respectively, and struck out former subsec. (j) which related to limitation on total amount of financial assistance.

Subsec. (m). Pub. L. 115–254, §1234(d), struck out subsec. (m) which defined the term "latest published editions" for subsecs. (e)(1)(B)(iv) and (g)(10).

Pub. L. 115–254, §1234(a)(6), (8), added subsec. (m) and struck out former subsec. (m) which related to authorization of appropriations.

Subsec. (n). Pub. L. 115–254, §1234(a)(7), redesignated subsec. (n) as (l).

2011—Subsec. (f). Pub. L. 111–351, §3(a), amended subsec. (f) generally. Prior to amendment, subsec. (f) related to a different allocation of funds.

Subsec. (m). Pub. L. 111–351, §3(b), amended subsec. (m) generally. Prior to amendment, subsec. (m) related to the termination of this section on Sept. 30, 2010.

Subsec. (n). Pub. L. 111–351, §4, added subsec. (n).

2009—Subsec. (m). Pub. L. 111–83 substituted "September 30, 2010" for "September 30, 2009".

2008—Subsec. (m). Pub. L. 110–329 substituted "September 30, 2009" for "September 30, 2008".

2005—Subsec. (m). Pub. L. 109–139 substituted "September 30, 2008" for "December 31, 2005".

2004—Subsec. (m). Pub. L. 108–447 substituted "2005" for "2004".

Pub. L. 108–199 substituted "2004" for "2003".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–254 applicable to each major disaster and emergency declared by the President on or after Aug. 1, 2017, and authorities provided under div. D of Pub. L. 115–254 applicable to each major disaster and emergency declared by the President on or after Jan. 1, 2016, except as otherwise provided, see section 1202 of Pub. L. 115–254, set out as a note under section 5121 of this title.

Pub. L. 115–254, div. D, §1234(b), Oct. 5, 2018, 132 Stat. 3462, provided that: "The amendments made to section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133) by paragraphs (3) and (5) of subsection (a) shall apply to funds appropriated on or after the date of enactment of this Act [Oct. 5, 2018]."

Pub. L. 115–254, div. D, §1234(d), Oct. 5, 2018, 132 Stat. 3463, provided that the amendment made by section 1234(d) is effective on the date that is 5 years after Oct. 5, 2018.

FINDINGS

Pub. L. 111–351, §2, Jan. 4, 2011, 124 Stat. 3863, provided that: "Congress finds the following:

"(1) The predisaster hazard mitigation program has been successful and cost-effective. Funding from the predisaster hazard mitigation program has successfully reduced loss of life, personal injuries, damage to and destruction of property, and disruption of communities from disasters.

"(2) The predisaster hazard mitigation program has saved Federal taxpayers from spending significant sums on disaster recovery and relief that would have been otherwise incurred had communities not successfully applied mitigation techniques.

"(3) A 2007 Congressional Budget Office report found that the predisaster hazard mitigation program reduced losses by roughly $3 (measured in 2007 dollars) for each dollar invested in mitigation efforts funded under the predisaster hazard mitigation program. Moreover, the Congressional Budget Office found that projects funded under the predisaster hazard mitigation program could lower the need for post-disaster assistance from the Federal Government so that the predisaster hazard mitigation investment by the Federal Government would actually save taxpayer funds.

"(4) A 2005 report by the Multihazard Mitigation Council showed substantial benefits and cost savings from the hazard mitigation programs of the Federal Emergency Management Agency generally. Looking at a range of hazard mitigation programs of the Federal Emergency Management Agency, the study found that, on average, $1 invested by the Federal Emergency Management Agency in hazard mitigation provided the Nation with roughly $4 in benefits. Moreover, the report projected that the mitigation grants awarded between 1993 and 2003 would save more than 220 lives and prevent nearly 4,700 injuries over approximately 50 years.

"(5) Given the substantial savings generated from the predisaster hazard mitigation program in the years following the provision of assistance under the program, increasing funds appropriated for the program would be a wise investment."

FINDINGS AND PURPOSE

Pub. L. 106–390, title I, §101, Oct. 30, 2000, 114 Stat. 1552, provided that:

"(a) FINDINGS.—Congress finds that—

"(1) natural disasters, including earthquakes, tsunamis, tornadoes, hurricanes, flooding, and wildfires, pose great danger to human life and to property throughout the United States;

"(2) greater emphasis needs to be placed on—

"(A) identifying and assessing the risks to States and local governments (including Indian tribes) from natural disasters;

"(B) implementing adequate measures to reduce losses from natural disasters; and

"(C) ensuring that the critical services and facilities of communities will continue to function after a natural disaster;

"(3) expenditures for postdisaster assistance are increasing without commensurate reductions in the likelihood of future losses from natural disasters;

"(4) in the expenditure of Federal funds under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), high priority should be given to mitigation of hazards at the local level; and

"(5) with a unified effort of economic incentives, awareness and education, technical assistance, and demonstrated Federal support, States and local governments (including Indian tribes) will be able to—

"(A) form effective community-based partnerships for hazard mitigation purposes;

"(B) implement effective hazard mitigation measures that reduce the potential damage from natural disasters;

"(C) ensure continued functionality of critical services;

"(D) leverage additional non-Federal resources in meeting natural disaster resistance goals; and

"(E) make commitments to long-term hazard mitigation efforts to be applied to new and existing structures.

"(b) PURPOSE.—The purpose of this title [enacting this section and sections 5134, 5165 and 5165a of this title, amending section 5170c of this title, and repealing section 5176 of this title] is to establish a national disaster hazard mitigation program—

"(1) to reduce the loss of life and property, human suffering, economic disruption, and disaster assistance costs resulting from natural disasters; and

"(2) to provide a source of predisaster hazard mitigation funding that will assist States and local governments (including Indian tribes) in implementing effective hazard mitigation measures that are designed to ensure the continued functionality of critical services and facilities after a natural disaster."

DEFINITIONS; RED FLAG WARNINGS AND PREDISASTER ACTIONS

Pub. L. 117–251, §§2, 4, Dec. 20, 2022, 136 Stat. 2354, 2356, provided that:

"SEC. 2. DEFINITIONS.—In this Act [see section 1 of Pub. L. 117–251, set out as a Short Title of 2022 Amendment note under section 5121 of this title]—

"(1) the term 'Administrator' means the Administrator of the Agency;

"(2) the term 'Agency' means the Federal Emergency Management Agency;

"(3) the term 'appropriate committees of Congress' means—

"(A) the Committee on Homeland Security and Governmental Affairs and the Committee on Appropriations of the Senate; and

"(B) the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives;

"(4) the term 'emergency' means an emergency declared or determined to exist by the President under section 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5191);

"(5) the terms 'Indian tribal government', 'local government', and 'State' have the meanings given such terms in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122); and

"(6) the term 'major disaster' means a major disaster declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

"SEC. 4. RED FLAG WARNINGS AND PREDISASTER ACTIONS.—Not later than 1 year after the date of enactment of this Act [Dec. 20, 2022], the Administrator, in coordination with the National Weather Service of the National Oceanic and Atmospheric Administration, shall—

"(1) conduct a study of, develop recommendations for, and initiate a process for the use of forecasts and data, including information that supports the Red Flag Warnings of the National Oceanic and Atmospheric Administration and similar weather alert and notification methods, to establish—

"(A) plans and actions, consistent with law, that can be implemented prior to a wildfire event, including pre-impact disaster declarations and surge operations, that can limit the impact, duration, or severity of the fire; and

"(B) mechanisms to increase interagency collaboration to expedite the delivery of disaster assistance; and

"(2) submit to the appropriate committees of Congress a comprehensive report regarding the study described in paragraph (1), including any recommendations of the Administrator, and the activities of the Administrator to carry out paragraph (1)."

§5134. Interagency task force

(a) In general

The President shall establish a Federal interagency task force for the purpose of coordinating the implementation of predisaster hazard mitigation programs administered by the Federal Government.

(b) Chairperson

The Administrator of the Federal Emergency Management Agency shall serve as the chairperson of the task force.

(c) Membership

The membership of the task force shall include representatives of—

(1) relevant Federal agencies;

(2) State and local government organizations (including Indian tribes); and

(3) the American Red Cross.

(Pub. L. 93–288, title II, §204, as added Pub. L. 106–390, title I, §103, Oct. 30, 2000, 114 Stat. 1557; amended Pub. L. 111–351, §3(c)(2), Jan. 4, 2011, 124 Stat. 3864.)

EDITORIAL NOTES

AMENDMENTS

2011—Subsec. (b). Pub. L. 111–351 substituted "Administrator" for "Director".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§5135. Grants to entities for establishment of hazard mitigation revolving loan funds

(a) General authority

(1) In general

The Administrator may enter into agreements with eligible entities to make capitalization grants to such entities for the establishment of hazard mitigation revolving loan funds (referred to in this section as "entity loan funds") for providing funding assistance to local governments to carry out eligible projects under this section to reduce disaster risks for homeowners, businesses, nonprofit organizations, and communities in order to decrease—

(A) the loss of life and property;

(B) the cost of insurance; and

(C) Federal disaster payments.

(2) Agreements

Any agreement entered into under this section shall require the participating entity to—

(A) comply with the requirements of this section; and

(B) use accounting, audit, and fiscal procedures conforming to generally accepted accounting standards.

(b) Application

(1) In general

To be eligible to receive a capitalization grant under this section, an eligible entity shall submit to the Administrator an application that includes the following:

(A) Project proposals comprised of local government hazard mitigation projects, on the condition that the entity provides public notice not less than 6 weeks prior to the submission of an application.

(B) An assessment of recurring major disaster vulnerabilities impacting the entity that demonstrates a risk to life and property.

(C) A description of how the hazard mitigation plan of the entity has or has not taken the vulnerabilities described in subparagraph (B) into account.

(D) A description about how the projects described in subparagraph (A) could conform with the hazard mitigation plan of the entity and of the unit of local government.

(E) A proposal of the systematic and regional approach to achieve resilience in a vulnerable area, including impacts to river basins, river corridors, watersheds, estuaries, bays, coastal regions, micro-basins, micro-watersheds, ecosystems, and areas at risk of earthquakes, tsunamis, droughts, severe storms, and wildfires, including the wildland-urban interface.

(2) Technical assistance

The Administrator shall provide technical assistance to eligible entities for applications under this section.

(c) Entity loan fund

(1) Establishment of fund

An entity that receives a capitalization grant under this section shall establish an entity loan fund that complies with the requirements of this subsection.

(2) Fund management

Except as provided in paragraph (3), entity loan funds shall—

(A) be administered by the agency responsible for emergency management; and

(B) include only—

(i) funds provided by a capitalization grant under this section;

(ii) repayments of loans under this section to the entity loan fund; and

(iii) interest earned on amounts in the entity loan fund.

(3) Administration

A participating entity may combine the financial administration of the entity loan fund of such entity with the financial administration of any other revolving fund established by such entity if the Administrator determines that—

(A) the capitalization grant, entity share, repayments of loans, and interest earned on amounts in the entity loan fund are accounted for separately from other amounts in the revolving fund; and

(B) the authority to establish assistance priorities and carry out oversight activities remains in the control of the entity agency responsible for emergency management.

(4) Entity share of funds

(A) In general

On or before the date on which a participating entity receives a capitalization grant under this section, the entity shall deposit into the entity loan fund of such entity, an amount equal to not less than 10 percent of the amount of the capitalization grant.

(B) Reduced grant

If, with respect to a capitalization grant under this section, a participating entity deposits in the entity loan fund of the entity an amount that is less than 10 percent of the total amount of the capitalization grant that the participating entity would otherwise receive, the Administrator shall reduce the amount of the capitalization grant received by the entity to the amount that is 10 times the amount so deposited.

(d) Apportionment

(1) In general

Except as otherwise provided by this subsection, the Administrator shall apportion funds made available to carry out this section to entities that have entered into an agreement under subsection (a)(2) in amounts as determined by the Administrator.

(2) Reservation of funds

The Administrator shall reserve not more than 2.5 percent of the amount made available to carry out this section for the Federal Emergency Management Agency for—

(A) administrative costs incurred in carrying out this section; and

(B) providing technical assistance to participating entities under subsection (b)(2).

(3) Priority

In the apportionment of capitalization grants under this subsection, the Administrator shall give priority to entity applications under subsection (b) that—

(A) propose projects increasing resilience and reducing risk of harm to natural and built infrastructure;

(B) involve a partnership between two or more eligible entities to carry out a project or similar projects;

(C) take into account regional impacts of hazards on river basins, river corridors, micro-watersheds, macro-watersheds, estuaries, lakes, bays, and coastal regions and areas at risk of earthquakes, tsunamis, droughts, severe storms, and wildfires, including the wildland-urban interface; or

(D) propose projects for the resilience of major economic sectors or critical national infrastructure, including ports, global commodity supply chain assets (located within an entity or within the jurisdiction of local governments and Tribal governments), power and water production and distribution centers, and bridges and waterways essential to interstate commerce.

(e) Environmental review of revolving loan fund projects

The Administrator may delegate to a participating entity all of the responsibilities for environmental review, decision making, and action pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and other applicable Federal environmental laws including the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and the National Historic Preservation Act of 1966 (54 U.S.C. 300101 et seq.) that would apply to the Administrator were the Administrator to undertake projects under this section as Federal projects so long as the participating entity carries out such responsibilities in the same manner and subject to the same requirements as if the Administrator carried out such responsibilities.

(f) Use of funds

(1) Types of assistance

Amounts deposited in an entity loan fund, including loan repayments and interest earned on such amounts, may be used—

(A) to make loans, on the condition that—

(i) such loans are made at an interest rate of not more than 1 percent;

(ii) annual principal and interest payments will commence not later than 1 year after completion of any project and all loans made under this subparagraph will be fully

amortized—

(I) not later than 20 years after the date on which the project is completed; or

(II) for projects in a low-income geographic area, not later than 30 years after the date on which the project is completed and not longer than the expected design life of the project;

(iii) the loan recipient of a loan under this subparagraph establishes a dedicated source of revenue for repayment of the loan;

(iv) the loan recipient of a loan under this subparagraph has a hazard mitigation plan that has been approved by the Administrator; and

(v) the entity loan fund will be credited with all payments of principal and interest on all loans made under this subparagraph;

(B) for mitigation efforts, in addition to mitigation planning under section 5165 of this title not to exceed 10 percent of the capitalization grants made to the participating entity in a fiscal year;

(C) for the reasonable costs of administering the fund and conducting activities under this section, except that such amounts shall not exceed $100,000 per year, 2 percent of the capitalization grants made to the participating entity in a fiscal year, or 1 percent of the value of the entity loan fund, whichever amount is greatest, plus the amount of any fees collected by the entity for such purpose regardless of the source; and

(D) to earn interest on the entity loan fund.

(2) Prohibition on determination that loan is a duplication

In carrying out this section, the Administrator may not determine that a loan is a duplication of assistance or programs under this chapter.

(3) Projects and activities eligible for assistance

Except as provided in this subsection, a participating entity may use funds in the entity loan fund to provide financial assistance for projects or activities that mitigate the impacts of natural hazards including—

(A) drought and prolonged episodes of intense heat;

(B) severe storms, including hurricanes, tornados, wind storms, cyclones, and severe winter storms;

(C) wildfires;

(D) earthquakes;

(E) flooding, including the construction, repair, or replacement of a non-Federal levee or other flood control structure, provided that the Administrator, in consultation with the Army Corps of Engineers (if appropriate), requires an eligible entity to determine that such levee or structure is designed, constructed, and maintained in accordance with sound engineering practices and standards equivalent to the purpose for which such levee or structure is intended;

(F) shoreline erosion;

(G) high water levels; and

(H) storm surges.

(4) Zoning and land use planning changes

A participating entity may use not more than 10 percent of a capitalization grant under this section to enable units of local government to implement zoning and land use planning changes focused on—

(A) the development and improvement of zoning and land use codes that incentivize and encourage low-impact development, resilient wildland-urban interface land management and development, natural infrastructure, green stormwater management, conservation areas adjacent to floodplains, implementation of watershed or greenway master plans, and reconnection of floodplains;

(B) the study and creation of agricultural risk compensation districts where there is a desire to remove or set-back levees protecting highly developed agricultural land to mitigate for flooding, allowing agricultural producers to receive compensation for assuming greater flood risk that would alleviate flood exposure to population centers and areas with critical national infrastructure;

(C) the study and creation of land use incentives that reward developers for greater reliance on low impact development stormwater best management practices, exchange density increases for increased open space and improvement of neighborhood catch basins to mitigate urban flooding, reward developers for including and augmenting natural infrastructure adjacent to and around building projects without reliance on increased sprawl, and reward developers for addressing wildfire ignition; and

(D) the study and creation of an erosion response plan that accommodates river, lake, forest, plains, and ocean shoreline retreating or bluff stabilization due to increased flooding and disaster impacts.

(5) Establishing and carrying out building code enforcement

A participating entity may use capitalization grants under this section to enable units of local government to establish and carry out the latest published editions of relevant building codes, specifications, and standards for the purpose of protecting the health, safety, and general welfare of the building's users against disasters and natural hazards.

(6) Administrative and technical costs

For each fiscal year, a participating entity may use the amount described in paragraph (1)(C) to—

(A) pay the reasonable costs of administering the programs under this section, including the cost of establishing an entity loan fund; and

(B) provide technical assistance to recipients of financial assistance from the entity loan fund, on the condition that such technical assistance does not exceed 5 percent of the capitalization grant made to such entity.

(7) Limitation for single projects

A participating entity may not provide an amount equal to or more than $5,000,000 to a single hazard mitigation project.

(8) Requirements

For fiscal year 2022 and each fiscal year thereafter, the requirements of subchapter IV of chapter 31 of title 40 shall apply to the construction of projects carried out in whole or in part with assistance made available by an entity loan fund authorized by this section.

(g) Intended use plans

(1) In general

After providing for public comment and review, and consultation with appropriate government agencies of the State or Indian tribal government, Federal agencies, and interest groups, each participating entity shall annually prepare and submit to the Administrator a plan identifying the intended uses of the entity loan fund.

(2) Contents of plan

An entity intended use plan prepared under paragraph (1) shall include—

(A) the integration of entity planning efforts, including entity hazard mitigation plans and other programs and initiatives relating to mitigation of major disasters carried out by such entity;

(B) an explanation of the mitigation and resiliency benefits the entity intends to achieve by—

(i) reducing future damage and loss associated with hazards;

(ii) reducing the number of severe repetitive loss structures and repetitive loss structures in the entity;

(iii) decreasing the number of insurance claims in the entity from injuries resulting from major disasters or other natural hazards; and

(iv) increasing the rating under the community rating system under section 4022(b) of this title for communities in the entity;

(C) information on the availability of, and application process for, financial assistance from the entity loan fund of such entity;

(D) the criteria and methods established for the distribution of funds;

(E) the amount of financial assistance that the entity anticipates apportioning;

(F) the expected terms of the assistance provided from the entity loan fund; and

(G) a description of the financial status of the entity loan fund, including short-term and long-term goals for the fund.

(h) Audits, reports, publications, and oversight

(1) Biennial entity audit and report

Beginning not later than the last day of the second fiscal year after the receipt of payments under this section, and biennially thereafter, any participating entity shall—

(A) conduct an audit of the entity loan fund established under subsection (c); and

(B) provide to the Administrator a report including—

(i) the result of any such audit; and

(ii) a review of the effectiveness of the entity loan fund of the entity with respect to meeting the goals and intended benefits described in the intended use plan submitted by the entity under subsection (g).

(2) Publication

A participating entity shall publish and periodically update information about all projects receiving funding from the entity loan fund of such entity, including—

(A) the location of the project;

(B) the type and amount of assistance provided from the entity loan fund;

(C) the expected funding schedule; and

(D) the anticipated date of completion of the project.

(3) Oversight

(A) In general

The Administrator shall, at least every 4 years, conduct reviews and audits as may be determined necessary or appropriate by the Administrator to carry out the objectives of this section and determine the effectiveness of the fund in reducing natural hazard risk.

(B) GAO requirements

A participating entity shall conduct audits under paragraph (1) in accordance with the auditing procedures of the Government Accountability Office, including generally accepted government auditing standards.

(C) Recommendations by Administrator

The Administrator may at any time make recommendations for or require specific changes to an entity loan fund in order to improve the effectiveness of the fund.

(i) Regulations or guidance

The Administrator shall issue such regulations or guidance as are necessary to—

(1) ensure that each participating entity uses funds as efficiently as possible;

(2) reduce waste, fraud, and abuse to the maximum extent possible; and

(3) require any party that receives funds directly or indirectly under this section, including a participating entity and a recipient of amounts from an entity loan fund, to use procedures with respect to the management of the funds that conform to generally accepted accounting standards.

(j) Waiver authority

Until such time as the Administrator issues final regulations to implement this section, the Administrator may—

(1) waive notice and comment rulemaking, if the Administrator determines the waiver is necessary to expeditiously implement this section; and

(2) provide capitalization grants under this section as a pilot program.

(k) Liability protections

The Agency shall not be liable for any claim based on the exercise or performance of, or the failure to exercise or perform, a discretionary function or duty by the Agency, or an employee of the Agency in carrying out this section.

(l) GAO report

Not later than 1 year after the date on which the first entity loan fund is established under subsection (c), the Comptroller General of the United States shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that examines—

(1) the appropriateness of regulations and guidance issued by the Administrator for the program, including any oversight of the program;

(2) a description of the number of the entity loan funds established, the projects funded from such entity loan funds, and the extent to which projects funded by the loan funds adhere to any applicable hazard mitigation plans;

(3) the effectiveness of the entity loan funds to lower disaster related costs; and

(4) recommendations for improving the administration of entity loan funds.

(m) Definitions

In this section, the following definitions apply:

(1) Administrator

The term "Administrator" means the Administrator of the Federal Emergency Management Agency.

(2) Agency

The term "Agency" means the Federal Emergency Management Agency.

(3) Eligible entity

The term "eligible entity" means a State or an Indian tribal government that has received a major disaster declaration pursuant to section 5170 of this title.

(4) Hazard mitigation plan

The term "hazard mitigation plan" means a mitigation plan submitted under section 5165 of this title.

(5) Low-income geographic area

The term "low-income geographic area" means an area described in paragraph (1) or (2) of section 3161(a) of this title.

(6) Participating entity

The term "participating entity" means an eligible entity that has entered into an agreement under this section.

(7) Repetitive loss structure

The term "repetitive loss structure" has the meaning given the term in section 4121 of this title.

(8) Severe repetitive loss structure

The term "severe repetitive loss structure" has the meaning given the term in section 4104c(h) of this title.

(9) Wildland-urban interface

The term "wildland-urban interface" has the meaning given the term in section 6511 of title 16.

(n) Authorization of appropriations

There are authorized to be appropriated $100,000,000 for each of fiscal years 2022 through 2023 to carry out this section.

(Pub. L. 93–288, title II, §205, as added Pub. L. 116–284, §2, Jan. 1, 2021, 134 Stat. 4869; amended Pub. L. 117–328, div. F, title V, §540, Dec. 29, 2022, 136 Stat. 4756.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (e), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

The Endangered Species Act of 1973, referred to in subsec. (e), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, which is classified principally to chapter 35 (§1531 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of Title 16 and Tables.

The National Historic Preservation Act of 1966, referred to in subsec. (e), probably means the National Historic Preservation Act, Pub. L. 89–665, Oct. 15, 1966, 80 Stat. 915, which was classified generally to subchapter II (§470 et seq.) of chapter 1A of Title 16, Conservation, was substantially repealed and replaced in division A (§300101 et seq.) of subtitle III of Title 54, National Park Service and Related Programs, by Pub. L. 113–287, §§3, 7, 128 Stat. 3187, 3272. For complete classification of this Act to the Code, see Short Title of 1966 Act note set out under section 100101 of Title 54, and Tables. For disposition of former sections of Title 16, see Disposition Table preceding section 100101 of Title 54.

This chapter, referred to in subsec. (f)(2), was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

AMENDMENTS

2022—Subsec. (d)(2)(C). Pub. L. 117–328, §540(1)(A), struck out subpar. (C) which read as follows: "capitalization grants to insular areas under paragraph (4)."

Subsec. (d)(3)(D). Pub. L. 117–328, §540(1)(B), substituted "local governments and Tribal governments" for "local governments, insular areas, and Indian tribal governments".

Subsec. (d)(4). Pub. L. 117–328, §540(1)(C), struck out par. (4), which related to insular areas.

Subsec. (m)(3). Pub. L. 117–328, §540(2)(A), added par. (3) and struck out former par. (3), which defined "eligible entity".

Subsec. (m)(5) to (11). Pub. L. 117–328, §540(2)(B)–(D), redesignated pars. (6) to (9) as (5) to (8), respectively, and par. (11) as (9), and struck out former pars. (5) and (10), which defined "insular area" and "State", respectively.

§5136. Natural hazard risk assessment

(a) Definitions

In this section:

(1) Community disaster resilience zone

The term "community disaster resilience zone" means a census tract designated by the President under subsection (d)(1).

(2) Eligible entity

The term "eligible entity" means—

(A) a State;

(B) an Indian tribal government; or

(C) a local government.

(b) Products

The President shall continue to maintain a natural hazard assessment program that develops and maintains products that—

(1) are available to the public; and

(2) define natural hazard risk across the United States.

(c) Features

The products maintained under subsection (b) shall, for lands within States and areas under the jurisdiction of Indian tribal governments—

(1) show the risk of natural hazards; and

(2) include ratings and data for—

(A) loss exposure, including population equivalence, buildings, and agriculture;

(B) social vulnerability;

(C) community resilience; and

(D) any other element determined by the President.

(d) Community disaster resilience zones designation

(1) In general

Not later than 30 days after the date on which the President makes the update and enhancement required under subsection (e)(4), and not less frequently than every 5 years thereafter, the President shall identify and designate community disaster resilience zones, which shall be—

(A) the 50 census tracts assigned the highest individual hazard risk ratings; and

(B) subject to paragraph (3), in each State, not less than 1 percent of census tracts that are assigned high individual risk ratings.

(2) Risk ratings

In carrying out paragraph (1), the President shall use census tract risk ratings derived from a product maintained under subsection (b) that—

(A) reflect—

(i) high levels of individual hazard risk ratings based on an assessment of the intersection of—

(I) loss to population equivalence;

(II) building value; and

(III) agriculture value;

(ii) high social vulnerability ratings and low community resilience ratings; and

(iii) any other elements determined by the President; and

(B) reflect the principal natural hazard risks identified for the respective census tracts.

(3) Geographic balance

In identifying and designating the community disaster resilience zones described in paragraph (1)(B)—

(A) for the purpose of achieving geographic balance, when applicable, the President shall consider making designations in coastal, inland, urban, suburban, and rural areas; and

(B) the President shall include census tracts on Tribal lands located within a State.

(4) Duration

The designation of a community disaster resilience zone under paragraph (1) shall be effective for a period of not less than 5 years.

(e) Review and update

Not later than 180 days after December 20, 2022, and not less frequently than every 5 years thereafter, the President shall—

(1) with respect to any product that is a natural hazard risk assessment—

(A) review the underlying methodology of the product; and
(B) receive public input on the methodology and data used for the product;

(2) consider including additional data in any product that is a natural hazard risk assessment, such as—
(A) the most recent census tract data;
(B) data from the American Community Survey of the Bureau of the Census, a successor survey, a similar survey, or another data source, including data by census tract on housing characteristics and income;
(C) information relating to development, improvements, and hazard mitigation measures;
(D) data that assesses past and future loss exposure, including analysis on the effects of a changing climate on future loss exposure;
(E) data from the Resilience Analysis and Planning Tool of the Federal Emergency Management Agency; and
(F) other information relevant to prioritizing areas that have—
(i) high risk levels of—
(I) natural hazard loss exposure, including population equivalence, buildings, infrastructure, and agriculture; and
(II) social vulnerability; and

(ii) low levels of community resilience;

(3) make publicly available any changes in methodology or data used to inform an update to a product maintained under subsection (b); and
(4) update and enhance the products maintained under subsection (b), as necessary.

(f) Natural hazard risk assessment insights

In determining additional data to include in products that are natural hazard risk assessments under subsection (e)(2), the President shall consult with, at a minimum—
(1) the Administrator of the Federal Emergency Management Agency;
(2) the Secretary of Agriculture and the Chief of the Forest Service;
(3) the Secretary of Commerce, the Administrator of the National Oceanic and Atmospheric Administration, the Director of the Bureau of the Census, and the Director of the National Institute of Standards and Technology;
(4) the Secretary of Defense and the Commanding Officer of the United States Army Corps of Engineers;
(5) the Administrator of the Environmental Protection Agency;
(6) the Secretary of the Interior and the Director of the United States Geological Survey;
(7) the Secretary of Housing and Urban Development; and
(8) the Director of the Federal Housing Finance Agency.

(g) Community disaster resilience zone

With respect to financial assistance provided under section 5133(i) of this title to perform a resilience or mitigation project within, or that primarily benefits, a community disaster resilience zone, the President may increase the amount of the Federal share described under section 5133(h) of this title to not more than 90 percent of the total cost of the resilience or mitigation project.

(h) Resilience or mitigation project planning assistance

(1) In general

The President may provide financial, technical, or other assistance under this subchapter to an eligible entity that plans to perform a resilience or mitigation project within, or that primarily benefits, a community disaster resilience zone.

(2) Purpose

The purpose of assistance provided under paragraph (1) shall be to carry out activities in preparation for a resilience or mitigation project or seek an evaluation and certification under subsection (i)(2) for a resilience or mitigation project before the date on which permanent work of the resilience or mitigation project begins.

(3) Application

If required by the President, an eligible entity seeking assistance under paragraph (1) shall submit an application in accordance with subsection (i)(1).

(4) Funding

In providing assistance under paragraph (1), the President may use amounts set aside under section 5133(i) of this title.

(i) Community disaster resilience zone project applications

(1) In general

If required by the President or other Federal law, an eligible entity shall submit to the President an application at such time, in such manner, and containing or accompanied by such information as the President may reasonably require.

(2) Evaluation and certification

(A) In general

Not later than 120 days after the date on which an eligible entity submits an application under paragraph (1), the President shall evaluate the application to determine whether the resilience or mitigation project that the entity plans to perform within, or that primarily benefits, a community disaster resilience zone—

(i) is designed to reduce injuries, loss of life, and damage and destruction of property, such as damage to critical services and facilities; and

(ii) substantially reduces the risk of, or increases resilience to, future damage, hardship, loss, or suffering.

(B) Certification

If the President determines that an application submitted under paragraph (1) meets the criteria described in subparagraph (A), the President shall certify the proposed resilience or mitigation project.

(C) Effect of certification

The certification of a proposed resilience or mitigation project under subparagraph (B) shall not be construed to exempt the resilience or mitigation project from the requirements of any other law.

(3) Projects causing displacement

With respect to a resilience or mitigation project certified under paragraph (2)(B) that involves the displacement of a resident from any occupied housing unit, the entity performing the resilience or mitigation project shall—

(A) provide, at the option of the resident, a suitable and habitable housing unit that is, with respect to the housing unit from which the resident is displaced—

(i) of a comparable size;

(ii) located in the same local community or a community with reduced hazard risk; and

(iii) offered under similar costs, conditions, and terms;

(B) ensure that property acquisitions resulting from the displacement and made in connection with the resilience or mitigation project—

(i) are deed restricted in perpetuity to preclude future property uses not relating to mitigation or resilience; and

(ii) are the result of a voluntary decision by the resident; and

(C) plan for robust public participation in the resilience or mitigation project.

(Pub. L. 93–288, title II, §206, as added Pub. L. 117–255, §3(a), Dec. 20, 2022, 136 Stat. 2363.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 117–255, §3(c), Dec. 20, 2022, 136 Stat. 2367, provided that: "The amendments made by this Act [enacting this section and amending section 5121 of this title] shall only apply with respect to amounts appropriated on or after the date of enactment of this Act [Dec. 20, 2022]."

NATIONAL RISK INDEX FUNDING

Pub. L. 117–255, §3(b), Dec. 20, 2022, 136 Stat. 2367, provided that: "Nothing in section 206 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5136], as added by subsection (a) of this section, shall be construed to prohibit the Administrator of the Federal Emergency Management Agency from using amounts available to maintain and update the National Risk Index until the earlier of—

"(1) the date on which those amounts are transferred to another source; and

"(2) 3 years after the date of enactment of this Act [Dec. 20, 2022]."

§5136a. Assistance and training for communities with technological hazards and related emerging threats

(a) In general

The Administrator shall maintain the capacity to provide States, local, and Indian Tribal governments with technological hazards and related emerging threats technical assistance, training, and other preparedness programming to build community resilience to technological hazards and related emerging threats.

(b) Authorities

The Administrator shall carry out subsection (a) in accordance with—

(1) the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.);

(2) section 5196g of this title; and

(3) the Post-Katrina Emergency Management Reform Act of 2006 (Public Law 109–295; 120 Stat. 1394).

(c) Assessment and notification

In carrying out subsection (a), the Administrator shall—

(1) use any available and appropriate multi-hazard risk assessment and mapping tools and capabilities to identify the communities that have the highest risk of and vulnerability to a technological hazard in each State; and

(2) ensure each State and Indian Tribal government is aware of—

(A) the communities identified under paragraph (1); and

(B) the availability of programming under this section for—

(i) technological hazards and related emerging threats preparedness; and

(ii) building community capability.

(d) Report

Not later than 1 year after December 23, 2022, and annually thereafter, the Administrator shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Appropriations of the Senate, the Committee on Energy and Natural Resources of the Senate, the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on Energy and Commerce of the House of Representatives, the Committee on Homeland Security of the House of Representatives, the Committee on Appropriations of the House of Representatives, and

the Committee on Transportation and Infrastructure of the House of Representatives a report relating to—

(1) actions taken to implement this section; and

(2) technological hazards and related emerging threats preparedness programming provided under this section during the 1-year period preceding the date of submission of the report.

(e) Consultation

The Secretary of Homeland Security may seek continuing input relating to technological hazards and related emerging threats preparedness needs by consulting State, Tribal, territorial, and local emergency services organizations and private sector stakeholders.

(f) Coordination

The Secretary of Homeland Security shall coordinate with the Secretary of Energy relating to technological hazard preparedness and training for a hazard that could result from activities or facilities authorized or licensed by the Department of Energy.

(g) Non-duplication of effort

In carrying out activities under subsection (a), the Administrator shall ensure that such activities do not unnecessarily duplicate efforts of other Federal departments or agencies, including programs within the Department of Health and Human Services.

(Pub. L. 117–263, div. G, title LXXIII, §7313, Dec. 23, 2022, 136 Stat. 3689.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (b)(1), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

The Post-Katrina Emergency Management Reform Act of 2006, referred to in subsec. (b)(3), is title VI of Pub. L. 109–295, Oct. 4, 2006, 120 Stat. 1394. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 6, Domestic Security, and Tables.

CODIFICATION

Section was enacted as part of the Technological Hazards Preparedness and Training Act of 2022 and as part of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SAVINGS PROVISION

Pub. L. 117–263, div. G, title LXXIII, §7315, Dec. 23, 2022, 136 Stat. 3691, provided that: "Nothing in this subtitle [subtitle B (§§7311–7315) of title LXXIII of div. G of Pub. L. 117–263, see Short Title of 2022 Amendment note set out under section 5121 of this title] shall diminish or divert resources from—

"(1) the full completion of federally-led chemical surety material storage missions or chemical demilitarization missions that are underway as of the date of enactment of this Act [Dec. 23, 2022]; or

"(2) any transitional activities or other community assistance incidental to the completion of the missions described in paragraph (1)."

DEFINITIONS

Pub. L. 117–263, div. G, title LXXIII, §7312, Dec. 23, 2022, 136 Stat. 3689, provided that: "In this subtitle [subtitle B (§§7311–7315) of title LXXIII of div. G of Pub. L. 117–263, see Short Title of 2022 Amendment note set out under section 5121 of this title]:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Emergency Management Agency.

"(2) INDIAN TRIBAL GOVERNMENT.—The term 'Indian Tribal government' has the meaning given the term 'Indian tribal government' in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

"(3) LOCAL GOVERNMENT; STATE.—The terms 'local government' and 'State' have the meanings given such terms in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

"(4) TECHNOLOGICAL HAZARD AND RELATED EMERGING THREAT.—The term 'technological hazard and related emerging threat'—

"(A) means a hazard that involves materials created by humans that pose a unique hazard to the general public and environment and which may result from—

"(i) an accident;

"(ii) an emergency caused by another hazard; or

"(iii) intentional use of the hazardous materials; and

"(B) includes a chemical, radiological, biological, and nuclear hazard."

SUBCHAPTER III—MAJOR DISASTER AND EMERGENCY ASSISTANCE ADMINISTRATION

§5141. Waiver of administrative conditions

Any Federal agency charged with the administration of a Federal assistance program may, if so requested by the applicant State or local authorities, modify or waive, for a major disaster, such administrative conditions for assistance as would otherwise prevent the giving of assistance under such programs if the inability to meet such conditions is a result of the major disaster.

(Pub. L. 93–288, title III, §301, as added Pub. L. 100–707, title I, §105(a)(2), Nov. 23, 1988, 102 Stat. 4691.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 5141, Pub. L. 93–288, title III, §301, May 22, 1974, 88 Stat. 146, set out procedure for determination of existence of emergency or major disaster, prior to repeal by Pub. L. 100–707, §105(a)(2).

§5142. Repealed. Pub. L. 100–707, title I, §105(a)(2), Nov. 23, 1988, 102 Stat. 4691

Section, Pub. L. 93–288, title III, §302, May 22, 1974, 88 Stat. 146, related to Federal assistance and its coordination with State and local disaster assistance.

§5143. Coordinating officers

(a) Appointment of Federal coordinating officer

Immediately upon his declaration of a major disaster or emergency, the President shall appoint a Federal coordinating officer to operate in the affected area.

(b) Functions of Federal coordinating officer

In order to effectuate the purposes of this chapter, the Federal coordinating officer, within the affected area, shall—

(1) make an initial appraisal of the types of relief most urgently needed;

(2) establish such field offices as he deems necessary and as are authorized by the President;

(3) coordinate the administration of relief, including activities of the State and local governments, the American National Red Cross, the Salvation Army, the Mennonite Disaster

Service, and other relief or disaster assistance organizations, which agree to operate under his advice or direction, except that nothing contained in this chapter shall limit or in any way affect the responsibilities of the American National Red Cross under chapter 3001 of title 36; and

(4) take such other action, consistent with authority delegated to him by the President, and consistent with the provisions of this chapter, as he may deem necessary to assist local citizens and public officials in promptly obtaining assistance to which they are entitled.

(c) State coordinating officer

When the President determines assistance under this chapter is necessary, he shall request that the Governor of the affected State designate a State coordinating officer for the purpose of coordinating State and local disaster assistance efforts with those of the Federal Government.

(d) Single Federal coordinating officer for multistate area

Where the area affected by a major disaster or emergency includes parts of more than 1 State, the President, at the discretion of the President, may appoint a single Federal coordinating officer for the entire affected area, and may appoint such deputy Federal coordinating officers to assist the Federal coordinating officer as the President determines appropriate.

(Pub. L. 93–288, title III, §302, formerly §303, May 22, 1974, 88 Stat. 147; renumbered §302 and amended Pub. L. 100–707, title I, §105(b), Nov. 23, 1988, 102 Stat. 4691; Pub. L. 109–295, title VI, §687, Oct. 4, 2006, 120 Stat. 1448.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b) and (c), was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

CODIFICATION

In subsec. (b)(3), "chapter 3001 of title 36" substituted for "the Act of January 5, 1905, as amended (33 Stat. 599)" on authority of Pub. L. 105–225, §5(b), Aug. 12, 1998, 112 Stat. 1499, the first section of which enacted Title 36, Patriotic and National Observances, Ceremonies, and Organizations.

PRIOR PROVISIONS

A prior section 302 of Pub. L. 93–288 was classified to section 5142 of this title prior to repeal by Pub. L. 100–707.

AMENDMENTS

2006—Subsec. (d). Pub. L. 109–295 added subsec. (d).
1988—Subsec. (a). Pub. L. 100–707 inserted "or emergency" after "major disaster".

§5144. Emergency support and response teams

(a) Emergency support teams

The President shall form emergency support teams of Federal personnel to be deployed in an area affected by a major disaster or emergency. Such emergency support teams shall assist the Federal coordinating officer in carrying out his responsibilities pursuant to this chapter. Upon request of the President, the head of any Federal agency is directed to detail to temporary duty with the emergency support teams on either a reimbursable or nonreimbursable basis, as is determined necessary by the President, such personnel within the administrative jurisdiction of the head of the Federal agency as the President may need or believe to be useful for carrying out the functions of the emergency support teams, each such detail to be without loss of seniority, pay, or other employee status.

(b) Emergency response teams

(1) Establishment

In carrying out subsection (a), the President, acting through the Administrator of the Federal Emergency Management Agency, shall establish—

(A) at a minimum 3 national response teams; and

(B) sufficient regional response teams, including Regional Office strike teams under section 317 of title 6; and

(C) other response teams as may be necessary to meet the incident management responsibilities of the Federal Government.

(2) Target capability level

The Administrator shall ensure that specific target capability levels, as defined pursuant to the guidelines established under section 746(a) of title 6, are established for Federal emergency response teams.

(3) Personnel

The President, acting through the Administrator, shall ensure that the Federal emergency response teams consist of adequate numbers of properly planned, organized, equipped, trained, and exercised personnel to achieve the established target capability levels. Each emergency response team shall work in coordination with State and local officials and onsite personnel associated with a particular incident.

(4) Readiness reporting

The Administrator shall evaluate team readiness on a regular basis and report team readiness levels in the report required under section 752(a) of title 6.

(Pub. L. 93–288, title III, §303, formerly §304, May 22, 1974, 88 Stat. 148; renumbered §303, Pub. L. 100–707, title I, §105(c), Nov. 23, 1988, 102 Stat. 4691; amended Pub. L. 109–295, title VI, §633, Oct. 4, 2006, 120 Stat. 1421; Pub. L. 111–351, §3(c)(2), Jan. 4, 2011, 124 Stat. 3864.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

PRIOR PROVISIONS

A prior section 303 of Pub. L. 93–288 was renumbered section 302 by Pub. L. 100–707 and is classified to section 5143 of this title.

AMENDMENTS

2011—Subsec. (b). Pub. L. 111–351 substituted "Administrator" for "Director" wherever appearing.

2006—Pub. L. 109–295 substituted "Emergency support and response teams" for "Emergency support teams" in section catchline, designated existing provisions as subsec. (a), inserted subsec. heading, and added subsec. (b).

§§5145, 5146. Repealed. Pub. L. 100–707, title I, §105(d), Nov. 23, 1988, 102 Stat. 4691

Section 5145, Pub. L. 93–288, title III, §305, May 22, 1974, 88 Stat. 148, related to authority of President to provide assistance in an emergency.

Section 5146, Pub. L. 93–288, title III, §306, May 22, 1974, 88 Stat. 148, related to cooperation of Federal agencies in rendering disaster assistance.

§5147. Reimbursement of Federal agencies

Federal agencies may be reimbursed for expenditures under this chapter from funds appropriated for the purposes of this chapter. Any funds received by Federal agencies as reimbursement for services or supplies furnished under the authority of this chapter shall be deposited to the credit of the appropriation or appropriations currently available for such services or supplies.

(Pub. L. 93–288, title III, §304, formerly §307, May 22, 1974, 88 Stat. 149; renumbered §304, Pub. L. 100–707, title I, §105(d), Nov. 23, 1988, 102 Stat. 4691.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

PRIOR PROVISIONS

A prior section 304 of Pub. L. 93–288 was renumbered section 303 by Pub. L. 100–707 and is classified to section 5144 of this title.

§5148. Nonliability of Federal Government

The Federal Government shall not be liable for any claim based upon the exercise or performance of or the failure to exercise or perform a discretionary function or duty on the part of a Federal agency or an employee of the Federal Government in carrying out the provisions of this chapter.

(Pub. L. 93–288, title III, §305, formerly §308, May 22, 1974, 88 Stat. 149; renumbered §305, Pub. L. 100–707, title I, §105(d), Nov. 23, 1988, 102 Stat. 4691.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

PRIOR PROVISIONS

A prior section 305 of Pub. L. 93–288 was classified to section 5145 of this title prior to repeal by Pub. L. 100–707.

§5149. Performance of services

(a) Utilization of services or facilities of State and local governments

In carrying out the purposes of this chapter, any Federal agency is authorized to accept and utilize the services or facilities of any State or local government, or of any agency, office, or employee thereof, with the consent of such government.

(b) Appointment of temporary personnel, experts, and consultants; acquisition, rental, or hire of equipment, services, materials and supplies

In performing any services under this chapter, any Federal agency is authorized—

(1) to appoint and fix the compensation of such temporary personnel as may be necessary, without regard to the provisions of title 5 governing appointments in competitive service;

(2) to employ experts and consultants in accordance with the provisions of section 3109 of such title, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates; and

(3) to incur obligations on behalf of the United States by contract or otherwise for the

acquisition, rental, or hire of equipment, services, materials, and supplies for shipping, drayage, travel, and communications, and for the supervision and administration of such activities. Such obligations, including obligations arising out of the temporary employment of additional personnel, may be incurred by an agency in such amount as may be made available to it by the President.

(c) Appointment of temporary personnel in the Federal Emergency Management Agency

The Administrator of the Federal Emergency Management Agency is authorized to appoint temporary personnel, after serving continuously for 3 years, to positions in the Federal Emergency Management Agency in the same manner that competitive service employees with competitive status are considered for transfer, reassignment, or promotion to such positions. An individual appointed under this subsection shall become a career-conditional employee, unless the employee has already completed the service requirements for career tenure.

(d) Personnel performing service responding to disasters and emergencies

(1) USERRA employment and reemployment rights

The protections, rights, benefits, and obligations provided under chapter 43 of title 38 shall apply to intermittent personnel appointed pursuant to subsection (b)(1) to perform service to the Federal Emergency Management Agency under sections 5170 and 5191 of this title or to train for such service.

(2) Notice of absence from position of employment

Preclusion of giving notice of service by necessity of service under subsection (b)(1) to perform service to the Federal Emergency Management Agency under sections 5170 and 5191 of this title or to train for such service shall be considered preclusion by "military necessity" for purposes of section 4312(b) of title 38 pertaining to giving notice of absence from a position of employment. A determination of such necessity shall be made by the Administrator and shall not be subject to review in any judicial or administrative proceeding.

(Pub. L. 93–288, title III, §306, formerly §309, May 22, 1974, 88 Stat. 149; renumbered §306, Pub. L. 100–707, title I, §105(d), Nov. 23, 1988, 102 Stat. 4691; amended Pub. L. 115–254, div. D, §1222, Oct. 5, 2018, 132 Stat. 3454; Pub. L. 117–178, §2, Sept. 29, 2022, 136 Stat. 2110.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

PRIOR PROVISIONS

A prior section 306 of Pub. L. 93–288 was classified to section 5146 of this title prior to repeal by Pub. L. 100–707.

AMENDMENTS

2022—Subsec. (d). Pub. L. 117–178 added subsec. (d).
2018—Subsec. (c). Pub. L. 115–254 added subsec. (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–254 applicable to each major disaster and emergency declared by the President on or after Aug. 1, 2017, and authorities provided under div. D of Pub. L. 115–254 applicable to each major disaster and emergency declared by the President on or after Jan. 1, 2016, except as otherwise provided, see section 1202 of Pub. L. 115–254, set out as a note under section 5121 of this title.

§5150. Use of local firms and individuals

(a) Contracts or agreements with private entities

(1) In general

In the expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other major disaster or emergency assistance activities which may be carried out by contract or agreement with private organizations, firms, or individuals, preference shall be given, to the extent feasible and practicable, to those organizations, firms, and individuals residing or doing business primarily in the area affected by such major disaster or emergency.

(2) Construction

This subsection shall not be considered to restrict the use of Department of Defense resources under this chapter in the provision of assistance in a major disaster.

(3) Specific geographic area

In carrying out this section, a contract or agreement may be set aside for award based on a specific geographic area.

(b) Implementation

(1) Contracts not to entities in area

Any expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other major disaster or emergency assistance activities which may be carried out by contract or agreement with private organizations, firms, or individuals, not awarded to an organization, firm, or individual residing or doing business primarily in the area affected by such major disaster shall be justified in writing in the contract file.

(2) Transition

Following the declaration of an emergency or major disaster, an agency performing response, relief, and reconstruction activities shall transition work performed under contracts in effect on the date on which the President declares the emergency or major disaster to organizations, firms, and individuals residing or doing business primarily in any area affected by the major disaster or emergency, unless the head of such agency determines that it is not feasible or practicable to do so.

(3) Formulation of requirements

The head of a Federal agency, as feasible and practicable, shall formulate appropriate requirements to facilitate compliance with this section.

(c) Prior contracts

Nothing in this section shall be construed to require any Federal agency to breach or renegotiate any contract in effect before the occurrence of a major disaster or emergency.

(Pub. L. 93–288, title III, §307, as added Pub. L. 109–295, title VI, §694, Oct. 4, 2006, 120 Stat. 1459; amended Pub. L. 109–347, title VI, §611, Oct. 13, 2006, 120 Stat. 1943.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(2), was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

PRIOR PROVISIONS

A prior section 5150, Pub. L. 93–288, title III, §307, formerly §310, May 22, 1974, 88 Stat. 150; renumbered §307 and amended Pub. L. 100–707, title I, §105(e), Nov. 23, 1988, 102 Stat. 4691; Pub. L. 109–218, §2, Apr. 20, 2006, 120 Stat. 333, provided for the use of local firms and individuals for major

disaster or emergency assistance activities, prior to repeal by Pub. L. 109–295, title VI, §694, Oct. 4, 2006, 120 Stat. 1459.

A prior section 307 of Pub. L. 93–288 was renumbered section 304 by Pub. L. 100–707 and is classified to section 5147 of this title.

AMENDMENTS

2006—Subsec. (b)(3). Pub. L. 109–347 added par. (3).

§5151. Nondiscrimination in disaster assistance

(a) Regulations for equitable and impartial relief operations

The President shall issue, and may alter and amend, such regulations as may be necessary for the guidance of personnel carrying out Federal assistance functions at the site of a major disaster or emergency. Such regulations shall include provisions for insuring that the distribution of supplies, the processing of applications, and other relief and assistance activities shall be accomplished in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, disability, English proficiency, or economic status.

(b) Compliance with regulations as prerequisite to participation by other bodies in relief operations

As a condition of participation in the distribution of assistance or supplies under this chapter or of receiving assistance under this chapter, governmental bodies and other organizations shall be required to comply with regulations relating to nondiscrimination promulgated by the President, and such other regulations applicable to activities within an area affected by a major disaster or emergency as he deems necessary for the effective coordination of relief efforts.

(Pub. L. 93–288, title III, §308, formerly §311, May 22, 1974, 88 Stat. 150; renumbered §308 and amended Pub. L. 100–707, title I, §105(f), Nov. 23, 1988, 102 Stat. 4691; Pub. L. 109–295, title VI, §689a, Oct. 4, 2006, 120 Stat. 1449.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

PRIOR PROVISIONS

A prior section 308 of Pub. L. 93–288 was renumbered section 305 by Pub. L. 100–707 and is classified to section 5148 of this title.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–295 inserted "disability, English proficiency," after "age,".

1988—Subsec. (b). Pub. L. 100–707 substituted "this chapter" for "section 5172 or 5174 of this title" after "assistance under".

§5152. Use and coordination of relief organizations

(a) In providing relief and assistance under this chapter, the President may utilize, with their consent, the personnel and facilities of the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, long-term recovery groups, domestic hunger relief, and other relief, or disaster assistance organizations, in the distribution of medicine, food, supplies, or other items, and in the restoration, rehabilitation, or reconstruction of community services housing and essential facilities, whenever the President finds that such utilization is necessary.

(b) The President is authorized to enter into agreements with the American National Red Cross,

the Salvation Army, the Mennonite Disaster Service, long-term recovery groups, domestic hunger relief, and other relief, or disaster assistance organizations under which the disaster relief activities of such organizations may be coordinated by the Federal coordinating officer whenever such organizations are engaged in providing relief during and after a major disaster or emergency. Any such agreement shall include provisions assuring that use of Federal facilities, supplies, and services will be in compliance with regulations prohibiting duplication of benefits and guaranteeing nondiscrimination promulgated by the President under this chapter, and such other regulation as the President may require.

(Pub. L. 93–288, title III, §309, formerly §312, May 22, 1974, 88 Stat. 150; renumbered §309, Pub. L. 100–707, title I, §105(f), Nov. 23, 1988, 102 Stat. 4691; amended Pub. L. 115–254, div. D, §1227, Oct. 5, 2018, 132 Stat. 3458.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

PRIOR PROVISIONS

A prior section 309 of Pub. L. 93–288 was renumbered section 306 by Pub. L. 100–707 and is classified to section 5149 of this title.

AMENDMENTS

2018—Subsecs. (a), (b). Pub. L. 115–254 substituted "long-term recovery groups, domestic hunger relief, and other relief, or" for "and other relief or".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–254 applicable to each major disaster and emergency declared by the President on or after Aug. 1, 2017, and authorities provided under div. D of Pub. L. 115–254 applicable to each major disaster and emergency declared by the President on or after Jan. 1, 2016, except as otherwise provided, see section 1202 of Pub. L. 115–254, set out as a note under section 5121 of this title.

§5153. Priority to certain applications for public facility and public housing assistance

(a) Priority

In the processing of applications for assistance, priority and immediate consideration shall be given by the head of the appropriate Federal agency, during such period as the President shall prescribe, to applications from public bodies situated in areas affected by major disasters under the following Acts:

(1) The United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] for the provision of low-income housing.

(2) Sections 3502 to 3505 of title 40 for assistance in public works planning.

(3) The Community Development Block Grant Program under title I of the Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.].

(4) Section 1926 of title 7.

(5) The Public Works and Economic Development Act of 1965 [42 U.S.C. 3121 et seq.].

(6) Subtitle IV of title 40.

(7) The Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.].

(b) Obligation of certain discretionary funds

In the obligation of discretionary funds or funds which are not allocated among the States or political subdivisions of a State, the Secretary of Housing and Urban Development and the Secretary of Commerce shall give priority to applications for projects for major disaster areas.

(Pub. L. 93–288, title III, §310, as added Pub. L. 100–707, title I, §105(g), Nov. 23, 1988, 102 Stat. 4691.)

EDITORIAL NOTES

REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in subsec. (a)(1), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§1437 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

The Housing and Community Development Act of 1974, referred to in subsec. (a)(3), is Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633. Title I of the Housing and Community Development Act of 1974 is classified principally to chapter 69 (§5301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

The Public Works and Economic Development Act of 1965, as amended, referred to in subsec. (a)(5), is Pub. L. 89–136, Aug. 26, 1965, 79 Stat. 552, which is classified principally to chapter 38 (§3121 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3121 of this title and Tables.

The Federal Water Pollution Control Act, referred to in subsec. (a)(7), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, §2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

CODIFICATION

"Sections 3502 to 3505 of title 40" substituted for "Section 702 of the Housing Act of 1954" in subsec. (a)(2) and "Subtitle IV of title 40" substituted for "The Appalachian Regional Development Act of 1965" in subsec. (a)(6) on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

PRIOR PROVISIONS

A prior section 5153, Pub. L. 93–288, title III, §313, May 22, 1974, 88 Stat. 150, related to same subject matter as present section but with references to different acts and provisions, prior to repeal by Pub. L. 100–707, §105(g).

A prior section 310 of Pub. L. 93–288 was renumbered section 307 by Pub. L. 100–707 and was classified to section 5150 of this title, prior to repeal by Pub. L. 109–295.

§5154. Insurance

(a) Applicants for replacement of damaged facilities

(1) Compliance with certain regulations

An applicant for assistance under section 5172 of this title (relating to repair, restoration, and replacement of damaged facilities), section 5189 of this title (relating to simplified procedure) or section 3149(c)(2) of this title shall comply with regulations prescribed by the President to assure that, with respect to any property to be replaced, restored, repaired, or constructed with such assistance, such types and extent of insurance will be obtained and maintained as may be reasonably available, adequate, and necessary, to protect against future loss to such property.

(2) Determination

In making a determination with respect to availability, adequacy, and necessity under paragraph (1), the President shall not require greater types and extent of insurance than are certified to him as reasonable by the appropriate State insurance commissioner responsible for regulation of such insurance.

(b) Maintenance of insurance

No applicant for assistance under section 5172 of this title (relating to repair, restoration, and replacement of damaged facilities), section 5189 of this title (relating to simplified procedure), or section 3149(c)(2) of this title may receive such assistance for any property or part thereof for which the applicant has previously received assistance under this chapter unless all insurance required pursuant to this section has been obtained and maintained with respect to such property. The requirements of this subsection may not be waived under section 5141 of this title.

(c) State acting as self-insurer

A State may elect to act as a self-insurer with respect to any or all of the facilities owned by the State. Such an election, if declared in writing at the time of acceptance of assistance under section 5172 or 5189 of this title or section 3149(c)(2) of this title or subsequently and accompanied by a plan for self-insurance which is satisfactory to the President, shall be deemed compliance with subsection (a). No such self-insurer may receive assistance under section 5172 or 5189 of this title for any property or part thereof for which it has previously received assistance under this chapter, to the extent that insurance for such property or part thereof would have been reasonably available.

(Pub. L. 93–288, title III, §311, as added Pub. L. 100–707, title I, §105(h), Nov. 23, 1988, 102 Stat. 4692; amended Pub. L. 103–325, title V, §521, Sept. 23, 1994, 108 Stat. 2257; Pub. L. 106–390, title II, §201, Oct. 30, 2000, 114 Stat. 1559.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b) and (c), was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

PRIOR PROVISIONS

A prior section 5154, Pub. L. 93–288, title III, §314, May 22, 1974, 88 Stat. 151, consisted of similar provisions, prior to repeal by Pub. L. 100–707, §105(h).

A prior section 311 of Pub. L. 93–288 was renumbered section 308 by Pub. L. 100–707 and is classified to section 5151 of this title.

AMENDMENTS

2000—Subsecs. (a)(1), (b), (c). Pub. L. 106–390 substituted "section 3149(c)(2) of this title" for "section 3233 of this title".

1994—Subsec. (b). Pub. L. 103–325 inserted at end "The requirements of this subsection may not be waived under section 5141 of this title."

§5154a. Prohibited flood disaster assistance

(a) General prohibition

Notwithstanding any other provision of law, no Federal disaster relief assistance made available in a flood disaster area may be used to make a payment (including any loan assistance payment) to a person for repair, replacement, or restoration for damage to any personal, residential, or commercial property if that person at any time has received flood disaster assistance that was conditional on the person first having obtained flood insurance under applicable Federal law and subsequently having failed to obtain and maintain flood insurance as required under applicable Federal law on such property.

(b) Transfer of property

(1) Duty to notify

In the event of the transfer of any property described in paragraph (3), the transferor shall, not

later than the date on which such transfer occurs, notify the transferee in writing of the requirements to—

(A) obtain flood insurance in accordance with applicable Federal law with respect to such property, if the property is not so insured as of the date on which the property is transferred; and

(B) maintain flood insurance in accordance with applicable Federal law with respect to such property.

Such written notification shall be contained in documents evidencing the transfer of ownership of the property.

(2) Failure to notify

If a transferor described in paragraph (1) fails to make a notification in accordance with such paragraph and, subsequent to the transfer of the property—

(A) the transferee fails to obtain or maintain flood insurance in accordance with applicable Federal law with respect to the property,

(B) the property is damaged by a flood disaster, and

(C) Federal disaster relief assistance is provided for the repair, replacement, or restoration of the property as a result of such damage,

the transferor shall be required to reimburse the Federal Government in an amount equal to the amount of the Federal disaster relief assistance provided with respect to the property.

(3) Property described

For purposes of paragraph (1), a property is described in this paragraph if it is personal, commercial, or residential property for which Federal disaster relief assistance made available in a flood disaster area has been provided, prior to the date on which the property is transferred, for repair, replacement, or restoration of the property, if such assistance was conditioned upon obtaining flood insurance in accordance with applicable Federal law with respect to such property.

(c) Omitted

(d) "Flood disaster area" defined

For purposes of this section, the term "flood disaster area" means an area with respect to which—

(1) the Secretary of Agriculture finds, or has found, to have been substantially affected by a natural disaster in the United States pursuant to section 1961(a) of title 7; or

(2) the President declares, or has declared, the existence of a major disaster or emergency pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), as a result of flood conditions existing in or affecting that area.

(e) Effective date

This section and the amendments made by this section shall apply to disasters declared after September 23, 1994.

(Pub. L. 103–325, title V, §582, Sept. 23, 1994, 108 Stat. 2286.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (d)(2), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

The amendments made by this section, referred to in subsec. (e), means the amendments made by section 582(c) of Pub. L. 103–325, which amended section 4012a of this title. See Codification note below.

CODIFICATION

Section is comprised of section 582 of Pub. L. 103–325. Subsec. (c) of section 582 of Pub. L. 103–325 amended section 4012a of this title.

Section was enacted as part of the National Flood Insurance Reform Act of 1994 and as part of the Riegle Community Development and Regulatory Improvement Act of 1994, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act which comprises this chapter.

§5155. Duplication of benefits

(a) General prohibition

The President, in consultation with the head of each Federal agency administering any program providing financial assistance to persons, business concerns, or other entities suffering losses as a result of a major disaster or emergency, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program or from insurance or any other source.

(b) Special rules

(1) Limitation

This section shall not prohibit the provision of Federal assistance to a person who is or may be entitled to receive benefits for the same purposes from another source if such person has not received such other benefits by the time of application for Federal assistance and if such person agrees to repay all duplicative assistance to the agency providing the Federal assistance.

(2) Procedures

The President shall establish such procedures as the President considers necessary to ensure uniformity in preventing duplication of benefits.

(3) Effect of partial benefits

Receipt of partial benefits for a major disaster or emergency shall not preclude provision of additional Federal assistance for any part of a loss or need for which benefits have not been provided.

(c) Recovery of duplicative benefits

A person receiving Federal assistance for a major disaster or emergency shall be liable to the United States to the extent that such assistance duplicates benefits available to the person for the same purpose from another source. The agency which provided the duplicative assistance shall collect such duplicative assistance from the recipient in accordance with chapter 37 of title 31, relating to debt collection, when the head of such agency considers it to be in the best interest of the Federal Government.

(d) Assistance not income

Federal major disaster and emergency assistance provided to individuals and families under this chapter, and comparable disaster assistance provided by States, local governments, and disaster assistance organizations, shall not be considered as income or a resource when determining eligibility for or benefit levels under federally funded income assistance or resource-tested benefit programs.

(Pub. L. 93–288, title III, §312, as added Pub. L. 100–707, title I, §105(i), Nov. 23, 1988, 102 Stat. 4693; amended Pub. L. 115–254, div. D, §1210(a)(1), (4), Oct. 5, 2018, 132 Stat. 3442, 3443.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (d), was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

PRIOR PROVISIONS

A prior section 5155, Pub. L. 93–288, title III, §315, May 22, 1974, 88 Stat. 152, consisted of similar provisions, prior to repeal by Pub. L. 100–707, §105(i).

A prior section 312 of Pub. L. 93–288 was renumbered section 309 by Pub. L. 100–707 and is classified to section 5152 of this title.

AMENDMENTS

2018—Subsec. (b)(4). Pub. L. 115–254, §1210(a)(4), struck out par. (4) which provided for a presidential waiver of the general prohibition in subsec. (a).

Pub. L. 115–254, §1210(a)(1), added par. (4).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–254 applicable to each major disaster and emergency declared by the President on or after Aug. 1, 2017, and authorities provided under div. D of Pub. L. 115–254 applicable to each major disaster and emergency declared by the President on or after Jan. 1, 2016, except as otherwise provided, see section 1202 of Pub. L. 115–254, set out as a note under section 5121 of this title.

Pub. L. 115–254, div. D, §1210(a)(3), Oct. 5, 2018, 132 Stat. 3443, provided that: "The amendment made by paragraph (1) [amending this section] shall apply to any major disaster or emergency declared by the President under section 401 or 501, respectively, of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170, 5191) between January 1, 2016, and December 31, 2021."

Pub. L. 115–254, div. D, §1210(a)(4), Oct. 5, 2018, 132 Stat. 3443, provided that the amendment made by section 1210(a)(4) is effective on the date that is 5 years after Oct. 5, 2018.

LIMITATION

Pub. L. 115–254, div. D, §1210(a)(2), Oct. 5, 2018, 132 Stat. 3443, provided that: "This subsection [amending this section], including the amendment made by paragraph (1), shall not be construed to apply to section 406 or 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172, 5174)."

§5156. Standards and reviews

The President shall establish comprehensive standards which shall be used to assess the efficiency and effectiveness of Federal major disaster and emergency assistance programs administered under this chapter. The President shall conduct annual reviews of the activities of Federal agencies and State and local governments in major disaster and emergency preparedness and in providing major disaster and emergency assistance in order to assure maximum coordination and effectiveness of such programs and consistency in policies for reimbursement of States under this chapter.

(Pub. L. 93–288, title III, §313, as added Pub. L. 100–707, title I, §105(j), Nov. 23, 1988, 102 Stat. 4694.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

PRIOR PROVISIONS

A prior section 5156, Pub. L. 93–288, title III, §316, May 22, 1974, 88 Stat. 152, related to reviews and reports by President, prior to repeal by Pub. L. 100–707, §105(j).

A prior section 313 of Pub. L. 93–288 was classified to section 5153 of this title prior to repeal by Pub. L. 100–707.

§5157. Penalties

(a) Misuse of funds

Any person who knowingly misapplies the proceeds of a loan or other cash benefit obtained under this chapter shall be fined an amount equal to one and one-half times the misapplied amount of the proceeds or cash benefit.

(b) Civil enforcement

Whenever it appears that any person has violated or is about to violate any provision of this chapter, including any civil penalty imposed under this chapter, the Attorney General may bring a civil action for such relief as may be appropriate. Such action may be brought in an appropriate United States district court.

(c) Referral to Attorney General

The President shall expeditiously refer to the Attorney General for appropriate action any evidence developed in the performance of functions under this chapter that may warrant consideration for criminal prosecution.

(d) Civil penalty

Any individual who knowingly violates any order or regulation issued under this chapter shall be subject to a civil penalty of not more than $5,000 for each violation.

(Pub. L. 93–288, title III, §314, as added Pub. L. 100–707, title I, §105(k), Nov. 23, 1988, 102 Stat. 4694.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

PRIOR PROVISIONS

A prior section 5157, Pub. L. 93–288, title III, §317, May 22, 1974, 88 Stat. 152, related to criminal and civil penalties, prior to repeal by Pub. L. 100–707, §105(k).

A prior section 314 of Pub. L. 93–288 was classified to section 5154 of this title prior to repeal by Pub. L. 100–707.

§5158. Availability of materials

The President is authorized, at the request of the Governor of an affected State, to provide for a survey of construction materials needed in the area affected by a major disaster on an emergency basis for housing repairs, replacement housing, public facilities repairs and replacement, farming operations, and business enterprises and to take appropriate action to assure the availability and fair distribution of needed materials, including, where possible, the allocation of such materials for a period of not more than one hundred and eighty days after such major disaster. Any allocation program shall be implemented by the President to the extent possible, by working with and through those companies which traditionally supply construction materials in the affected area. For the purposes of this section "construction materials" shall include building materials and materials required for repairing housing, replacement housing, public facilities repairs and replacement, and for normal farm and business operations.

(Pub. L. 93–288, title III, §315, formerly §318, May 22, 1974, 88 Stat. 152; renumbered §315, Pub. L. 100–707, title I, §105(l), Nov. 23, 1988, 102 Stat. 4694.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 315 of Pub. L. 93–288 was classified to section 5155 of this title prior to repeal by Pub. L. 100–707.

§5159. Protection of environment

An action which is taken or assistance which is provided pursuant to section 5170a, 5170b, 5172, 5173, or 5192 of this title, including such assistance provided pursuant to the procedures provided for in section 5189 of this title, which has the effect of restoring a facility substantially to its condition prior to the disaster or emergency, shall not be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852) [42 U.S.C. 4321 et seq.]. Nothing in this section shall alter or affect the applicability of the National Environmental Policy Act of 1969 to other Federal actions taken under this chapter or under any other provisions of law.

(Pub. L. 93–288, title III, §316, as added Pub. L. 100–707, title I, §105(m)(1), Nov. 23, 1988, 102 Stat. 4694.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in text, is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

PRIOR PROVISIONS

A prior section 316 of Pub. L. 93–288 was classified to section 5156 of this title prior to repeal by Pub. L. 100–707.

§5160. Recovery of assistance

(a) Party liable

Any person who intentionally causes a condition for which Federal assistance is provided under this chapter or under any other Federal law as a result of a declaration of a major disaster or emergency under this chapter shall be liable to the United States for the reasonable costs incurred by the United States in responding to such disaster or emergency to the extent that such costs are attributable to the intentional act or omission of such person which caused such condition. Such action for reasonable costs shall be brought in an appropriate United States district court.

(b) Rendering of care

A person shall not be liable under this section for costs incurred by the United States as a result of actions taken or omitted by such person in the course of rendering care or assistance in response to a major disaster or emergency.

(Pub. L. 93–288, title III, §317, as added Pub. L. 100–707, title I, §105(m)(1), Nov. 23, 1988, 102 Stat. 4695.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 93–288, May 22,

1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

PRIOR PROVISIONS

A prior section 317 of Pub. L. 93–288 was classified to section 5157 of this title prior to repeal by Pub. L. 100–707.

§5161. Audits and investigations

(a) In general

Subject to the provisions of chapter 75 of title 31, relating to requirements for single audits, the President shall conduct audits and investigations as necessary to assure compliance with this chapter, and in connection therewith may question such persons as may be necessary to carry out such audits and investigations.

(b) Access to records

For purposes of audits and investigations under this section, the President and Comptroller General may inspect any books, documents, papers, and records of any person relating to any activity undertaken or funded under this chapter.

(c) State and local audits

The President may require audits by State and local governments in connection with assistance under this chapter when necessary to assure compliance with this chapter or related regulations.

(Pub. L. 93–288, title III, §318, as added Pub. L. 100–707, title I, §105(m)(1), Nov. 23, 1988, 102 Stat. 4695.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

PRIOR PROVISIONS

A prior section 318 of Pub. L. 93–288 was renumbered section 315 by Pub. L. 100–707 and is classified to section 5158 of this title.

§5161a. Audit of contracts

Notwithstanding any other provision of law, the Administrator of the Federal Emergency Management Agency shall not reimburse a State or local government, an Indian tribal government (as defined in section 5122 of this title), or the owner or operator of a private nonprofit facility (as defined in section 5122 of this title) for any activities made pursuant to a contract entered into after August 1, 2017, that prohibits the Administrator or the Comptroller General of the United States from auditing or otherwise reviewing all aspects relating to the contract.

(Pub. L. 115–254, div. D, §1225, Oct. 5, 2018, 132 Stat. 3458.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Disaster Recovery Reform Act of 2018 and as part of the FAA Reauthorization Act of 2018, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Authorities provided under div. D of Pub. L. 115–254, which enacted this section, applicable to each major disaster and emergency declared by the President under Pub. L. 93–288 on or after Jan. 1, 2016, except as otherwise provided, see section 1202(b) of Pub. L. 115–254, set out in an Effective Date of 2018 Amendment note under section 5121 of this title.

DEFINITIONS

For definitions of "Administrator" and "State" as used in this section, see section 1203 of Pub. L. 115–254, set out as a note under section 5122 of this title.

§5162. Advance of non-Federal share

(a) In general

The President may lend or advance to an eligible applicant or a State the portion of assistance for which the State is responsible under the cost-sharing provisions of this chapter in any case in which—

(1) the State is unable to assume its financial responsibility under such cost-sharing provisions—

(A) with respect to concurrent, multiple major disasters in a jurisdiction, or

(B) after incurring extraordinary costs as a result of a particular disaster; and

(2) the damages caused by such disasters or disaster are so overwhelming and severe that it is not possible for the applicant or the State to assume immediately their financial responsibility under this chapter.

(b) Terms of loans and advances

(1) In general

Any loan or advance under this section shall be repaid to the United States.

(2) Interest

Loans and advances under this section shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the reimbursement period of the loan or advance.

(c) Regulations

The President shall issue regulations describing the terms and conditions under which any loan or advance authorized by this section may be made.

(Pub. L. 93–288, title III, §319, as added Pub. L. 100–707, title I, §105(m)(1), Nov. 23, 1988, 102 Stat. 4695.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

§5163. Limitation on use of sliding scales

No geographic area shall be precluded from receiving assistance under this chapter solely by virtue of an arithmetic formula or sliding scale based on income or population.

(Pub. L. 93–288, title III, §320, as added Pub. L. 100–707, title I, §105(m)(1), Nov. 23, 1988, 102 Stat. 4696.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

§5164. Rules and regulations

The President may prescribe such rules and regulations as may be necessary and proper to carry out the provisions of this chapter, and may exercise, either directly or through such Federal agency as the President may designate, any power or authority conferred to the President by this chapter.

(Pub. L. 93–288, title III, §321, as added Pub. L. 100–707, title I, §105(m)(1), Nov. 23, 1988, 102 Stat. 4696.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

§5165. Mitigation planning

(a) Requirement of mitigation plan

As a condition of receipt of an increased Federal share for hazard mitigation measures under subsection (e), a State, local, or tribal government shall develop and submit for approval to the President a mitigation plan that outlines processes for identifying the natural hazards, risks, and vulnerabilities of the area under the jurisdiction of the government.

(b) Local and tribal plans

Each mitigation plan developed by a local or tribal government shall—

(1) describe actions to mitigate hazards, risks, and vulnerabilities identified under the plan; and

(2) establish a strategy to implement those actions.

(c) State plans

The State process of development of a mitigation plan under this section shall—

(1) identify the natural hazards, risks, and vulnerabilities of areas in the State;

(2) support development of local mitigation plans;

(3) provide for technical assistance to local and tribal governments for mitigation planning; and

(4) identify and prioritize mitigation actions that the State will support, as resources become available.

(d) Funding

(1) In general

Federal contributions under section 5170c of this title may be used to fund the development and updating of mitigation plans under this section.

(2) Maximum Federal contribution

With respect to any mitigation plan, a State, local, or tribal government may use an amount of Federal contributions under section 5170c of this title not to exceed 7 percent of the amount of such contributions available to the government as of a date determined by the government.

(e) Increased Federal share for hazard mitigation measures

(1) In general

If, at the time of the declaration of a major disaster or event under section 5187 of this title, a State has in effect an approved mitigation plan under this section, the President may increase to 20 percent, with respect to the major disaster or event under section 5187 of this title, the maximum percentage specified in the last sentence of section 5170c(a) of this title.

(2) Factors for consideration

In determining whether to increase the maximum percentage under paragraph (1), the President shall consider whether the State has established—

(A) eligibility criteria for property acquisition and other types of mitigation measures;

(B) requirements for cost effectiveness that are related to the eligibility criteria;

(C) a system of priorities that is related to the eligibility criteria; and

(D) a process by which an assessment of the effectiveness of a mitigation action may be carried out after the mitigation action is complete.

(Pub. L. 93–288, title III, §322, as added Pub. L. 106–390, title I, §104(a), Oct. 30, 2000, 114 Stat. 1558; amended Pub. L. 115–254, div. D, §1204(b)(2), Oct. 5, 2018, 132 Stat. 3439.)

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (e)(1). Pub. L. 115–254 inserted "or event under section 5187 of this title" after "major disaster" in two places.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–254 applicable to each major disaster and emergency declared by the President on or after Aug. 1, 2017, and authorities provided under div. D of Pub. L. 115–254 applicable to each major disaster and emergency declared by the President on or after Jan. 1, 2016, except as otherwise provided, see section 1202 of Pub. L. 115–254, set out as a note under section 5121 of this title.

§5165a. Minimum standards for public and private structures

(a) In general

As a condition of receipt of a disaster loan or grant under this chapter—

(1) the recipient shall carry out any repair or construction to be financed with the loan or grant in accordance with applicable standards of safety, decency, and sanitation and in conformity with applicable codes, specifications, and standards; and

(2) the President may require safe land use and construction practices, after adequate consultation with appropriate State and local government officials.

(b) Evidence of compliance

A recipient of a disaster loan or grant under this chapter shall provide such evidence of compliance with this section as the President may require by regulation.

(Pub. L. 93–288, title III, §323, as added Pub. L. 106–390, title I, §104(a), Oct. 30, 2000, 114 Stat. 1559.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

§5165b. Management costs

(a) Definition of management cost

In this section, the term "management cost" includes any indirect cost, any direct administrative cost, and any other administrative expense associated with a specific project under a major disaster, emergency, or disaster preparedness or mitigation activity or measure.

(b) Establishment of management cost rates

(1) In general

Notwithstanding any other provision of law (including any administrative rule or guidance), the President shall by regulation implement management cost rates, for grantees and subgrantees, that shall be used to determine contributions under this chapter for management costs.

(2) Specific management costs

The Administrator of the Federal Emergency Management Agency shall provide the following percentage rates, in addition to the eligible project costs, to cover direct and indirect costs of administering the following programs:

(A) Hazard mitigation

A grantee under section 5170c of this title may be reimbursed not more than 15 percent of the total amount of the grant award under such section of which not more than 10 percent may be used by the grantee and 5 percent by the subgrantee for such costs.

(B) Public assistance

A grantee under sections 5170b, 5172, 5173, and 5192 of this title may be reimbursed not more than 12 percent of the total award amount under such sections, of which not more than 7 percent may be used by the grantee and 5 percent by the subgrantee for such costs.

(c) Review

The President shall review the management cost rates established under subsection (b) not later than 3 years after the date of establishment of the rates and periodically thereafter.

(Pub. L. 93–288, title III, §324, as added Pub. L. 106–390, title II, §202(a), Oct. 30, 2000, 114 Stat. 1560; amended Pub. L. 115–254, div. D, §1215, Oct. 5, 2018, 132 Stat. 3449.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(1), was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–254, §1215(1), substituted "any direct administrative cost, and any other administrative expense associated with" for "any administrative expense, and any other expense not directly chargeable to".

Subsec. (b). Pub. L. 115–254, §1215(2), designated existing provisions as par. (1), inserted heading, substituted "implement" for "establish", and added par. (2).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–254 applicable to each major disaster and emergency declared by the President on or after Aug. 1, 2017, and authorities provided under div. D of Pub. L. 115–254 applicable to each major disaster and emergency declared by the President on or after Jan. 1, 2016, except as otherwise provided, see section 1202 of Pub. L. 115–254, set out as a note under section 5121 of this title.

EFFECTIVE DATE

Pub. L. 106–390, title II, §202(b), Oct. 30, 2000, 114 Stat. 1560, provided that:

"(1) IN GENERAL.—Subject to paragraph (2), subsections (a) and (b) of section 324 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5165b(a), (b)] (as added by subsection (a)) shall apply to major disasters declared under that Act [42 U.S.C. 5121 et seq.] on or after the date of the enactment of this Act [Oct. 30, 2000].

"(2) INTERIM AUTHORITY.—Until the date on which the President establishes the management cost rates under section 324 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as added by subsection (a)), section 406(f) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(f)) (as in effect on the day before the date of the enactment of this Act) shall be used to establish management cost rates."

§5165c. Public notice, comment, and consultation requirements

(a) Public notice and comment concerning new or modified policies

(1) In general

The President shall provide for public notice and opportunity for comment before adopting any new or modified policy that—

(A) governs implementation of the public assistance program administered by the Federal Emergency Management Agency under this chapter; and

(B) could result in a significant reduction of assistance under the program.

(2) Application

Any policy adopted under paragraph (1) shall apply only to a major disaster or emergency declared on or after the date on which the policy is adopted.

(b) Consultation concerning interim policies

(1) In general

Before adopting any interim policy under the public assistance program to address specific conditions that relate to a major disaster or emergency that has been declared under this chapter, the President, to the maximum extent practicable, shall solicit the views and recommendations of grantees and subgrantees with respect to the major disaster or emergency concerning the potential interim policy, if the interim policy is likely—

(A) to result in a significant reduction of assistance to applicants for the assistance with respect to the major disaster or emergency; or

(B) to change the terms of a written agreement to which the Federal Government is a party concerning the declaration of the major disaster or emergency.

(2) No legal right of action

Nothing in this subsection confers a legal right of action on any party.

(c) Public access

The President shall promote public access to policies governing the implementation of the public assistance program.

(Pub. L. 93–288, title III, §325, as added Pub. L. 106–390, title II, §203, Oct. 30, 2000, 114 Stat.

1560.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1)(A) and (b)(1), was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§5165d. Designation of Small State and Rural Advocate

(a) In general

The President shall designate in the Federal Emergency Management Agency a Small State and Rural Advocate.

(b) Responsibilities

The Small State and Rural Advocate shall be an advocate for the fair treatment of small States and rural communities in the provision of assistance under this chapter.

(c) Duties

The Small State and Rural Advocate shall—

(1) participate in the disaster declaration process under section 5170 of this title and the emergency declaration process under section 5191 of this title, to ensure that the needs of rural communities are being addressed;

(2) assist small population States in the preparation of requests for major disaster or emergency declarations;

(3) assist States in the collection and presentation of material in the disaster or emergency declaration request relevant to demonstrate severe localized impacts within the State for a specific incident, including—

(A) the per capita personal income by local area, as calculated by the Bureau of Economic Analysis;

(B) the disaster impacted population profile, as reported by the Bureau of the Census, including—

(i) the percentage of the population for whom poverty status is determined;

(ii) the percentage of the population already receiving Government assistance such as Supplemental Security Income and Supplemental Nutrition Assistance Program benefits;

(iii) the pre-disaster unemployment rate;

(iv) the percentage of the population that is 65 years old and older;

(v) the percentage of the population 18 years old and younger;

(vi) the percentage of the population with a disability;

(vii) the percentage of the population who speak a language other than English and speak

English less than "very well"; and

(viii) any unique considerations regarding American Indian and Alaskan Native Tribal populations raised in the State's request for a major disaster declaration that may not be reflected in the data points referenced in this subparagraph;

(C) the impact to community infrastructure, including—

(i) disruptions to community life-saving and life-sustaining services;

(ii) disruptions or increased demand for essential community services; and

(iii) disruptions to transportation, infrastructure, and utilities; and

(D) any other information relevant to demonstrate severe local impacts; and

(4) conduct such other activities as the Administrator of the Federal Emergency Management Agency considers appropriate.

(Pub. L. 93–288, title III, §326, as added Pub. L. 109–295, title VI, §689g(a), Oct. 4, 2006, 120 Stat. 1453; amended Pub. L. 111–351, §3(c)(2), Jan. 4, 2011, 124 Stat. 3864; Pub. L. 117–263, div. E, title LVI, §5601(a), Dec. 23, 2022, 136 Stat. 3402.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

AMENDMENTS

2022—Subsec. (c)(3), (4). Pub. L. 117–263 added par. (3) and redesignated former par. (3) as (4).

2011—Subsec. (c)(3). Pub. L. 111–351 substituted "Administrator" for "Director".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CONSTRUCTION

Pub. L. 109–295, title VI, §689g(c), Oct. 4, 2006, 120 Stat. 1453, provided that: "Nothing in this section [enacting this section] or the amendments made by this section shall be construed to authorize major disaster or emergency assistance that is not authorized as of the date of enactment of this Act [Oct. 4, 2006]."

§5165e. Integrated plan for administrative cost reduction

(a) In general

Not later than 365 days after February 29, 2016, the Administrator shall—

(1) develop and implement an integrated plan to control and reduce administrative costs for major disasters, which shall include—

(A) steps the Agency will take to reduce administrative costs;

(B) milestones needed for accomplishing the reduction of administrative costs;

(C) strategic goals for the average annual percentage of administrative costs of major disasters for each fiscal year;

(D) the assignment of clear roles and responsibilities, including the designation of officials responsible for monitoring and measuring performance; and

(E) a timetable for implementation;

(2) compare the costs and benefits of tracking the administrative cost data for major disasters by the public assistance, individual assistance, hazard mitigation, and mission assignment programs, and if feasible, track this information; and

(3) clarify Agency guidance and minimum documentation requirements for a direct administrative cost claimed by a grantee or subgrantee of a public assistance grant program.

(b) Congressional update

Not later than 90 days after February 29, 2016, the Administrator shall brief the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the plan required to be developed under subsection (a)(1).

(c) Updates

If the Administrator modifies the plan or the timetable under subsection (a), the Administrator shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report notifying Congress of the modification, which shall include the details of the modification.

(Pub. L. 114–132, §3, Feb. 29, 2016, 130 Stat. 294.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Directing Dollars to Disaster Relief Act of 2015, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

REPORTING REQUIREMENT

Pub. L. 114–132, §4, Feb. 29, 2016, 130 Stat. 294, provided that:

"(a) ANNUAL REPORT.—Not later than November 30 of each year for 7 years beginning on the date of enactment of this Act [Feb. 29, 2016], the Administrator shall submit to Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the development and implementation of the integrated plan required under section 3 [42 U.S.C. 5165e] for the previous fiscal year.

"(b) REPORT UPDATES.—

"(1) THREE YEAR UPDATE.—Not later than 3 years after the date on which the Administrator submits a report under subsection (a), the Administrator shall submit an updated report for the previous 3-fiscal-year period.

"(2) FIVE YEAR UPDATE.—Not later than 5 years after the date on which the Administrator submits a report under subsection (a), the Administrator shall submit an updated report for the previous 5-fiscal-year period.

"(c) CONTENTS OF REPORTS.—Each report required under subsections (a) and (b) shall contain, at a minimum—

"(1) the total amount spent on administrative costs for the fiscal year period for which the report is being submitted;

"(2) the average annual percentage of administrative costs for the fiscal year period for which the report is being submitted;

"(3) an assessment of the effectiveness of the plan developed under section 3(a)(1) [42 U.S.C. 5165e(a)(1)];

"(4) an analysis of—

"(A) whether the Agency is achieving the strategic goals established under section 3(a)(1)(C) [42 U.S.C. 5165e(a)(1)(C)]; and

"(B) in the case of the Agency not achieving such strategic goals, what is preventing the Agency from doing so;

"(5) any actions the Agency has identified as useful in improving upon and reaching the goals for administrative costs established under section 3(a)(1)(C); and

"(6) any data described in section 3(a)(2) [42 U.S.C. 5165e(a)(2)], if the Agency determines it is feasible to track such data.

"(d) PUBLIC AVAILABILITY.—Not later than 30 days after the date on which the Administrator submits

a report to Congress under this section, the Administrator shall make the report publicly available on the website of the Agency."

DEFINITIONS

Pub. L. 114–132, §2, Feb. 29, 2016, 130 Stat. 293, provided that: "In this Act [see Short Title of 2016 Amendment note set out under section 5121 of this title]—

"(1) the term 'administrative cost'—

"(A) means a cost incurred by the Agency in support of the delivery of disaster assistance for a major disaster; and

"(B) does not include a cost incurred by a grantee or subgrantee;

"(2) the term 'Administrator' means the Administrator of the Agency;

"(3) the term 'Agency' means the Federal Emergency Management Agency;

"(4) the term 'direct administrative cost' means a cost incurred by a grantee or subgrantee of a program authorized by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) that can be identified separately and assigned to a specific project;

"(5) the term 'hazard mitigation program' means the hazard mitigation grant program authorized under section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c);

"(6) the term 'individual assistance program' means the individual assistance grant program authorized under sections 408, 410, 415, 416, 426, and 502(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174, 5177, 5182, 5183, 5189d, and 5192(a));

"(7) the term 'major disaster' means a major disaster declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170);

"(8) the term 'mission assignment' has the meaning given the term in section 641 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 741); and

"(9) the term 'public assistance program' means the public assistance grant program authorized under sections 403(a)(3), 406, 418, 419, 428, and 502(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170b(a)(3), 5172, 5185, 5186, 5189f, and 5192(a))."

§5165f. National Urban Search and Rescue Response System

(a) Definitions

In this section, the following definitions shall apply:

(1) Administrator

The term "Administrator" means the Administrator of the Federal Emergency Management Agency.

(2) Agency

The term "Agency" means the Federal Emergency Management Agency.

(3) Hazard

The term "hazard" has the meaning given the term in section 5195a of this title.

(4) Nonemployee System member

The term "nonemployee System member" means a System member not employed by a sponsoring agency or participating agency.

(5) Participating agency

The term "participating agency" means a State or local government, nonprofit organization, or private organization that has executed an agreement with a sponsoring agency to participate in the System.

(6) Sponsoring agency

The term "sponsoring agency" means a State or local government that is the sponsor of a task force designated by the Administrator to participate in the System.

(7) System

The term "System" means the National Urban Search and Rescue Response System to be

administered under this section.

(8) System member

The term "System member" means an individual who is not a full-time employee of the Federal Government and who serves on a task force or on a System management or other technical team.

(9) Task force

The term "task force" means an urban search and rescue team designated by the Administrator to participate in the System.

(b) General authority

Subject to the requirements of this section, the Administrator shall continue to administer the emergency response system known as the National Urban Search and Rescue Response System.

(c) Functions

In administering the System, the Administrator shall provide for a national network of standardized search and rescue resources to assist States and local governments in responding to hazards.

(d) Task forces

(1) Designation

The Administrator shall designate task forces to participate in the System. The Administration shall determine the criteria for such participation.

(2) Sponsoring agencies

Each task force shall have a sponsoring agency. The Administrator shall enter into an agreement with the sponsoring agency with respect to the participation of each task force in the System.

(3) Composition

(A) Participating agencies

A task force may include, at the discretion of the sponsoring agency, one or more participating agencies. The sponsoring agency shall enter into an agreement with each participating agency with respect to the participation of the participating agency on the task force.

(B) Other individuals

A task force may also include, at the discretion of the sponsoring agency, other individuals not otherwise associated with the sponsoring agency or a participating agency. The sponsoring agency of a task force may enter into a separate agreement with each such individual with respect to the participation of the individual on the task force.

(e) Management and technical teams

The Administrator shall maintain such management teams and other technical teams as the Administrator determines are necessary to administer the System.

(f) Appointment of System members into Federal service

(1) In general

The Administrator may appoint a System member into Federal service for a period of service to provide for the participation of the System member in exercises, preincident staging, major disaster and emergency response activities, and training events sponsored or sanctioned by the Administrator.

(2) Nonapplicability of certain civil service laws

The Administrator may make appointments under paragraph (1) without regard to the provisions of title 5 governing appointments in the competitive service.

(3) Relationship to other authorities

The authority of the Administrator to make appointments under this subsection shall not affect any other authority of the Administrator under this chapter.

(4) Limitation

A System member who is appointed into Federal service under paragraph (1) shall not be considered an employee of the United States for purposes other than those specifically set forth in this section.

(g) Compensation

(1) Pay of System members

Subject to such terms and conditions as the Administrator may impose by regulation, the Administrator shall make payments to the sponsoring agency of a task force—

(A) to reimburse each employer of a System member on the task force for compensation paid by the employer to the System member for any period during which the System member is appointed into Federal service under subsection (f)(1); and

(B) to make payments directly to a nonemployee System member on the task force for any period during which the nonemployee System member is appointed into Federal service under subsection (f)(1).

(2) Reimbursement for employees filling positions of System members

(A) In general

Subject to such terms and conditions as the Administrator may impose by regulation, the Administrator shall make payments to the sponsoring agency of a task force to be used to reimburse each employer of a System member on the task force for compensation paid by the employer to an employee filling a position normally filled by the System member for any period during which the System member is appointed into Federal service under subsection (f)(1).

(B) Limitation

Costs incurred by an employer shall be eligible for reimbursement under subparagraph (A) only to the extent that the costs are in excess of the costs that would have been incurred by the employer had the System member not been appointed into Federal service under subsection (f)(1).

(3) Method of payment

A System member shall not be entitled to pay directly from the Agency for a period during which the System member is appointed into Federal Service under subsection (f)(1).

(h) Personal injury, illness, disability, or death

(1) In general

A System member who is appointed into Federal service under subsection (f)(1) and who suffers personal injury, illness, disability, or death as a result of a personal injury sustained while acting in the scope of such appointment, shall, for the purposes of subchapter I of chapter 81 of title 5, be treated as though the member were an employee (as defined by section 8101 of that title) who had sustained the injury in the performance of duty.

(2) Election of benefits

(A) In general

A System member (or, in the case of the death of the System member, the System member's dependent) who is entitled under paragraph (1) to receive benefits under subchapter I of chapter 81 of title 5 by reason of personal injury, illness, disability, or death, and to receive benefits from a State or local government by reason of the same personal injury, illness, disability or death shall elect to—

(i) receive benefits under such subchapter; or

(ii) receive benefits from the State or local government.

(B) Deadline

A System member or dependent shall make an election of benefits under subparagraph (A) not later than 1 year after the date of the personal injury, illness, disability, or death that is the reason for the benefits, or until such later date as the Secretary of Labor may allow for reasonable cause shown.

(C) Effect of election

An election of benefits made under this paragraph is irrevocable unless otherwise provided by law.

(3) Reimbursement for State or local benefits

Subject to such terms and conditions as the Administrator may impose by regulation, if a System member or dependent elects to receive benefits from a State or local government under paragraph (2)(A), the Administrator shall reimburse the State or local government for the value of the benefits.

(4) Public safety officer claims

Nothing in this subsection shall be construed to bar any claim by, or with respect to, any System member who is a public safety officer, as defined in section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 [34 U.S.C. 10284], for any benefits authorized under part L of title I of that Act (42 U.S.C. 3796 et seq.).[1]

(i) Liability

A System member appointed into Federal service under subsection (f)(1), while acting within the scope of the appointment, shall be considered to be an employee of the Federal Government under section 1346(b) of title 28 and chapter 171 of that title, relating to tort claims procedure.

(j) Employment and reemployment rights

With respect to a System member who is not a regular full-time employee of a sponsoring agency or participating agency, the following terms and conditions apply:

(1) Service

Service as a System member shall be considered to be "service in the uniformed services" for purposes of chapter 43 of title 38 relating to employment and reemployment rights of individuals who have performed service in the uniformed services (regardless of whether the individual receives compensation for such participation). All rights and obligations of such persons and procedures for assistance, enforcement, and investigation shall be as provided for in such chapter.

(2) Preclusion

Preclusion of giving notice of service by necessity of appointment under this section shall be considered to be preclusion by "military necessity" for purposes of section 4312(b) of title 38 pertaining to giving notice of absence from a position of employment. A determination of such necessity shall be made by the Administrator and shall not be subject to judicial review.

(k) Licenses and permits

If a System member holds a valid license, certificate, or other permit issued by any State or other governmental jurisdiction evidencing the member's qualifications in any professional, mechanical, or other skill or type of assistance required by the System, the System member is deemed to be performing a Federal activity when rendering aid involving such skill or assistance during a period of appointment into Federal service under subsection (f)(1).

(l) Preparedness cooperative agreements

Subject to the availability of appropriations for such purpose, the Administrator shall enter into an annual preparedness cooperative agreement with each sponsoring agency. Amounts made available to a sponsoring agency under such a preparedness cooperative agreement shall be for the following purposes:

(1) Training and exercises, including training and exercises with other Federal, State, and local

government response entities.

(2) Acquisition and maintenance of equipment, including interoperable communications and personal protective equipment.

(3) Medical monitoring required for responder safety and health in anticipation of and following a major disaster, emergency, or other hazard, as determined by the Administrator.

(m) Response cooperative agreements

The Administrator shall enter into a response cooperative agreement with each sponsoring agency, as appropriate, under which the Administrator agrees to reimburse the sponsoring agency for costs incurred by the sponsoring agency in responding to a major disaster or emergency.

(n) Obligations

The Administrator may incur all necessary obligations consistent with this section in order to ensure the effectiveness of the System.

(o) Equipment maintenance and replacement

Not later than 180 days after December 16, 2016, the Administrator shall submit to the appropriate congressional committees (as defined in section 101 of title 6) a report on the development of a plan, including implementation steps and timeframes, to finance, maintain, and replace System equipment.

(p) Federal employees

Nothing in this section shall be construed to mean that a task force may not include Federal employees. In the case of a Federal employee detailed to a task force, the sponsoring agency shall enter into an agreement with the relevant employing Federal agency.

(Pub. L. 93–288, title III, §327, as added Pub. L. 114–326, §2(a), Dec. 16, 2016, 130 Stat. 1968; amended Pub. L. 116–48, §1, Aug. 22, 2019, 133 Stat. 1071.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (f)(3), was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

The Omnibus Crime Control and Safe Streets Act of 1968, referred to in subsec. (h)(4), is Pub. L. 90–351, June 19, 1968, 82 Stat. 197. Part L of title I of the Act was classified generally to part A (§3796 et seq.) of subchapter XII of chapter 46 of this title, prior to editorial reclassification and renumbering as subchapter XI (§10281 et seq.) of chapter 101 of Title 34, Crime Control and Law Enforcement. For complete classification of this Act to the Code, see Short Title of 1968 Act note set out under section 10101 of Title 34 and Tables.

AMENDMENTS

2019—Subsec. (p). Pub. L. 116–48 added subsec. (p).

[1] *See References in Text note below.*

§5165g. National veterinary emergency teams

(a) In general

The Administrator of the Federal Emergency Management Agency may establish one or more national veterinary emergency teams at accredited colleges of veterinary medicine.

(b) Responsibilities

A national veterinary emergency team shall—

(1) deploy with a team of the National Urban Search and Rescue Response System to assist with—

(A) veterinary care of canine search teams;

(B) locating and treating companion animals, service animals, livestock, and other animals; and

(C) surveillance and treatment of zoonotic diseases;

(2) recruit, train, and certify veterinary professionals, including veterinary students, in accordance with an established set of plans and standard operating guidelines to carry out the duties associated with planning for and responding to major disasters and emergencies as described in paragraph (1);

(3) assist State governments, Indian tribal governments, local governments, and nonprofit organizations in developing emergency management and evacuation plans that account for the care and rescue of animals and in improving local readiness for providing veterinary medical response during an emergency or major disaster; and

(4) coordinate with the Department of Homeland Security, the Department of Health and Human Services, the Department of Agriculture, State, local, and Indian tribal governments (including departments of animal and human health), veterinary and health care professionals, and volunteers.

(Pub. L. 115–254, div. D, §1218, Oct. 5, 2018, 132 Stat. 3452.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Disaster Recovery Reform Act of 2018 and as part of the FAA Reauthorization Act of 2018, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Authorities provided under div. D of Pub. L. 115–254, which enacted this section, applicable to each major disaster and emergency declared by the President under Pub. L. 93–288 on or after Jan. 1, 2016, except as otherwise provided, see section 1202(b) of Pub. L. 115–254, set out in an Effective Date of 2018 Amendment note under section 5121 of this title.

DEFINITIONS

For definition of "State" as used in this section, see section 1203 of Pub. L. 115–254, set out as a note under section 5122 of this title.

SUBCHAPTER IV—MAJOR DISASTER ASSISTANCE PROGRAMS

§5170. Procedure for declaration

(a) In general

All requests for a declaration by the President that a major disaster exists shall be made by the Governor of the affected State. Such a request shall be based on a finding that the disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. As part of such request, and as a prerequisite to major disaster assistance under this chapter, the Governor shall take appropriate response action under State law and direct execution of the State's emergency plan. The Governor shall furnish information on the nature and amount of State and local resources which have been or will be committed to alleviating the results of the disaster, and shall certify that, for the current disaster, State and local government obligations and expenditures (of which State commitments must

be a significant proportion) will comply with all applicable cost-sharing requirements of this chapter. Based on the request of a Governor under this section, the President may declare under this chapter that a major disaster or emergency exists.

(b) Indian tribal government requests

(1) In general

The Chief Executive of an affected Indian tribal government may submit a request for a declaration by the President that a major disaster exists consistent with the requirements of subsection (a).

(2) References

In implementing assistance authorized by the President under this chapter in response to a request of the Chief Executive of an affected Indian tribal government for a major disaster declaration, any reference in this subchapter or subchapter III (except sections 5153 and 5165d of this title) to a State or the Governor of a State is deemed to refer to an affected Indian tribal government or the Chief Executive of an affected Indian tribal government, as appropriate.

(3) Savings provision

Nothing in this subsection shall prohibit an Indian tribal government from receiving assistance under this subchapter through a declaration made by the President at the request of a State under subsection (a) if the President does not make a declaration under this subsection for the same incident.

(c) Cost share adjustments for Indian tribal governments

(1) In general

In providing assistance to an Indian tribal government under this subchapter, the President may waive or adjust any payment of a non-Federal contribution with respect to the assistance if—

(A) the President has the authority to waive or adjust the payment under another provision of this subchapter; and

(B) the President determines that the waiver or adjustment is necessary and appropriate.

(2) Criteria for making determinations

The President shall establish criteria for making determinations under paragraph (1)(B).

(Pub. L. 93–288, title IV, §401, as added Pub. L. 100–707, title I, §106(a)(3), Nov. 23, 1988, 102 Stat. 4696; amended Pub. L. 113–2, div. B, §1110(a), Jan. 29, 2013, 127 Stat. 47.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b)(2), was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

PRIOR PROVISIONS

A prior section 401 of Pub. L. 93–288 was renumbered section 405 by Pub. L. 100–707 and is classified to section 5171 of this title.

AMENDMENTS

2013—Pub. L. 113–2 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) and (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

PRELIMINARY DAMAGE ASSESSMENT

Pub. L. 117–263, div. E, title LVI, §5603, Dec. 23, 2022, 136 Stat. 3405, provided that:

"(a) FINDINGS.—Congress finds the following:

"(1) Preliminary damage assessments play a critical role in assessing and validating the impact and magnitude of a disaster.

"(2) Through the preliminary damage assessment process, representatives from the Federal Emergency Management Agency validate information gathered by State and local officials that serves as the basis for disaster assistance requests.

"(3) Various factors can impact the duration of a preliminary damage assessment and the corresponding submission of a major disaster request, however, the average time between when a disaster occurs, and the submission of a corresponding disaster request has been found to be approximately twenty days longer for flooding disasters.

"(4) With communities across the country facing increased instances of catastrophic flooding and other extreme weather events, accurate and efficient preliminary damage assessments have become critically important to the relief process for impacted States and municipalities.

"(b) REPORT TO CONGRESS.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Dec. 23, 2022], the Administrator of the Federal Emergency Management Agency shall submit to Congress a report describing the preliminary damage assessment process, as supported by the Federal Emergency Management Agency in the 5 years before the date of enactment of this Act.

"(2) CONTENTS.—The report described in paragraph (1) shall contain the following:

"(A) The process of the Federal Emergency Management Agency for deploying personnel to support preliminary damage assessments.

"(B) The number of Agency staff participating on disaster assessment teams.

"(C) The training and experience of such staff described in subparagraph (B).

"(D) A calculation of the average amount of time disaster assessment teams described in subparagraph (A) are deployed to a disaster area.

"(E) The efforts of the Agency to maintain a consistent liaison between the Agency and State, local, tribal, and territorial officials within a disaster area.

"(c) PRELIMINARY DAMAGE ASSESSMENT.—

"(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency shall convene an advisory panel consisting of emergency management personnel employed by State, local, territorial, or tribal authorities, and the representative organizations of such personnel to assist the Agency in improving critical components of the preliminary damage assessment process.

"(2) MEMBERSHIP.—

"(A) IN GENERAL.—This advisory panel shall consist of at least 2 representatives from national emergency management organizations and at least 1 representative from each of the 10 regions of the Federal Emergency Management Agency, selected from emergency management personnel employed by State, local, territorial, or tribal authorities within each region.

"(B) INCLUSION ON PANEL.—To the furthest extent practicable, representation on the advisory panel shall include emergency management personnel from both rural and urban jurisdictions.

"(3) CONSIDERATIONS.—The advisory panel convened under paragraph (1) shall—

"(A) consider—

"(i) establishing a training regime to ensure preliminary damage assessments are conducted and reviewed under consistent guidelines;

"(ii) utilizing a common technological platform to integrate data collected by State and local governments with data collected by the Agency; and

"(iii) assessing instruction materials provided by the Agency for omissions of pertinent information or language that conflicts with other statutory requirements; and

"(B) identify opportunities for streamlining the consideration of preliminary damage assessments by the Agency, including eliminating duplicative paperwork requirements and ensuring consistent communication and decision making among Agency staff.

"(4) INTERIM REPORT.—Not later than 18 months after the date of enactment of this Act, the Administrator shall submit to Congress a report regarding the findings of the advisory panel, steps that will be undertaken by the Agency to implement the findings of the advisory panel, and additional legislation that may be necessary to implement the findings of the advisory panel.

"(5) RULEMAKING AND FINAL REPORT.—Not later than 2 years after the date of enactment of this Act, the Administrator shall issue such regulations as are necessary to implement the recommendations of the advisory panel and submit to Congress a report discussing—

"(A) the implementation of recommendations from the advisory panel;

"(B) the identification of any additional challenges to the preliminary damage assessment process, including whether specific disasters result in longer preliminary damage assessments; and

"(C) any additional legislative recommendations necessary to improve the preliminary damage assessment process."

LOCAL IMPACT

Pub. L. 115–254, div. D, §1232, Oct. 5, 2018, 132 Stat. 3460, provided that:

"(a) IN GENERAL.—In making recommendations to the President regarding a major disaster declaration, the Administrator of the Federal Emergency Management Agency shall give greater consideration to severe local impact or recent multiple disasters. Further, the Administrator shall make corresponding adjustments to the [Federal Emergency Management] Agency's policies and regulations regarding such consideration. Not later than 1 year after the date of enactment of this section [Oct. 5, 2018], the Administrator shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate on the changes made to regulations and policies and the number of declarations that have been declared based on the new criteria.

"(b) EFFECTIVE DATE.—This section shall be effective on the date of enactment of this Act [Oct. 5, 2018]."

COST OF ASSISTANCE ESTIMATES

Pub. L. 115–254, div. D, §1239, Oct. 5, 2018, 132 Stat. 3466, provided that:

"(a) IN GENERAL.—Not later than 270 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Emergency Management Agency] shall review the factors considered when evaluating a request for a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), specifically the estimated cost of the assistance, and provide a report and briefing to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

"(b) RULEMAKING.—Not later than 2 years after the date of enactment of this Act, the Administrator shall review and initiate a rulemaking to update the factors considered when evaluating a Governor's request for a major disaster declaration, including reviewing how the [Federal Emergency Management] Agency estimates the cost of major disaster assistance, and consider other impacts on the capacity of a jurisdiction to respond to disasters. In determining the capacity of a jurisdiction to respond to disasters, and prior to the issuance of such a rule, the Administrator shall engage in meaningful consultation with relevant representatives of State, regional, local, and Indian tribal government stakeholders."

[For definition of "State" as used in section 1239 of Pub. L. 115–254, set out above, see section 1203 of Pub. L. 115–254, set out as a note under section 5122 of this title.]

INDIVIDUAL ASSISTANCE FACTORS

Pub. L. 113–2, div. B, §1109, Jan. 29, 2013, 127 Stat. 47, provided that: "In order to provide more objective criteria for evaluating the need for assistance to individuals, to clarify the threshold for eligibility and to speed a declaration of a major disaster or emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), not later than 1 year after the date of enactment of this division [Jan. 29, 2013], the Administrator of the Federal Emergency Management Agency, in cooperation with representatives of State, tribal, and local emergency management agencies, shall review, update, and revise through rulemaking the factors considered under section 206.48 of title 44, Code of Federal Regulations (including section 206.48(b)(2) of such title relating to trauma and the specific conditions or losses that contribute to trauma), to measure the severity, magnitude, and impact of a disaster."

§5170a. General Federal assistance

In any major disaster, the President may—

(1) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance response or recovery efforts, including precautionary evacuations;

(2) coordinate all disaster relief assistance (including voluntary assistance) provided by Federal agencies, private organizations, and State and local governments, including precautionary

evacuations and recovery;

(3) provide technical and advisory assistance to affected State and local governments for—

(A) the performance of essential community services;

(B) issuance of warnings of risks and hazards;

(C) public health and safety information, including dissemination of such information;

(D) provision of health and safety measures;

(E) management, control, and reduction of immediate threats to public health and safety; and

(F) recovery activities, including disaster impact assessments and planning;

(4) assist State and local governments in the distribution of medicine, food, and other consumable supplies, and emergency assistance;

(5) provide assistance to State and local governments for building code and floodplain management ordinance administration and enforcement, including inspections for substantial damage compliance; and

(6) provide accelerated Federal assistance and Federal support where necessary to save lives, prevent human suffering, or mitigate severe damage, which may be provided in the absence of a specific request and in which case the President—

(A) shall, to the fullest extent practicable, promptly notify and coordinate with officials in a State in which such assistance or support is provided; and

(B) shall not, in notifying and coordinating with a State under subparagraph (A), delay or impede the rapid deployment, use, and distribution of critical resources to victims of a major disaster.

(Pub. L. 93–288, title IV, §402, as added Pub. L. 100–707, title I, §106(a)(3), Nov. 23, 1988, 102 Stat. 4696; amended Pub. L. 109–295, title VI, §681(a), Oct. 4, 2006, 120 Stat. 1444; Pub. L. 115–254, div. D, §1206(a), Oct. 5, 2018, 132 Stat. 3440.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 402 of Pub. L. 93–288 was classified to section 5172 of this title prior to repeal by Pub. L. 100–707.

AMENDMENTS

2018—Pars. (5), (6). Pub. L. 115–254 added par. (5) and redesignated former par. (5) as (6).

2006—Par. (1). Pub. L. 109–295, §681(a)(1), substituted "response or recovery efforts, including precautionary evacuations" for "efforts".

Par. (2). Pub. L. 109–295, §681(a)(2), substituted ", including precautionary evacuations and recovery;" for semicolon at end.

Par. (3)(F). Pub. L. 109–295, §681(a)(3), added subpar. (F).

Par. (5). Pub. L. 109–295, §681(a)(4), (5), added par. (5).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–254 applicable to each major disaster and emergency declared by the President on or after Aug. 1, 2017, and authorities provided under div. D of Pub. L. 115–254 applicable to each major disaster and emergency declared by the President on or after Jan. 1, 2016, except as otherwise provided, see section 1202 of Pub. L. 115–254, set out as a note under section 5121 of this title.

§5170b. Essential assistance

(a) In general

Federal agencies may on the direction of the President, provide assistance essential to meeting

immediate threats to life and property resulting from a major disaster, as follows:

(1) Federal resources, generally

Utilizing, lending, or donating to State and local governments Federal equipment, supplies, facilities, personnel, and other resources, other than the extension of credit, for use or distribution by such governments in accordance with the purposes of this chapter.

(2) Medicine, food, and other consumables

Distributing or rendering through State and local governments, the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief and disaster assistance organizations medicine durable medical equipment,,[1] food, and other consumable supplies, and other services and assistance to disaster victims.

(3) Work and services to save lives and protect property

Performing on public or private lands or waters any work or services essential to saving lives and protecting and preserving property or public health and safety, including—

(A) debris removal;

(B) search and rescue, emergency medical care, emergency mass care, emergency shelter, and provision of food, water, medicine durable medical equipment,,[1] and other essential needs, including movement of supplies or persons;

(C) clearance of roads and construction of temporary bridges necessary to the performance of emergency tasks and essential community services;

(D) provision of temporary facilities for schools and other essential community services;

(E) demolition of unsafe structures which endanger the public;

(F) warning of further risks and hazards;

(G) dissemination of public information and assistance regarding health and safety measures;

(H) provision of technical advice to State and local governments on disaster management and control;

(I) reduction of immediate threats to life, property, and public health and safety; and

(J) provision of rescue, care, shelter, and essential needs—

(i) to individuals with household pets and service animals; and

(ii) to such pets and animals.

(4) Contributions

Making contributions to State or local governments or owners or operators of private nonprofit facilities for the purpose of carrying out the provisions of this subsection.

(b) Federal share

The Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of such assistance.

(c) Utilization of DOD resources

(1) General rule

During the immediate aftermath of an incident which may ultimately qualify for assistance under this subchapter or subchapter IV-A of this chapter, the Governor of the State in which such incident occurred may request the President to direct the Secretary of Defense to utilize the resources of the Department of Defense for the purpose of performing on public and private lands any emergency work which is made necessary by such incident and which is essential for the preservation of life and property. If the President determines that such work is essential for the preservation of life and property, the President shall grant such request to the extent the President determines practicable. Such emergency work may only be carried out for a period not to exceed 10 days.

(2) Rules applicable to debris removal

Any removal of debris and wreckage carried out under this subsection shall be subject to section

5173(b) of this title, relating to unconditional authorization and indemnification for debris removal.

(3) Expenditures out of disaster relief funds

The cost of any assistance provided pursuant to this subsection shall be reimbursed out of funds made available to carry out this chapter.

(4) Federal share

The Federal share of assistance under this subsection shall be not less than 75 percent.

(5) Guidelines

Not later than 180 days after November 23, 1988, the President shall issue guidelines for carrying out this subsection. Such guidelines shall consider any likely effect assistance under this subsection will have on the availability of other forms of assistance under this chapter.

(6) Definitions

For purposes of this section—

(A) Department of Defense

The term "Department of Defense" has the meaning the term "department" has under section 101 of title 10.

(B) Emergency work

The term "emergency work" includes clearance and removal of debris and wreckage and temporary restoration of essential public facilities and services.

(d) Salaries and benefits

(1) In general

If the President declares a major disaster or emergency for an area within the jurisdiction of a State, tribal, or local government, the President may reimburse the State, tribal, or local government for costs relating to—

(A) basic pay and benefits for permanent employees of the State, tribal, or local government conducting emergency protective measures under this section, if—

(i) the work is not typically performed by the employees; and

(ii) the type of work may otherwise be carried out by contract or agreement with private organizations, firms, or individuals.; [2] or

(B) overtime and hazardous duty compensation for permanent employees of the State, tribal, or local government conducting emergency protective measures under this section.

(2) Overtime

The guidelines for reimbursement for costs under paragraph (1) shall ensure that no State, tribal, or local government is denied reimbursement for overtime payments that are required pursuant to the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

(3) No effect on mutual aid pacts

Nothing in this subsection shall affect the ability of the President to reimburse labor force expenses provided pursuant to an authorized mutual aid pact.

(Pub. L. 93–288, title IV, §403, as added Pub. L. 100–707, title I, §106(a)(3), Nov. 23, 1988, 102 Stat. 4697; amended Pub. L. 109–295, title VI, §689(b), Oct. 4, 2006, 120 Stat. 1449; Pub. L. 109–308, §4, Oct. 6, 2006, 120 Stat. 1726; Pub. L. 113–2, div. B, §1108(b), Jan. 29, 2013, 127 Stat. 47; Pub. L. 115–254, div. D, §1217(d), Oct. 5, 2018, 132 Stat. 3452.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1) and (c)(1), (3), (5), was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

The Fair Labor Standards Act of 1938, referred to in subsec. (d)(2), is act June 25, 1938, ch. 676, 52 Stat. 1060, which is classified generally to chapter 8 (§201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables.

PRIOR PROVISIONS

A prior section 403 of Pub. L. 93–288 was renumbered section 407 by Pub. L. 100–707 and is classified to section 5173 of this title.

AMENDMENTS

2018—Subsec. (a)(3)(J). Pub. L. 115–254 struck out subpar. (J) added by Pub. L. 109–308, which was identical to subpar. (J) added by Pub. L. 109–295. See 2006 Amendment note below.

2013—Subsec. (d). Pub. L. 113–2 added subsec. (d).

2006—Subsec. (a)(2), (3)(B). Pub. L. 109–295, §689(b)(1), (2)(A), inserted "durable medical equipment," after "medicine".

Subsec. (a)(3)(J). Pub. L. 109–295, §689(b)(2)(B)–(D), and Pub. L. 109–308 amended par. (3) by adding identical subpars. (J).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–254 applicable to each major disaster and emergency declared by the President on or after Aug. 1, 2017, and authorities provided under div. D of Pub. L. 115–254 applicable to each major disaster and emergency declared by the President on or after Jan. 1, 2016, except as otherwise provided, see section 1202 of Pub. L. 115–254, set out as a note under section 5121 of this title.

EXECUTIVE DOCUMENTS

MAXIMIZING ASSISTANCE FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY TO RESPOND TO COVID–19

Memorandum of President of the United States, Mar. 1, 2022, 87 F.R. 12391, provided:

Memorandum for the Secretary of Homeland Security [and] the Administrator of the Federal Emergency Management Agency

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the "Stafford Act"), I hereby order as follows:

SECTION 1. *Policy*. It is the policy of my Administration to combat and respond to the coronavirus disease 2019 (COVID–19) pandemic with the full capacity and capability of the Federal Government to protect and support our families, schools, and businesses, and to assist State, local, Tribal, and territorial governments to do the same, including through emergency and disaster assistance available from the Federal Emergency Management Agency (FEMA) and through Federal support of the Governors' use of the National Guard.

SEC. 2. *Assistance for Category B COVID–19 Emergency Protective Measures*. FEMA shall provide a 100 percent Federal cost share for all work eligible for assistance under Public Assistance Category B, pursuant to sections 403 (42 U.S.C. 5170b), 502 (42 U.S.C. 5192), and 503 (42 U.S.C. 5193) of the Stafford Act, including work described in section 3(a) of the Presidential Memorandum of January 21, 2021 (Memorandum to Extend Federal Support to Governors' Use of the National Guard to Respond to COVID–19 and to Increase Reimbursement and Other Assistance Provided to States) [32 U.S.C. 502 note], and in section 2 of that memorandum on the Governors' use of the National Guard, performed from January 20, 2020, through July 1, 2022.

SEC. 3. *General Provisions*. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of

appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Administrator of FEMA is authorized and directed to publish this memorandum in the Federal Register.

J.R. BIDEN, JR.

Prior provisions related to maximizing assistance from the Federal Emergency Management Agency to respond to COVID–19 were contained in the following:

Memorandum of President of the United States, Dec. 27, 2021, 87 F.R. 27.
Memorandum of President of the United States, Nov. 9, 2021, 86 F.R. 64055.
Memorandum of President of the United States, Aug. 17, 2021, 86 F.R. 46759.
Memorandum of President of the United States, Feb. 2, 2021, 86 F.R. 8281.

[1] *So in original. The extra comma probably should follow "medicine".*

[2] *So in original.*

§5170c. Hazard mitigation

(a) In general

The President may contribute up to 75 percent of the cost of hazard mitigation measures which the President has determined are cost effective and which substantially reduce the risk of, or increase resilience to, future damage, hardship, loss, or suffering in any area affected by a major disaster, or any area affected by a fire for which assistance was provided under section 5187 of this title. Such measures shall be identified following the evaluation of natural hazards under section 5165 of this title and shall be subject to approval by the President. Subject to section 5165 of this title, the total of contributions under this section for a major disaster or event under section 5187 of this title shall not exceed 15 percent for amounts not more than $2,000,000,000, 10 percent for amounts of more than $2,000,000,000 and not more than $10,000,000,000, and 7.5 percent on amounts of more than $10,000,000,000 and not more than $35,333,000,000 of the estimated aggregate amount of grants to be made (less any associated administrative costs) under this chapter with respect to the major disaster or event under section 5187 of this title.

(b) Property acquisition and relocation assistance

(1) General authority

In providing hazard mitigation assistance under this section in connection with flooding, the Administrator of the Federal Emergency Management Agency may provide property acquisition and relocation assistance for projects that meet the requirements of paragraph (2).

(2) Terms and conditions

An acquisition or relocation project shall be eligible to receive assistance pursuant to paragraph (1) only if—

(A) the applicant for the assistance is otherwise eligible to receive assistance under the hazard mitigation grant program established under subsection (a); and

(B) on or after December 3, 1993, the applicant for the assistance enters into an agreement with the Administrator that provides assurances that—

(i) any property acquired, accepted, or from which a structure will be removed pursuant to the project will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or wetlands management practices;

(ii) no new structure will be erected on property acquired, accepted or from which a structure was removed under the acquisition or relocation program other than—

(I) a public facility that is open on all sides and functionally related to a designated open space;

(II) a rest room; or

(III) a structure that the Administrator approves in writing before the commencement of the construction of the structure; and

(iii) after receipt of the assistance, with respect to any property acquired, accepted or from which a structure was removed under the acquisition or relocation program—

(I) no subsequent application for additional disaster assistance for any purpose will be made by the recipient to any Federal entity; and

(II) no assistance referred to in subclause (I) will be provided to the applicant by any Federal source.

(3) Statutory construction

Nothing in this subsection is intended to alter or otherwise affect an agreement for an acquisition or relocation project carried out pursuant to this section that was in effect on the day before December 3, 1993.

(c) Program administration by States

(1) In general

A State desiring to administer the hazard mitigation grant program established by this section with respect to hazard mitigation assistance in the State may submit to the President an application for the delegation of the authority to administer the program.

(2) Criteria

The President, in consultation and coordination with States and local governments, shall establish criteria for the approval of applications submitted under paragraph (1). Until such time as the Administrator promulgates regulations to implement this paragraph, the Administrator may waive notice and comment rulemaking, if the Administrator determines doing so is necessary to expeditiously implement this section, and may carry out this section as a pilot program. The criteria shall include, at a minimum—

(A) the demonstrated ability of the State to manage the grant program under this section;

(B) there being in effect an approved mitigation plan under section 5165 of this title; and

(C) a demonstrated commitment to mitigation activities.

(3) Approval

The President shall approve an application submitted under paragraph (1) that meets the criteria established under paragraph (2).

(4) Withdrawal of approval

If, after approving an application of a State submitted under paragraph (1), the President determines that the State is not administering the hazard mitigation grant program established by this section in a manner satisfactory to the President, the President shall withdraw the approval.

(5) Audits

The President shall provide for periodic audits of the hazard mitigation grant programs administered by States under this subsection.

(d) Streamlined procedures

(1) In general

For the purpose of providing assistance under this section, the President shall ensure that—

(A) adequate resources are devoted to ensure that applicable environmental reviews under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and historic preservation reviews under the National Historic Preservation Act [1] are completed on an expeditious basis; and

(B) the shortest existing applicable process under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and the National Historic Preservation Act [1] is utilized.

(2) Authority for other expedited procedures

The President may utilize expedited procedures in addition to those required under paragraph (1) for the purpose of providing assistance under this section, such as procedures under the Prototype Programmatic Agreement of the Federal Emergency Management Agency, for the consideration of multiple structures as a group and for an analysis of the cost-effectiveness and fulfillment of cost-share requirements for proposed hazard mitigation measures.

(e) Advance assistance

The President may provide not more than 25 percent of the amount of the estimated cost of hazard mitigation measures to a State grantee eligible for a grant under this section before eligible costs are incurred.

(f) Use of assistance

Recipients of hazard mitigation assistance provided under this section and section 5133 of this title may use the assistance to conduct activities to help reduce the risk of future damage, hardship, loss, or suffering in any area affected by a wildfire or windstorm, such as—

(1) reseeding ground cover with quick-growing or native species;
(2) mulching with straw or chipped wood;
(3) constructing straw, rock, or log dams in small tributaries to prevent flooding;
(4) placing logs and other erosion barriers to catch sediment on hill slopes;
(5) installing debris traps to modify road and trail drainage mechanisms;
(6) modifying or removing culverts to allow drainage to flow freely;
(7) adding drainage dips and constructing emergency spillways to keep roads and bridges from washing out during floods;
(8) planting grass to prevent the spread of noxious weeds;
(9) installing warning signs;
(10) establishing defensible space measures;
(11) reducing hazardous fuels;
(12) mitigating windstorm and wildfire damage, including—
(A) replacing or installing electrical transmission or distribution utility pole structures with poles that are resilient to extreme wind, wildfire, and combined ice and wind loadings for the basic wind speeds and ice conditions associated with the relevant location; and
(B) the installation of fire-resistant wires and infrastructure and the undergrounding of wires;
(13) removing standing burned trees; and
(14) replacing water systems that have been burned and have caused contamination.

(g) Use of assistance for earthquake hazards

Recipients of hazard mitigation assistance provided under this section and section 5133 of this title may use the assistance to conduct activities to help reduce the risk of future damage, hardship, loss, or suffering in any area affected by earthquake hazards, including—

(1) improvements to regional seismic networks in support of building a capability for earthquake early warning;
(2) improvements to geodetic networks in support of building a capability for earthquake early warning; and
(3) improvements to seismometers, Global Positioning System receivers, and associated infrastructure in support of building a capability for earthquake early warning.

(Pub. L. 93–288, title IV, §404, as added Pub. L. 100–707, title I, §106(a)(3), Nov. 23, 1988, 102 Stat. 4698; amended Pub. L. 103–181, §§2(a), 3, Dec. 3, 1993, 107 Stat. 2054; Pub. L. 106–390, title I, §104(c)(1), title II, §204, Oct. 30, 2000, 114 Stat. 1559, 1561; Pub. L. 108–7, div. K, title IV, §417, Feb. 20, 2003, 117 Stat. 525; Pub. L. 109–295, title VI, §684, Oct. 4, 2006, 120 Stat. 1447; Pub. L. 111–351, §3(c)(2), Jan. 4, 2011, 124 Stat. 3864; Pub. L. 113–2, div. B, §1104(a), (b), Jan. 29,

2013, 127 Stat. 43; Pub. L. 115–254, div. D, §§1204(b)(1), 1205, 1233, 1235(a), Oct. 5, 2018, 132 Stat. 3439, 3460, 3463; Pub. L. 117–58, div. D, title I, §40102, Nov. 15, 2021, 135 Stat. 928.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (d)(1), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

The National Historic Preservation Act, referred to in subsec. (d)(1), is Pub. L. 89–665, Oct. 15, 1966, 80 Stat. 915, which was classified generally to subchapter II (§470 et seq.) of chapter 1A of Title 16, Conservation. The Act, except for section 1, was repealed and restated in division A (§300101 et seq.) of subtitle III of Title 54, National Park Service and Related Programs, by Pub. L. 113–287, §§3, 7, Dec. 19, 2014, 128 Stat. 3094, 3272. For complete classification of this Act to the Code, see Tables. For disposition of former sections of Title 16, see Disposition Table preceding section 100101 of Title 54.

PRIOR PROVISIONS

A prior section 404 of Pub. L. 93–288 was classified to section 5174 of this title prior to repeal by Pub. L. 100–707.

AMENDMENTS

2021—Subsec. (f)(12). Pub. L. 117–58 inserted "and wildfire" after "windstorm" and substituted "including—" for "including", inserted subpar. (A) designation before "replacing" and ", wildfire," after "extreme wind", and added subpar. (B).

2018—Subsec. (a). Pub. L. 115–254, §1204(b)(1), inserted ", or any area affected by a fire for which assistance was provided under section 5187 of this title" after "affected by a major disaster" in first sentence as inserted by section 1235(a) of Pub. L. 115–254, and inserted "or event under section 5187 of this title" after "major disaster" in two places in third sentence.

Pub. L. 115–254, §1235(a), substituted "The President may contribute up to 75 percent of the cost of hazard mitigation measures which the President has determined are cost effective and which substantially reduce the risk of, or increase resilience to, future damage, hardship, loss, or suffering in any area affected by a major disaster." for "The President may contribute up to 75 percent of the cost of hazard mitigation measures which the President has determined are cost-effective and which substantially reduce the risk of future damage, hardship, loss, or suffering in any area affected by a major disaster."

Subsec. (f). Pub. L. 115–254, §1205, added subsec. (f).

Subsec. (g). Pub. L. 115–254, §1233, added subsec. (g).

2013—Subsec. (c)(2). Pub. L. 113–2, §1104(b), inserted "Until such time as the Administrator promulgates regulations to implement this paragraph, the Administrator may waive notice and comment rulemaking, if the Administrator determines doing so is necessary to expeditiously implement this section, and may carry out this section as a pilot program." after "applications submitted under paragraph (1)." in introductory provisions.

Subsecs. (d), (e). Pub. L. 113–2, §1104(a), added subsecs. (d) and (e).

2011—Subsec. (b)(1), (2). Pub. L. 111–351 substituted "Administrator" for "Director" wherever appearing.

2006—Subsec. (a). Pub. L. 109–295, in last sentence, substituted "15 percent for amounts not more than $2,000,000,000, 10 percent for amounts of more than $2,000,000,000 and not more than $10,000,000,000, and 7.5 percent on amounts of more than $10,000,000,000 and not more than $35,333,000,000" for "7.5 percent".

2003—Subsec. (a). Pub. L. 108–7 substituted "7.5 percent" for "15 percent".

2000—Subsec. (a). Pub. L. 106–390, §104(c)(1), substituted "section 5165" for "section 5176" in second sentence and "Subject to section 5165 of this title, the total" for "The total" in third sentence.

Subsec. (c). Pub. L. 106–390, §204, added subsec. (c).

1993—Pub. L. 103–181 designated existing provisions as subsec. (a), inserted heading, substituted "75 percent" for "50 percent" in first sentence, substituted "15 percent of the estimated aggregate amount of grants to be made (less any associated administrative costs) under this chapter with respect to the major disaster" for "10 percent of the estimated aggregate amounts of grants to be made under section 5172 of this title with respect to such major disaster" in last sentence, and added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–254 applicable to each major disaster and emergency declared by the President on or after Aug. 1, 2017, and authorities provided under div. D of Pub. L. 115–254 applicable to each major disaster and emergency declared by the President on or after Jan. 1, 2016, except as otherwise provided, see section 1202 of Pub. L. 115–254, set out as a note under section 5121 of this title.

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 113–2, div. B, §1104(c), Jan. 29, 2013, 127 Stat. 43, provided that: "The authority under the amendments made by this section [amending this section] shall apply to—

"(1) any major disaster or emergency declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) on or after the date of enactment of this division [Jan. 29, 2013]; and

"(2) a major disaster or emergency declared under that Act before the date of enactment of this division for which the period for processing requests for assistance has not ended as of the date of enactment of this division."

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103–181, §2(b), Dec. 3, 1993, 107 Stat. 2054, provided that: "The amendments made by this section [amending this section] shall apply to any major disaster declared by the President pursuant to The [the] Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) on or after June 10, 1993."

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

HAZARD ELIGIBILITY AND LOCAL PROJECTS

Pub. L. 117–332, Jan. 5, 2023, 136 Stat. 6119, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Hazard Eligibility and Local Projects Act'.

"SEC. 2. AUTHORITY TO BEGIN IMPLEMENTATION OF ACQUISITION AND DEMOLITION ASSISTANCE PROJECTS.

"(a) DEFINITIONS.—In this section:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Emergency Management Agency.

"(2) COVERED PROJECT.—The term 'covered project' means a project that—

"(A) is an acquisition and demolition project for which an entity began implementation, including planning or construction, before or after requesting assistance for the project under a hazard mitigation assistance program; and

"(B) qualifies for a categorical exclusion under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(3) HAZARD MITIGATION ASSISTANCE PROGRAM.—The term 'hazard mitigation assistance program' means—

"(A) any grant program authorized under section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133);

"(B) the hazard mitigation grant program authorized under section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c); and

"(C) the flood mitigation assistance program authorized under section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c).

"(b) ELIGIBILITY FOR ASSISTANCE FOR COVERED PROJECTS.—

"(1) IN GENERAL.—An entity seeking assistance under a hazard mitigation assistance program may be eligible to receive that assistance for a covered project if—

"(A) the entity—

"(i) complies with all other eligibility requirements of the hazard mitigation assistance program for acquisition or demolition projects, including extinguishing all incompatible encumbrances; and

"(ii) complies with all Federal requirements for the covered project; and

"(B) the Administrator determines that the covered project—

"(i) qualifies for a categorical exclusion under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

"(ii) is compliant with applicable floodplain management and protection of wetland regulations and criteria; and

"(iii) does not require consultation under any other environmental or historic preservation law or regulation or involve any extraordinary circumstances.

"(2) COSTS INCURRED.—An entity seeking assistance under a hazard mitigation assistance program shall be responsible for any project costs incurred by the entity for a covered project if the covered project is not awarded, or is determined to be ineligible for, assistance.

"(c) APPLICABILITY.—This Act shall apply to covered projects started on or after the date of enactment of this Act [Jan. 5, 2023].

"(d) REPORT.—Not later than 180 days after the date of enactment of this Act, and annually thereafter for 3 years, the Administrator shall submit to Congress a report on use of the authority under this Act, including—

"(1) how many applicants used the authority;

"(2) how many applicants using the authority successfully obtained a grant;

"(3) how many applicants were not able to successfully obtain a grant;

"(4) the reasons applicants were not able to obtain a grant; and

"(5) the extent to which applicants using the authority were able to comply with all necessary Federal environmental, historic preservation, and other related laws and regulations.

"(e) TERMINATION.—The authority provided under this Act shall cease to be effective on the date that is 3 years after the date of enactment of this Act."

WAGE RATE REQUIREMENTS

For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction, alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117–58, including authority of Secretary of Labor, see section 18851 of this title.

FUNDING OF A FEDERALLY AUTHORIZED WATER RESOURCES DEVELOPMENT PROJECT

Pub. L. 115–254, div. D, §1210(b), Oct. 5, 2018, 132 Stat. 3444, provided that:

"(1) ELIGIBLE ACTIVITIES.—Notwithstanding section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5155) and its implementing regulations, assistance provided pursuant to section 404 of such Act [42 U.S.C. 5170c] may be used to fund activities authorized for construction within the scope of a federally authorized water resources development project of the Army Corps of Engineers if such activities are also eligible activities under such section.

"(2) FEDERAL FUNDING.—All Federal funding provided under section 404 pursuant to this section shall be applied toward the Federal share of such project.

"(3) NON-FEDERAL MATCH.—All non-Federal matching funds required under section 404 pursuant to this section shall be applied toward the non-Federal share of such project.

"(4) TOTAL FEDERAL SHARE.—Funding provided under section 404 pursuant to this section may not exceed the total Federal share for such project.

"(5) NO EFFECT.—Nothing in this section shall—

"(A) affect the cost-share requirement of a hazard mitigation measure under section 404;

"(B) affect the eligibility criteria for a hazard mitigation measure under section 404;

"(C) affect the cost share requirements of a federally authorized water resources development project; and

"(D) affect the responsibilities of a non-Federal interest with respect to the project, including those related to the provision of lands, easements, rights-of-way, dredge material disposal areas, and necessary relocations.

"(6) LIMITATION.—If a federally authorized water resources development project of the Army Corps of Engineers is constructed with funding provided under section 404 pursuant to this subsection, no further Federal funding shall be provided for construction of such project."

GUIDANCE ON HAZARD MITIGATION ASSISTANCE

Pub. L. 115–254, div. D, §1231, Oct. 5, 2018, 132 Stat. 3459, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Emergency Management Agency] shall issue guidance regarding the acquisition of property for open space as a mitigation measure under section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c) that includes—

"(1) a process by which the State hazard mitigation officer appointed for such an acquisition shall, not later than 60 days after the applicant for assistance enters into an agreement with the Administrator regarding the acquisition, provide written notification to each affected unit of local government for such acquisition that includes—

"(A) the location of the acquisition;

"(B) the State-local assistance agreement for the hazard mitigation grant program;

"(C) a description of the acquisition; and

"(D) a copy of the deed restriction; and

"(2) recommendations for entering into and implementing a memorandum of understanding between units of local government and covered entities that includes provisions to allow an affected unit of local government notified under paragraph (1) to—

"(A) use and maintain the open space created by such a project, consistent with section 404 [42 U.S.C. 5170c] (including related regulations, standards, and guidance) and consistent with all adjoining property, subject to the notification of the adjoining property, so long as the cost of the maintenance is borne by the local government; and

"(B) maintain the open space pursuant to standards exceeding any local government standards defined in the agreement with the Administrator described under paragraph (1).

"(b) DEFINITIONS.—In this section:

"(1) AFFECTED UNIT OF LOCAL GOVERNMENT.—The term 'affected unit of local government' means any entity covered by the definition of local government in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122), that has jurisdiction over the property subject to the acquisition described in subsection (a).

"(2) COVERED ENTITY.—The term 'covered entity' means—

"(A) the grantee or subgrantee receiving assistance for an open space project described in subsection (a);

"(B) the State in which such project is located; and

"(C) the applicable Regional Administrator of the Agency."

[For definition of "State" as used in section 1231 of Pub. L. 115–254, set out above, see section 1203 of Pub. L. 115–254, set out as a Definitions note under section 5122 of this title.]

[1] *See References in Text note below.*

§5171. Federal facilities

(a) Repair, reconstruction, restoration, or replacement of United States facilities

The President may authorize any Federal agency to repair, reconstruct, restore, or replace any facility owned by the United States and under the jurisdiction of such agency which is damaged or destroyed by any major disaster if he determines that such repair, reconstruction, restoration, or replacement is of such importance and urgency that it cannot reasonably be deferred pending the enactment of specific authorizing legislation or the making of an appropriation for such purposes, or the obtaining of congressional committee approval.

(b) Availability of funds appropriated to agency for repair, reconstruction, restoration, or replacement of agency facilities

In order to carry out the provisions of this section, such repair, reconstruction, restoration, or replacement may be begun notwithstanding a lack or an insufficiency of funds appropriated for such

purpose, where such lack or insufficiency can be remedied by the transfer, in accordance with law, of funds appropriated to that agency for another purpose.

(c) Steps for mitigation of hazards

In implementing this section, Federal agencies shall evaluate the natural hazards to which these facilities are exposed and shall take appropriate action to mitigate such hazards, including safe land-use and construction practices, in accordance with standards prescribed by the President.

(Pub. L. 93–288, title IV, §405, formerly §401, May 22, 1974, 88 Stat. 153; renumbered §405, Pub. L. 100–707, title I, §106(a)(2), Nov. 23, 1988, 102 Stat. 4696.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 405 of Pub. L. 93–288 was classified to section 5175 of this title prior to repeal by Pub. L. 100–707.

§5172. Repair, restoration, and replacement of damaged facilities

(a) Contributions

(1) In general

The President may make contributions—

(A) to a State or local government for the repair, restoration, reconstruction, or replacement of a public facility damaged or destroyed by a major disaster and for associated expenses incurred by the government; and

(B) subject to paragraph (3), to a person that owns or operates a private nonprofit facility damaged or destroyed by a major disaster for the repair, restoration, reconstruction, or replacement of the facility and for associated expenses incurred by the person.

(2) Associated expenses

For the purposes of this section, associated expenses shall include—

(A) the costs of mobilizing and employing the National Guard for performance of eligible work;

(B) the costs of using prison labor to perform eligible work, including wages actually paid, transportation to a worksite, and extraordinary costs of guards, food, and lodging;

(C) base and overtime wages for the employees and extra hires of a State, local government, or person described in paragraph (1) that perform eligible work, plus fringe benefits on such wages to the extent that such benefits were being paid before the major disaster; and

(D) base and overtime wages for extra hires to facilitate the implementation and enforcement of adopted building codes for a period of not more than 180 days after the major disaster is declared.

(3) Conditions for assistance to private nonprofit facilities

(A) In general

The President may make contributions to a private nonprofit facility under paragraph (1)(B) only if—

(i) the facility provides critical services (as defined by the President) in the event of a major disaster; or

(ii) the owner or operator of the facility—

(I) has applied for a disaster loan under section 636(b) of title 15; and

(II)(aa) has been determined to be ineligible for such a loan; or

(bb) has obtained such a loan in the maximum amount for which the Small Business Administration determines the facility is eligible.

(B) Definition of critical services

In this paragraph, the term "critical services" includes power, water (including water provided by an irrigation organization or facility), sewer, wastewater treatment, communications (including broadcast and telecommunications), education, and emergency medical care.

(C) Religious facilities

A church, synagogue, mosque, temple, or other house of worship, educational facility, or any other private nonprofit facility, shall be eligible for contributions under paragraph (1)(B), without regard to the religious character of the facility or the primary religious use of the facility. No house of worship, educational facility, or any other private nonprofit facility may be excluded from receiving contributions under paragraph (1)(B) because leadership or membership in the organization operating the house of worship is limited to persons who share a religious faith or practice.

(4) Notification to Congress

Before making any contribution under this section in an amount greater than $20,000,000, the President shall notify—

(A) the Committee on Environment and Public Works of the Senate;

(B) the Committee on Transportation and Infrastructure of the House of Representatives;

(C) the Committee on Appropriations of the Senate; and

(D) the Committee on Appropriations of the House of Representatives.

(b) Federal share

(1) Minimum Federal share

Except as provided in paragraph (2), the Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of repair, restoration, reconstruction, or replacement carried out under this section.

(2) Reduced Federal share

The President shall promulgate regulations to reduce the Federal share of assistance under this section to not less than 25 percent in the case of the repair, restoration, reconstruction, or replacement of any eligible public facility or private nonprofit facility following an event associated with a major disaster—

(A) that has been damaged, on more than one occasion within the preceding 10-year period, by the same type of event; and

(B) the owner of which has failed to implement appropriate mitigation measures to address the hazard that caused the damage to the facility.

(3) Increased Federal share

(A) Incentive measures

The President may provide incentives to a State or Tribal government to invest in measures that increase readiness for, and resilience from, a major disaster by recognizing such investments through a sliding scale that increases the minimum Federal share to 85 percent. Such measures may include—

(i) the adoption of a mitigation plan approved under section 5165 of this title;

(ii) investments in disaster relief, insurance, and emergency management programs;

(iii) encouraging the adoption and enforcement of the latest published editions of relevant consensus-based codes, specifications, and standards that incorporate the latest hazard-resistant designs and establish minimum acceptable criteria for the design, construction, and maintenance of residential structures and facilities that may be eligible for assistance under this chapter for the purpose of protecting the health, safety, and general welfare of the buildings' users against disasters;

(iv) facilitating participation in the community rating system; and

(v) funding mitigation projects or granting tax incentives for projects that reduce risk.

(B) Comprehensive guidance

Not later than 1 year after February 9, 2018, the President, acting through the Administrator, shall issue comprehensive guidance to State and Tribal governments regarding the measures and investments, weighted appropriately based on actuarial assessments of eligible actions, that will be recognized for the purpose of increasing the Federal share under this section. Guidance shall ensure that the agency's review of eligible measures and investments does not unduly delay determining the appropriate Federal cost share.

(C) Report

One year after the issuance of the guidance required by subparagraph (B), the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report regarding the analysis of the Federal cost shares paid under this section.

(D) Savings clause

Nothing in this paragraph prevents the President from increasing the Federal cost share above 85 percent.

(c) Large in-lieu contributions

(1) For public facilities

(A) In general

In any case in which a State or local government determines that the public welfare would not best be served by repairing, restoring, reconstructing, or replacing any public facility owned or controlled by the State or local government, the State or local government may elect to receive, in lieu of a contribution under subsection (a)(1)(A), a contribution in an amount equal to the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing the facility and of management expenses.

(B) Use of funds

Funds contributed to a State or local government under this paragraph may be used—

(i) to repair, restore, or expand other selected public facilities;

(ii) to construct new facilities; or

(iii) to fund hazard mitigation measures that the State or local government determines to be necessary to meet a need for governmental services and functions in the area affected by the major disaster.

(C) Limitations

Funds made available to a State or local government under this paragraph may not be used for—

(i) any public facility located in a regulatory floodway (as defined in section 59.1 of title 44, Code of Federal Regulations (or a successor regulation)); or

(ii) any uninsured public facility located in a special flood hazard area identified by the Administrator of the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

(2) For private nonprofit facilities

(A) In general

In any case in which a person that owns or operates a private nonprofit facility determines that the public welfare would not best be served by repairing, restoring, reconstructing, or replacing the facility, the person may elect to receive, in lieu of a contribution under subsection (a)(1)(B), a contribution in an amount equal to the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing the facility and of management expenses.

(B) Use of funds

Funds contributed to a person under this paragraph may be used—

(i) to repair, restore, or expand other selected private nonprofit facilities owned or operated by the person;

(ii) to construct new private nonprofit facilities to be owned or operated by the person; or

(iii) to fund hazard mitigation measures that the person determines to be necessary to meet a need for the person's services and functions in the area affected by the major disaster.

(C) Limitations

Funds made available to a person under this paragraph may not be used for—

(i) any private nonprofit facility located in a regulatory floodway (as defined in section 59.1 of title 44, Code of Federal Regulations (or a successor regulation)); or

(ii) any uninsured private nonprofit facility located in a special flood hazard area identified by the Administrator of the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

(d) Flood insurance

(1) Reduction of Federal assistance

If a public facility or private nonprofit facility located in a special flood hazard area identified for more than 1 year by the Administrator pursuant to the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.) is damaged or destroyed, after the 180th day following November 23, 1988, by flooding in a major disaster and such facility is not covered on the date of such flooding by flood insurance, the Federal assistance which would otherwise be available under this section with respect to repair, restoration, reconstruction, and replacement of such facility and associated expenses shall be reduced in accordance with paragraph (2). This section shall not apply to more than one building of a multi-structure educational, law enforcement, correctional, fire, or medical campus, for any major disaster or emergency declared by the President under section 5170 or 5191, respectively, of this title on or after January 1, 2016, through December 31, 2018.

(2) Amount of reduction

The amount of a reduction in Federal assistance under this section with respect to a facility shall be the lesser of—

(A) the value of such facility on the date of the flood damage or destruction, or

(B) the maximum amount of insurance proceeds which would have been payable with respect to such facility if such facility had been covered by flood insurance under the National Flood Insurance Act of 1968 on such date.

(3) Exception

Paragraphs (1) and (2) shall not apply to a private nonprofit facility which is not covered by flood insurance solely because of the local government's failure to participate in the flood insurance program established by the National Flood Insurance Act.

(4) Dissemination of information

The President shall disseminate information regarding the reduction in Federal assistance provided for by this subsection to State and local governments and the owners and operators of private nonprofit facilities who may be affected by such a reduction.

(e) Eligible cost

(1) Determination

(A) In general

For the purposes of this section, for disasters declared on or after August 1, 2017, or a disaster in which a cost estimate has not yet been finalized for a project, or for any project for which the finalized cost estimate is on appeal, the President shall estimate the eligible cost of repairing, restoring, reconstructing, or replacing a public facility or private nonprofit facility—

(i) on the basis of the design of the facility as the facility existed immediately before the

major disaster;

(ii) in conformity with the latest published editions of relevant consensus-based codes, specifications, and standards that incorporate the latest hazard-resistant designs and establish minimum acceptable criteria for the design, construction, and maintenance of residential structures and facilities that may be eligible for assistance under this chapter for the purposes of protecting the health, safety, and general welfare of a facility's users against disasters (including floodplain management and hazard mitigation criteria required by the President or under the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.)); and

(iii) in a manner that allows the facility to meet the definition of resilient developed pursuant to this subsection.

(B) Cost estimation procedures

(i) In general

Subject to paragraph (2), the President shall use the cost estimation procedures established under paragraph (3) to determine the eligible cost under this subsection.

(ii) Applicability

The procedures specified in this paragraph and paragraph (2) shall apply only to projects the eligible cost of which is equal to or greater than the amount specified in section 5189 of this title.

(C) Contributions

Contributions for the eligible cost made under this section may be provided on an actual cost basis or on cost-estimation procedures.

(2) Modification of eligible cost

(A) Actual cost greater than ceiling percentage of estimated cost

In any case in which the actual cost of repairing, restoring, reconstructing, or replacing a facility under this section is greater than the ceiling percentage established under paragraph (3) of the cost estimated under paragraph (1), the President may determine that the eligible cost includes a portion of the actual cost of the repair, restoration, reconstruction, or replacement that exceeds the cost estimated under paragraph (1).

(B) Actual cost less than estimated cost

(i) Greater than or equal to floor percentage of estimated cost

In any case in which the actual cost of repairing, restoring, reconstructing, or replacing a facility under this section is less than 100 percent of the cost estimated under paragraph (1), but is greater than or equal to the floor percentage established under paragraph (3) of the cost estimated under paragraph (1), the State or local government or person receiving funds under this section shall use the excess funds to carry out cost-effective activities that reduce the risk of future damage, hardship, or suffering from a major disaster.

(ii) Less than floor percentage of estimated cost

In any case in which the actual cost of repairing, restoring, reconstructing, or replacing a facility under this section is less than the floor percentage established under paragraph (3) of the cost estimated under paragraph (1), the State or local government or person receiving assistance under this section shall reimburse the President in the amount of the difference.

(C) No effect on appeals process

Nothing in this paragraph affects any right of appeal under section 5189a of this title.

(3) Expert panel

(A) Establishment

Not later than 18 months after October 30, 2000, the President, acting through the Administrator of the Federal Emergency Management Agency, shall establish an expert panel,

which shall include representatives from the construction industry and State and local government.

(B) Duties

The expert panel shall develop recommendations concerning—

(i) procedures for estimating the cost of repairing, restoring, reconstructing, or replacing a facility consistent with industry practices; and

(ii) the ceiling and floor percentages referred to in paragraph (2).

(C) Regulations

Taking into account the recommendations of the expert panel under subparagraph (B), the President shall promulgate regulations that establish—

(i) cost estimation procedures described in subparagraph (B)(i); and

(ii) the ceiling and floor percentages referred to in paragraph (2).

(D) Review by President

Not later than 2 years after the date of promulgation of regulations under subparagraph (C) and periodically thereafter, the President shall review the cost estimation procedures and the ceiling and floor percentages established under this paragraph.

(E) Report to Congress

Not later than 1 year after the date of promulgation of regulations under subparagraph (C), 3 years after that date, and at the end of each 2-year period thereafter, the expert panel shall submit to Congress a report on the appropriateness of the cost estimation procedures.

(4) Special rule

In any case in which the facility being repaired, restored, reconstructed, or replaced under this section was under construction on the date of the major disaster, the cost of repairing, restoring, reconstructing, or replacing the facility shall include, for the purposes of this section, only those costs that, under the contract for the construction, are the owner's responsibility and not the contractor's responsibility.

(5) New rules

(A) In general

Not later than 18 months after October 5, 2018, the President, acting through the Administrator of the Federal Emergency Management Agency, and in consultation with the heads of relevant Federal departments and agencies, shall issue a final rulemaking that defines the terms "resilient" and "resiliency" for purposes of this subsection.

(B) Interim guidance

Not later than 60 days after October 5, 2018, the Administrator shall issue interim guidance to implement this subsection. Such interim guidance shall expire 18 months after October 5, 2018, or upon issuance of final regulations pursuant to subparagraph (A), whichever occurs first.

(C) Guidance

Not later than 90 days after the date on which the Administrator issues the final rulemaking under this paragraph, the Administrator shall issue any necessary guidance related to the rulemaking.

(D) Report

Not later than 2 years after October 5, 2018, the Administrator shall submit to Congress a report summarizing the regulations and guidance issued pursuant to this paragraph.

(Pub. L. 93–288, title IV, §406, as added Pub. L. 100–707, title I, §106(b), Nov. 23, 1988, 102 Stat. 4699; amended Pub. L. 106–390, title II, §205(a)–(d)(1), (e), Oct. 30, 2000, 114 Stat. 1562–1564, 1566; Pub. L. 109–295, title VI, §689h, Oct. 4, 2006, 120 Stat. 1453; Pub. L. 109–347, title VI, §609,

Oct. 13, 2006, 120 Stat. 1942; Pub. L. 111–351, §3(c)(2), Jan. 4, 2011, 124 Stat. 3864; Pub. L. 114–111, §2(b), Dec. 18, 2015, 129 Stat. 2240; Pub. L. 115–123, div. B, title VI, §§20604(b), 20606, Feb. 9, 2018, 132 Stat. 86; Pub. L. 115–254, div. D, §§1206(b), 1207(a), (b), 1235(b)–(d), Oct. 5, 2018, 132 Stat. 3440, 3463, 3464.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b)(3)(A)(iii) and (e)(1)(A)(ii), was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

The National Flood Insurance Act of 1968, referred to in subsecs. (c)(1)(C)(ii), (2)(C)(ii) and (d)(1), (2)(B), is title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, which is classified principally to chapter 50 (§4001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

The National Flood Insurance Act, referred to in subsec. (d)(3), probably means the National Flood Insurance Act of 1968. See above.

The Coastal Barrier Resources Act, referred to in subsec. (e)(1)(A)(ii), is Pub. L. 97–348, Oct. 18, 1982, 96 Stat. 1653, which is classified principally to chapter 55 (§3501 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 3501 of Title 16 and Tables.

PRIOR PROVISIONS

A prior section 5172, Pub. L. 93–288, title IV, §402, May 22, 1974, 88 Stat. 153, related to repair and restoration of damaged facilities, prior to repeal by Pub. L. 100–707, §106(b).

A prior section 406 of Pub. L. 93–288 was renumbered section 409 by Pub. L. 100–707 and is classified to section 5176 of this title.

AMENDMENTS

2018—Subsec. (a)(2)(D). Pub. L. 115–254, §1206(b), added subpar. (D).

Subsec. (a)(3)(C). Pub. L. 115–123, §20604(b), added subpar. (C).

Subsec. (b)(3). Pub. L. 115–123, §20606, added par. (3).

Subsec. (c)(1)(A). Pub. L. 115–254, §1207(a)(1), struck out "90 percent of" before "the Federal share".

Subsec. (c)(2)(A). Pub. L. 115–254, §1207(a)(2), struck out "75 percent of" before "the Federal share".

Subsec. (d)(1). Pub. L. 115–254, §1207(b), inserted at end "This section shall not apply to more than one building of a multi-structure educational, law enforcement, correctional, fire, or medical campus, for any major disaster or emergency declared by the President under section 5170 or 5191, respectively, of this title on or after January 1, 2016, through December 31, 2018."

Subsec. (e)(1)(A). Pub. L. 115–254, §1235(b)(1), inserted "for disasters declared on or after August 1, 2017, or a disaster in which a cost estimate has not yet been finalized for a project, or for any project for which the finalized cost estimate is on appeal," after "section," in introductory provisions.

Subsec. (e)(1)(A)(i). Pub. L. 115–254, §1235(b)(2), struck out "and" at end.

Subsec. (e)(1)(A)(ii). Pub. L. 115–254, §1235(b)(3), substituted "the latest published editions of relevant consensus-based codes, specifications, and standards that incorporate the latest hazard-resistant designs and establish minimum acceptable criteria for the design, construction, and maintenance of residential structures and facilities that may be eligible for assistance under this chapter for the purposes of protecting the health, safety, and general welfare of a facility's users against disasters" for "codes, specifications, and standards" and "(16 U.S.C. 3501 et seq.)); and" for "(16 U.S.C. 3501 et seq.)) applicable at the time at which the disaster occurred."

Subsec. (e)(1)(A)(iii). Pub. L. 115–254, §1235(b)(4), added cl. (iii).

Subsec. (e)(1)(C). Pub. L. 115–254, §1235(c), added subpar. (C).

Subsec. (e)(5). Pub. L. 115–254, §1235(d), added par. (5).

2015—Subsec. (a)(3)(B). Pub. L. 114–111 substituted "communications (including broadcast and telecommunications)," for "communications,".

2011—Subsecs. (c)(1)(C)(ii), (2)(C)(ii), (d)(1), (e)(3)(A). Pub. L. 111–351 substituted "Administrator" for "Director".

2006—Subsec. (a)(3)(B). Pub. L. 109–295 inserted "education," after "communications,".

Subsec. (c)(1)(A). Pub. L. 109–347, §609(1), substituted "90" for "75".

Subsec. (c)(1)(B) to (D). Pub. L. 109–347, §609(2), (3), redesignated subpars. (C) and (D) as (B) and (C), respectively, and struck out former subpar. (B). Prior to amendment, text of subpar. (B) read as follows: "In any case in which a State or local government determines that the public welfare would not best be served by repairing, restoring, reconstructing, or replacing any public facility owned or controlled by the State or local government because soil instability in the disaster area makes repair, restoration, reconstruction, or replacement infeasible, the State or local government may elect to receive, in lieu of a contribution under subsection (a)(1)(A) of this section, a contribution in an amount equal to 90 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing the facility and of management expenses."

2000—Subsec. (a). Pub. L. 106–390, §205(a), added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows: "The President may make contributions—

"(1) to a State or local government for the repair, restoration, reconstruction, or replacement of a public facility which is damaged or destroyed by a major disaster and for associated expenses incurred by such government; and

"(2) to a person who owns or operates a private nonprofit facility damaged or destroyed by a major disaster for the repair, restoration, reconstruction, or replacement of such facility and for associated expenses incurred by such person."

Subsec. (b). Pub. L. 106–390, §205(b), added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows: "The Federal share of assistance under this section shall be not less than—

"(1) 75 percent of the net eligible cost of repair, restoration, reconstruction, or replacement carried out under this section;

"(2) 100 percent of associated expenses described in subsections (f)(1) and (f)(2) of this section; and

"(3) 75 percent of associated expenses described in subsections (f)(3), (f)(4), and (f)(5) of this section."

Subsec. (c). Pub. L. 106–390, §205(c), added subsec. (c) and struck out heading and text of former subsec. (c) which provided that, upon a determination that the public welfare would not be best served by repairing, restoring, reconstructing, or replacing either a public facility or a private nonprofit facility, an election could be made to receive, in lieu of a contribution under subsec. (a), a contribution of not to exceed 90 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing the facility and of associated expenses, with the restriction that such funds not be used for any State or local government cost-sharing contribution required under this chapter.

Subsec. (e). Pub. L. 106–390, §205(d)(1), added subsec. (e) and struck out heading and text of former subsec. (e). Text read as follows:

"(1) GENERAL RULE.—For purposes of this section, the cost of repairing, restoring, reconstructing, or replacing a public facility or private nonprofit facility on the basis of the design of such facility as it existed immediately prior to the major disaster and in conformity with current applicable codes, specifications, and standards (including floodplain management and hazard mitigation criteria required by the President or by the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.)) shall, at a minimum, be treated as the net eligible cost of such repair, restoration, reconstruction, or replacement.

"(2) SPECIAL RULE.—In any case in which the facility being repaired, restored, reconstructed, or replaced under this section was under construction on the date of the major disaster, the cost of repairing, restoring, reconstructing, or replacing such facility shall include, for purposes of this section, only those costs which, under the contract for such construction, are the owner's responsibility and not the contractor's responsibility."

Subsec. (f). Pub. L. 106–390, §205(e), struck out subsec. (f) which set out various associated expenses, including necessary and extraordinary costs, and costs of using the National Guard and prison labor.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–254 applicable to each major disaster and emergency declared by the President on or after Aug. 1, 2017, and authorities provided under div. D of Pub. L. 115–254 applicable to each major disaster and emergency declared by the President on or after Jan. 1, 2016, except as otherwise provided, see section 1202 of Pub. L. 115–254, set out as a note under section 5121 of this title.

Amendment by section 20604(b) of Pub. L. 115–123 applicable to provision of assistance in response to major disaster or emergency declared on or after Aug. 23, 2017, or, with respect to any application for assistance that, as of Feb. 9, 2018, is pending before Federal Emergency Management Agency, and any application for assistance that has been denied, where a challenge to that denial is not yet finally resolved as of Feb. 9, 2018, see section 20604(c) of Pub. L. 115–123, set out as a note under section 5122 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–390, title II, §205(d)(2), Oct. 30, 2000, 114 Stat. 1566, as amended by Pub. L. 115–254, div. D, §1235(e), Oct. 5, 2018, 132 Stat. 3464, provided that: "The amendment made by paragraph (1) [amending this section] takes effect on the date of the enactment of this Act [Oct. 30, 2000] and applies to funds appropriated after the date of the enactment of this Act, except that paragraph (1)(B) of section 406(e) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act [subsec. (e)(1) of this section] (as amended by paragraph (1)) takes effect on the date on which the cost estimation procedures established under paragraph (3) of that section take effect."

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

GUIDANCE ON INUNDATED AND SUBMERGED ROADS

Pub. L. 115–254, div. D, §1228, Oct. 5, 2018, 132 Stat. 3459, provided that: "The Administrator of the Federal Emergency Management Agency, in coordination with the Administrator of the Federal Highway Administration, shall develop and issue guidance for State, local, and Indian tribal governments regarding repair, restoration, and replacement of inundated and submerged roads damaged or destroyed by a major disaster, and for associated expenses incurred by the Government, with respect to roads eligible for assistance under section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172)."

[For definition of "State" as used in section 1228 of Pub. L. 115–254, set out above, see section 1203 of Pub. L. 115–254, set out as a note under section 5122 of this title.]

GUIDANCE AND RECOMMENDATIONS

Pub. L. 115–254, div. D, §1230, Oct. 5, 2018, 132 Stat. 3459, provided that:

"(a) GUIDANCE.—The Administrator [of the Federal Emergency Management Agency] shall provide guidance to a common interest community that provides essential services of a governmental nature on actions that a common interest community may take in order to be eligible to receive reimbursement from a grantee that receives funds from the [Federal Emergency Management] Agency for certain activities performed after an event that results in a major disaster declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

"(b) RECOMMENDATIONS.—Not later than 90 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator shall provide to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a legislative proposal on how to provide eligibility for disaster assistance with respect to common areas of condominiums and housing cooperatives.

"(c) EFFECTIVE DATE.—This section shall be effective on the date of enactment of this Act."

POST-DISASTER BUILDING SAFETY ASSESSMENT

Pub. L. 115–254, div. D, §1241, Oct. 5, 2018, 132 Stat. 3466, provided that:

"(a) BUILDING SAFETY ASSESSMENT TEAM.—

"(1) IN GENERAL.—The Administrator [of the Federal Emergency Management Agency] shall coordinate with State and local governments and organizations representing design professionals, such as architects and engineers, to develop guidance, including best practices, for post-disaster assessment of buildings by licensed architects and engineers to ensure the design professionals properly analyze the structural integrity and livability of buildings and structures.

"(2) PUBLICATION.—The Administrator shall publish the guidance required to be developed under paragraph (1) not later than 1 year after the date of enactment of this Act [Oct. 5, 2018].

"(b) NATIONAL INCIDENT MANAGEMENT SYSTEM.—The Administrator shall revise or issue guidance as required to the National Incident Management System Resource Management component to ensure the functions of post-disaster building safety assessment, such as those functions performed by design

professionals are accurately resource typed within the National Incident Management System.

"(c) EFFECTIVE DATE.—This section shall be effective on the date of enactment of this Act."

[For definition of "State" as used in section 1241 of Pub. L. 115–254, set out above, see section 1203 of Pub. L. 115–254, set out as a note under section 5122 of this title.]

REVIEW OF ASSISTANCE FOR DAMAGED UNDERGROUND WATER INFRASTRUCTURE

Pub. L. 115–254, div. D, §1245, Oct. 5, 2018, 132 Stat. 3468, provided that:

"(a) DEFINITION OF PUBLIC ASSISTANCE GRANT PROGRAM.—The term 'public assistance grant program' means the public assistance grant program authorized under sections 403, 406, 407, 428, and 502(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170b, 5172, 5173, [5189f,] 5192(a)).

"(b) REVIEW AND BRIEFING.—Not later than 60 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Emergency Management Agency] shall—

"(1) conduct a review of the assessment and eligibility process under the public assistance grant program with respect to assistance provided for damaged underground water infrastructure as a result of a major disaster declared under section 401 of such Act (42 U.S.C. 5170), including wildfires, and shall include the extent to which local technical memoranda, prepared by a local unit of government in consultation with the relevant State or Federal agencies, identified damaged underground water infrastructure that should be eligible for the public assistance grant program; and

"(2) provide to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a briefing on the review conducted under paragraph (1).

"(c) REPORT AND RECOMMENDATIONS.—The Administrator shall—

"(1) not later than 180 days after the date of enactment of this Act, issue a report on the review conducted under subsection (b)(1); and

"(2) not later than 180 days after the date on which the Administrator issues the report required under paragraph (1), initiate a rulemaking, if appropriate, to address any recommendations contained in the report."

[For definition of "State" as used in section 1245 of Pub. L. 115–254, set out above, see section 1203 of Pub. L. 115–254, set out as a note under section 5122 of this title.]

§5173. Debris removal

(a) Presidential authority

The President, whenever he determines it to be in the public interest, is authorized—

(1) through the use of Federal departments, agencies, and instrumentalities, to clear debris and wreckage resulting from a major disaster from publicly and privately owned lands and waters; and

(2) to make grants to any State or local government or owner or operator of a private nonprofit facility for the purpose of removing debris or wreckage resulting from a major disaster from publicly or privately owned lands and waters.

(b) Authorization by State or local government; indemnification agreement

No authority under this section shall be exercised unless the affected State or local government shall first arrange an unconditional authorization for removal of such debris or wreckage from public and private property, and, in the case of removal of debris or wreckage from private property, shall first agree to indemnify the Federal Government against any claim arising from such removal.

(c) Rules relating to large lots

The President shall issue rules which provide for recognition of differences existing among urban, suburban, and rural lands in implementation of this section so as to facilitate adequate removal of debris and wreckage from large lots.

(d) Federal share

The Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of debris and wreckage removal carried out under this section.

(e) Expedited payments

(1) Grant assistance

In making a grant under subsection (a)(2), the President shall provide not less than 50 percent of the President's initial estimate of the Federal share of assistance as an initial payment in accordance with paragraph (2).

(2) Date of payment

Not later than 60 days after the date of the estimate described in paragraph (1) and not later than 90 days after the date on which the State or local government or owner or operator of a private nonprofit facility applies for assistance under this section, an initial payment described in paragraph (1) shall be paid.

(Pub. L. 93–288, title IV, §407, formerly §403, May 22, 1974, 88 Stat. 154; renumbered §407 and amended Pub. L. 100–707, title I, §106(c), Nov. 23, 1988, 102 Stat. 4701; Pub. L. 109–347, title VI, §610, Oct. 13, 2006, 120 Stat. 1942.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 407 of Pub. L. 93–288 was renumbered section 410 by Pub. L. 100–707 and is classified to section 5177 of this title.

AMENDMENTS

2006—Subsec. (e). Pub. L. 109–347 added subsec. (e).

1988—Subsec. (a)(2). Pub. L. 100–707, §106(c)(2), inserted "or owner or operator of a private nonprofit facility" after "local government".

Subsecs. (c), (d). Pub. L. 100–707, §106(c)(3), added subsecs. (c) and (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

DISASTER CONTRACT IMPROVEMENT

Pub. L. 118–153, Dec. 17, 2024, 138 Stat. 1688, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Disaster Contract Improvement Act'.

"SEC. 2. OVERSIGHT ON DEBRIS REMOVAL.

"(a) DEFINITIONS.—In this section:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Emergency Management Agency.

"(2) DEBRIS REMOVAL PROGRAM.—The term 'debris removal program' means the program established under section 407 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5173).

"(b) ADVISORY WORKING GROUP.—

"(1) IN GENERAL.—The Administrator shall establish an advisory working group to encourage and foster collaborative efforts among individuals and entities engaged in disaster recovery relating to debris removal.

"(2) MEMBERSHIP.—The advisory working group established under paragraph (1) shall be comprised of—

"(A) representatives from the Federal Emergency Management Agency;

"(B) representatives from the Army Corps of Engineers;

"(C) representatives from the Natural Resources Conservation Service of the Department of Agriculture;

"(D) representatives of States, Tribal governments, and units of local government; and

"(E) subject matter experts in debris removal, including not less than 1 representative from the debris services contractor industry.

"(c) GUIDANCE.—Not later than 1 year after the date of enactment of this Act [Dec. 17, 2024], the Administrator, in consultation with the advisory working group established under subsection (b)(1), shall—

"(1) determine whether guidance and procedures in effect as of the date of enactment of this Act with

respect to the oversight and cost of debris removal contracts entered into under the debris removal program are sufficient; and

"(2) if the Administrator, in consultation with the advisory working group established under subsection (b)(1), determines that the guidance and procedures described in paragraph (1) are insufficient, develop and implement additional such guidance and procedures, including—

"(A) a requirement that each State, Tribal government, and unit of local government receiving a grant under the debris removal program take the primary role in the oversight function of debris removal;

"(B) guidance for State, Tribal, and local debris monitors relating to debris removal operations, debris operations oversight, and contractor oversight, including contractor monitoring;

"(C) guidance for streamlining the reimbursement of debris costs overall, including debris management planning and support for resilience in debris removal operations;

"(D) checklists, job aids, eligibility requirements, contract requirements, debris management planning guidance, sample bids, and other items, as determined necessary by the Administrator, for State and local debris monitors;

"(E) a list of the specific debris removal monitoring responsibilities expected to be completed by a State that receives a grant under the debris removal program;

"(F) a list of the specific debris removal monitoring responsibilities expected to be completed by recipients of a grant under the debris removal program; and

"(G) guidance for State and Tribal governments and units of local government to reduce duplication and inefficiency in debris removal contracting across the Federal Government, State and Tribal governments, and units of local government.

"(d) TRAINING.—The Administrator shall conduct outreach to States, Tribal governments, and units of local government with respect to any guidance or support materials developed under this section.

"(e) GAO STUDY.—Not later than 1 year after the date of enactment of this Act [Dec. 17, 2024], the Comptroller General of the United States shall conduct a study that—

"(1) studies the use and adoption rate of advance contracts for debris removal by selected States, Tribal governments, and units of local government;

"(2) identifies the benefits and challenges of advance contracts for debris removal;

"(3) with respect to the reporting and information sharing processes, as of the date of enactment of this Act, for advance contracts for debris removal between States and units of local government and Federal partners—

"(A) assesses those processes; and

"(B) makes any necessary recommendations for those processes;

"(4) studies—

"(A) the process for setting Federal reimbursement rates for the debris removal program;

"(B) the use of penalties, as of the date of enactment of this Act, for violations of law and regulations relating to debris removal; and

"(C) fraud, waste, and abuse relating to the debris removal program, including case studies; and

"(5) makes any necessary recommendations for improvements to oversight and fraud prevention across the debris removal program."

§5174. Federal assistance to individuals and households

(a) In general

(1) Provision of assistance

In accordance with this section, the President, in consultation with the Governor of a State, may provide financial assistance, and, if necessary, direct services, to individuals and households in the State who, as a direct result of a major disaster, have necessary expenses and serious needs in cases in which the individuals and households are unable to meet such expenses or needs through other means.

(2) Relationship to other assistance

Under paragraph (1), an individual or household shall not be denied assistance under paragraph (1), (3), or (4) of subsection (c) solely on the basis that the individual or household has not applied for or received any loan or other financial assistance from the Small Business Administration or any other Federal agency.

(b) Housing assistance

(1) Eligibility

The President may provide financial or other assistance under this section to individuals and households to respond to the disaster-related housing needs of individuals and households who are displaced from their predisaster primary residences or whose predisaster primary residences are rendered uninhabitable, or with respect to individuals with disabilities, rendered inaccessible or uninhabitable, as a result of damage caused by a major disaster.

(2) Determination of appropriate types of assistance

(A) In general

The President shall determine appropriate types of housing assistance to be provided under this section to individuals and households described in subsection (a)(1) based on considerations of cost effectiveness, convenience to the individuals and households, and such other factors as the President may consider appropriate.

(B) Multiple types of assistance

One or more types of housing assistance may be made available under this section, based on the suitability and availability of the types of assistance, to meet the needs of individuals and households in the particular disaster situation.

(c) Types of housing assistance

(1) Temporary housing

(A) Financial assistance

(i) In general

The President may provide financial assistance to individuals or households to rent alternate housing accommodations, existing rental units, manufactured housing, recreational vehicles, or other readily fabricated dwellings. Such assistance may include the payment of the cost of utilities, excluding telephone service.

(ii) Amount

The amount of assistance under clause (i) shall be based on the fair market rent for the accommodation provided plus the cost of any transportation, utility hookups, security deposits, or unit installation not provided directly by the President.

(B) Direct assistance

(i) In general

The President may provide temporary housing units, acquired by purchase or lease, directly to individuals or households who, because of a lack of available housing resources, would be unable to make use of the assistance provided under subparagraph (A).

(ii) Lease and repair of rental units for temporary housing

(I) In general

The President, to the extent the President determines it would be a cost-effective alternative to other temporary housing options, may—

(aa) enter into lease agreements with owners of multifamily rental property impacted by a major disaster or located in areas covered by a major disaster declaration to house individuals and households eligible for assistance under this section; and

(bb) make repairs or improvements to properties under such lease agreements, to the extent necessary to serve as safe and adequate temporary housing.

(II) Improvements or repairs

Under the terms of any lease agreement for property entered into under this subsection, the value of the improvements or repairs shall be deducted from the value of the lease

agreement.

(iii) Period of assistance

The President may not provide direct assistance under clause (i) with respect to a major disaster after the end of the 18-month period beginning on the date of the declaration of the major disaster by the President, except that the President may extend that period if the President determines that due to extraordinary circumstances an extension would be in the public interest.

(iv) Collection of rental charges

After the end of the 18-month period referred to in clause (iii), the President may charge fair market rent for each temporary housing unit provided.

(2) Repairs

(A) In general

The President may provide financial assistance for—

(i) the repair of owner-occupied private residences, utilities, and residential infrastructure (such as a private access route) damaged by a major disaster to a safe and sanitary living or functioning condition; and

(ii) eligible hazard mitigation measures that reduce the likelihood of future damage to such residences, utilities, or infrastructure.

(B) Relationship to other assistance

A recipient of assistance provided under this paragraph shall not be required to show that the assistance can be met through other means, except insurance proceeds.

(3) Replacement

(A) In general

The President may provide financial assistance for the replacement of owner-occupied private residences damaged by a major disaster.

(B) Applicability of flood insurance requirement

With respect to assistance provided under this paragraph, the President may not waive any provision of Federal law requiring the purchase of flood insurance as a condition of the receipt of Federal disaster assistance.

(4) Permanent housing construction

The President may provide financial assistance or direct assistance to individuals or households to construct permanent or semi-permanent housing in insular areas outside the continental United States and in other locations in cases in which—

(A) no alternative housing resources are available; and

(B) the types of temporary housing assistance described in paragraph (1) are unavailable, infeasible, or not cost-effective.

(d) Terms and conditions relating to housing assistance

(1) Sites

(A) In general

Any readily fabricated dwelling provided under this section shall, whenever practicable, be located on a site that—

(i) is complete with utilities;

(ii) meets the physical accessibility requirements for individuals with disabilities; and

(iii) is provided by the State or local government, by the owner of the site, or by the occupant who was displaced by the major disaster.

(B) Sites provided by the President

A readily fabricated dwelling may be located on a site provided by the President if the President determines that such a site would be more economical or accessible.

(2) Disposal of units

(A) Sale to occupants

(i) In general

Notwithstanding any other provision of law, a temporary housing unit purchased under this section by the President for the purpose of housing disaster victims may be sold directly to the individual or household who is occupying the unit if the individual or household lacks permanent housing.

(ii) Sale price

A sale of a temporary housing unit under clause (i) shall be at a price that is fair and equitable.

(iii) Deposit of proceeds

Notwithstanding any other provision of law, the proceeds of a sale under clause (i) shall be deposited in the appropriate Disaster Relief Fund account.

(iv) Hazard and flood insurance

A sale of a temporary housing unit under clause (i) shall be made on the condition that the individual or household purchasing the housing unit agrees to obtain and maintain hazard and flood insurance on the housing unit.

(v) Use of GSA services

The President may use the services of the General Services Administration to accomplish a sale under clause (i).

(B) Other methods of disposal

If not disposed of under subparagraph (A), a temporary housing unit purchased under this section by the President for the purpose of housing disaster victims—

(i) may be sold to any person; or

(ii) may be sold, transferred, donated, or otherwise made available directly to a State or other governmental entity or to a voluntary organization for the sole purpose of providing temporary housing to disaster victims in major disasters and emergencies if, as a condition of the sale, transfer, or donation, the State, other governmental agency, or voluntary organization agrees—

(I) to comply with the nondiscrimination provisions of section 5151 of this title; and

(II) to obtain and maintain hazard and flood insurance on the housing unit.

(e) Financial assistance to address other needs

(1) Medical, dental, child care, and funeral expenses

The President, in consultation with the Governor of a State, may provide financial assistance under this section to an individual or household in the State who is adversely affected by a major disaster to meet disaster-related medical, dental, child care, and funeral expenses.

(2) Personal property, transportation, and other expenses

The President, in consultation with the Governor of a State, may provide financial assistance under this section to an individual or household described in paragraph (1) to address personal property, transportation, and other necessary expenses or serious needs resulting from the major disaster.

(f) State role

(1) State- or Indian tribal government-administered assistance and other needs assistance

(A) Grant to State

Subject to subsection (g), a Governor may request a grant from the President to provide assistance to individuals and households in the State under subsections (c)(1)(B), (c)(4), and (e) if the President and the State or Indian tribal government comply, as determined by the Administrator, with paragraph (3).

(B) Administrative costs

A State that receives a grant under subparagraph (A) may expend not more than 5 percent of the amount of the grant for the administrative costs of providing assistance to individuals and households in the State under subsections (c)(1)(B), (c)(4), and (e).

(2) Access to records

In providing assistance to individuals and households under this section, the President shall provide for the substantial and ongoing involvement of the States in which the individuals and households are located, including by providing to the States access to the electronic records of individuals and households receiving assistance under this section in order for the States to make available any additional State and local assistance to the individuals and households.

(3) Requirements

(A) Application

A State or Indian tribal government desiring to provide assistance under subsection (c)(1)(B), (c)(4), or (e) shall submit to the President an application for a grant to provide financial assistance under the program.

(B) Criteria

The President, in consultation and coordination with State and Indian tribal governments, shall establish criteria for the approval of applications submitted under subparagraph (A). The criteria shall include, at a minimum—

(i) a requirement that the State or Indian tribal government submit a housing strategy under subparagraph (C);

(ii) the demonstrated ability of the State or Indian tribal government to manage the program under this section;

(iii) there being in effect a plan approved by the President as to how the State or Indian tribal government will comply with applicable Federal laws and regulations and how the State or Indian tribal government will provide assistance under its plan;

(iv) a requirement that the State or Indian tribal government comply with rules and regulations established pursuant to subsection (j); and

(v) a requirement that the President, or the designee of the President, comply with subsection (i).

(C) Requirement of housing strategy

(i) In general

A State or Indian tribal government submitting an application under this paragraph shall have an approved housing strategy, which shall be developed and submitted to the President for approval.

(ii) Requirements

The housing strategy required under clause (i) shall—

(I) outline the approach of the State in working with Federal partners, Indian tribal governments, local communities, nongovernmental organizations, and individual disaster survivors to meet disaster-related sheltering and housing needs; and

(II) include the establishment of an activation plan for a State Disaster Housing Task Force, as outlined in the National Disaster Housing Strategy, to bring together State, tribal, local, Federal, nongovernmental, and private sector expertise to evaluate housing requirements, consider potential solutions, recognize special needs populations, and propose recommendations.

(D) Quality assurance

Before approving an application submitted under this section, the President, or the designee of the President, shall institute adequate policies, procedures, and internal controls to prevent waste, fraud, abuse, and program mismanagement for this program and for programs under subsections (c)(1)(B), (c)(4), and (e). The President shall monitor and conduct quality assurance activities on a State or Indian tribal government's implementation of programs under subsections (c)(1)(B), (c)(4), and (e). If, after approving an application of a State or Indian tribal government submitted under this paragraph, the President determines that the State or Indian tribal government is not administering the program established by this section in a manner satisfactory to the President, the President shall withdraw the approval.

(E) Audits

The Inspector General of the Department of Homeland Security shall provide for periodic audits of the programs administered by States and Indian tribal governments under this subsection.

(F) Applicable laws

All Federal laws applicable to the management, administration, or contracting of the programs by the Federal Emergency Management Agency under this section shall be applicable to the management, administration, or contracting by a non-Federal entity under this section.

(G) Report on effectiveness

Not later than 18 months after October 5, 2018, the Inspector General of the Department of Homeland Security shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the State or Indian tribal government's role to provide assistance under this section. The report shall contain an assessment of the effectiveness of the State or Indian tribal government's role in providing assistance under this section, including—

(i) whether the State or Indian tribal government's role helped to improve the general speed of disaster recovery;

(ii) whether the State or Indian tribal government providing assistance under this section had the capacity to administer this section; and

(iii) recommendations for changes to improve the program if the State or Indian tribal government's role to administer the programs should be continued.

(H) Report on incentives

Not later than 12 months after October 5, 2018, the Administrator of the Federal Emergency Management Agency shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on a potential incentive structure for awards made under this section to encourage participation by eligible States and Indian tribal governments. In developing this report, the Administrator of the Federal Emergency Management Agency shall consult with State, local, and Indian tribal entities to gain their input on any such incentive structure to encourage participation and shall include this information in the report. This report should address, among other options, potential adjustments to the cost-share requirement and management costs to State and Indian tribal governments.

(I) Prohibition

The President may not condition the provision of Federal assistance under this chapter on a State or Indian tribal government requesting a grant under this section.

(J) Miscellaneous

(i) Notice and comment

The Administrator of the Federal Emergency Management Agency may waive notice and comment rulemaking with respect to rules to carry out this section, if the Administrator

determines doing so is necessary to expeditiously implement this section, and may carry out this section as a pilot program until such regulations are promulgated.

(ii) Final rule

Not later than 2 years after October 5, 2018, the Administrator of the Federal Emergency Management Agency shall issue final regulations to implement this subsection as amended by the Disaster Recovery Reform Act of 2018.

(iii) Waiver and expiration

The authority under clause (i) and any pilot program implemented pursuant to such clause shall expire 2 years after October 5, 2018, or upon issuance of final regulations pursuant to clause (ii), whichever occurs sooner.

(g) Cost sharing

(1) Federal share

Except as provided in paragraph (2), the Federal share of the costs eligible to be paid using assistance provided under this section shall be 100 percent.

(2) Financial assistance to address other needs

In the case of financial assistance provided under subsection (e)—

(A) the Federal share shall be 75 percent; and

(B) the non-Federal share shall be paid from funds made available by the State.

(h) Maximum amount of assistance

(1) In general

No individual or household shall receive financial assistance greater than $25,000 under this section with respect to a single major disaster, excluding financial assistance to rent alternate housing accommodations under subsection (c)(1)(A)(i) and financial assistance to address other needs under subsection (e).

(2) Other needs assistance

The maximum financial assistance any individual or household may receive under subsection (e) shall be equivalent to the amount set forth in paragraph (1) with respect to a single major disaster.

(3) Adjustment of limit

The limit established under paragraphs (1) and (2) shall be adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

(4) Exclusion of necessary expenses for individuals with disabilities

(A) In general

The maximum amount of assistance established under paragraph (1) shall exclude expenses to repair or replace damaged accessibility-related improvements under paragraphs (2), (3), and (4) of subsection (c) for individuals with disabilities.

(B) Other needs assistance

The maximum amount of assistance established under paragraph (2) shall exclude expenses to repair or replace accessibility-related personal property under subsection (e)(2) for individuals with disabilities.

(i) Verification measures

In carrying out this section, the President shall develop a system, including an electronic database, that shall allow the President, or the designee of the President, to—

(1) verify the identity and address of recipients of assistance under this section to provide reasonable assurance that payments are made only to an individual or household that is eligible for such assistance;

(2) minimize the risk of making duplicative payments or payments for fraudulent claims under this section;

(3) collect any duplicate payment on a claim under this section, or reduce the amount of subsequent payments to offset the amount of any such duplicate payment;

(4) provide instructions to recipients of assistance under this section regarding the proper use of any such assistance, regardless of how such assistance is distributed; and

(5) conduct an expedited and simplified review and appeal process for an individual or household whose application for assistance under this section is denied.

(j) Rules and regulations

The President shall prescribe rules and regulations to carry out this section, including criteria, standards, and procedures for determining eligibility for assistance.

(Pub. L. 93–288, title IV, §408, as added Pub. L. 100–707, title I, §106(d), Nov. 23, 1988, 102 Stat. 4702; amended Pub. L. 106–390, title II, §206(a), Oct. 30, 2000, 114 Stat. 1566; Pub. L. 109–295, title VI, §§685, 686, 689(c), 689d, 696(c), Oct. 4, 2006, 120 Stat. 1447–1449, 1452, 1461; Pub. L. 113–2, div. B, §§1103, 1108(a), Jan. 29, 2013, 127 Stat. 42, 47; Pub. L. 115–254, div. D, §§1211(a), 1212, 1213(a), (b), Oct. 5, 2018, 132 Stat. 3445, 3448.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (f)(3)(I), was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

The Disaster Recovery Reform Act of 2018, referred to in subsec. (f)(3)(J)(ii), is div. D of Pub. L. 115–254, Oct. 5, 2018, 132 Stat. 3438. For complete classification of this Act to the Code, see Short Title of 2018 Amendment note set out under section 5121 of this title and Tables.

PRIOR PROVISIONS

A prior section 5174, Pub. L. 93–288, title IV, §404, May 22, 1974, 88 Stat. 154, related to temporary housing assistance, prior to repeal by Pub. L. 100–707, §106(d).

A prior section 408 of Pub. L. 93–288 was classified to section 5178 of this title and to a note set out under section 5178 of this title prior to repeal by Pub. L. 100–707.

AMENDMENTS

2018—Subsec. (c)(1)(B)(ii)(I)(aa). Pub. L. 115–254, §1213(b), amended item (aa) generally. Prior to amendment, item (aa) read as follows: "enter into lease agreements with owners of multifamily rental property located in areas covered by a major disaster declaration to house individuals and households eligible for assistance under this section; and".

Subsec. (c)(1)(B)(ii)(II). Pub. L. 115–254, §1213(a), amended subcl. (II) generally. Prior to amendment, subcl. (II) related to improvements or repairs.

Subsec. (f)(1). Pub. L. 115–254, §1211(a)(1)(A), substituted "State- or Indian tribal government-administered assistance and other needs assistance" for "Financial assistance to address other needs" in heading.

Subsec. (f)(1)(A). Pub. L. 115–254, §1211(a)(1)(B), struck out "financial" before "assistance" and substituted "subsections (c)(1)(B), (c)(4), and (e) if the President and the State or Indian tribal government comply, as determined by the Administrator, with paragraph (3)" for "subsection (e)".

Subsec. (f)(1)(B). Pub. L. 115–254, §1211(a)(1)(C), struck out "financial" before "assistance" and substituted "subsections (c)(1)(B), (c)(4), and (e)" for "subsection (e)".

Subsec. (f)(3). Pub. L. 115–254, §1211(a)(2), added par. (3).

Subsec. (h)(1). Pub. L. 115–254, §1212(1), inserted ", excluding financial assistance to rent alternate housing accommodations under subsection (c)(1)(A)(i) and financial assistance to address other needs under subsection (e)" after "disaster".

Subsec. (h)(2), (3). Pub. L. 115–254, §1212(2)–(4), added par. (2), redesignated former par. (2) as (3), and, in par. (3), substituted "paragraphs (1) and (2)" for "paragraph (1)".

Subsec. (h)(4). Pub. L. 115–254, §1212(5), added par. (4).

2013—Subsec. (c)(1)(B)(ii) to (iv). Pub. L. 113–2, §1103, added cl. (ii), redesignated former cls. (ii) and

(iii) as (iii) and (iv), respectively, and, in cl. (iv), substituted "clause (iii)" for "clause (ii)".

Subsec. (e)(1). Pub. L. 113–2, §1108(a), inserted "child care," after "dental," in heading and text.

2006—Subsec. (b)(1). Pub. L. 109–295, §689(c)(1), inserted ", or with respect to individuals with disabilities, rendered inaccessible or uninhabitable," after "uninhabitable".

Subsec. (c)(1)(A)(i). Pub. L. 109–295, §689d(1), inserted at end "Such assistance may include the payment of the cost of utilities, excluding telephone service."

Subsec. (c)(1)(A)(ii). Pub. L. 109–295, §689d(2), inserted "security deposits," after "hookups,".

Subsec. (c)(2)(C). Pub. L. 109–295, §686(1), struck out subpar. (C) which read as follows: "The amount of assistance provided to a household under this paragraph shall not exceed $5,000, as adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor."

Subsec. (c)(3)(B), (C). Pub. L. 109–295, §686(2), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: "The amount of assistance provided to a household under this paragraph shall not exceed $10,000, as adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor."

Subsec. (c)(4). Pub. L. 109–295, §685, in introductory provisions, inserted "or semi-permanent" after "permanent" and struck out "remote" before "locations".

Subsec. (d)(1)(A)(ii), (iii). Pub. L. 109–295, §689(c)(2), added cl. (ii) and redesignated former cl. (ii) as (iii).

Subsecs. (i), (j). Pub. L. 109–295, §696(c), added subsec. (i) and redesignated former subsec. (i) as (j).

2000–Pub. L. 106–390 amended section catchline and text generally. Prior to amendment, text provided for temporary housing assistance through provision of temporary housing, temporary mortgage and rental payment assistance, expenditures to repair or restore owner-occupied private residential structures made uninhabitable by a major disaster which are capable of being restored quickly, and transfer of temporary housing to occupants or to States, local governments, and voluntary organizations, required notification to applicants for assistance, and set out location factors to be given consideration in the provision of assistance.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–254 applicable to each major disaster and emergency declared by the President on or after Aug. 1, 2017, and authorities provided under div. D of Pub. L. 115–254 applicable to each major disaster and emergency declared by the President on or after Jan. 1, 2016, except as otherwise provided, see section 1202 of Pub. L. 115–254, set out as a note under section 5121 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–390, title II, §206(d), Oct. 30, 2000, 114 Stat. 1571, provided that: "The amendments made by this section [amending this section and section 5192 of this title and repealing section 5178 of this title] take effect 18 months after the date of the enactment of this Act [Oct. 30, 2000]."

FUNERAL ASSISTANCE

Pub. L. 117–2, title IV, §4006, Mar. 11, 2021, 135 Stat. 79, provided that:

"(a) IN GENERAL.—For the emergency declaration issued by the President on March 13, 2020 [Proc. No. 9994, 50 U.S.C. 1621 note], pursuant to section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5191(b)), and for any subsequent major disaster declaration that supersedes such emergency declaration, the President shall provide financial assistance to an individual or household to meet disaster-related funeral expenses under section 408(e)(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174(e)(1)), for which the Federal cost share shall be 100 percent.

"(b) USE OF FUNDS.—Funds appropriated under section 4005 [of Pub. L. 117–2, 135 Stat. 79] may be used to carry out subsection (a) of this section."

LOST WAGES ASSISTANCE RECOUPMENT FAIRNESS

Pub. L. 116–260, div. N, title II, §262, Dec. 27, 2020, 134 Stat. 1962, provided that:

"(a) DEFINITIONS.—In this section—

"(1) the term 'covered assistance' means assistance provided for supplemental lost wages payments under subsections (e)(2) and (f) of section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174), as authorized under the emergency declaration issued by the President on

March 13, 2020, pursuant to section 501(b) of such Act (42 U.S.C. 5191(b)) and under any subsequent major disaster declaration under section 401 of such Act (42 U.S.C. 5170) that supersedes such emergency declaration; and

"(2) the term 'State' has the meaning given the term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

"(b) WAIVER AUTHORITY FOR STATE LIABILITY.—In the case of any individual who has received amounts of covered assistance to which the individual is not entitled, the State shall require the individual to repay the amounts of such assistance to the State agency, except that the State agency may waive such repayment if the State agency determines that—

"(1) the payment of such covered assistance was without fault on the part of the individual; and

"(2) such repayment would be contrary to equity and good conscience.

"(c) WAIVER AUTHORITY FOR FEDERAL LIABILITY.—Any waiver of debt issued by a State under subsection (b) shall also waive the debt owed to the United States.

"(d) REPORTING.—

"(1) STATE REPORTING.—If a State issues a waiver of debt under subsection (b), the State shall report such waiver to the Administrator of the Federal Emergency Management Agency.

"(2) OIG REPORTING.—Not later than 6 months after the date of enactment of this Act [Dec. 27, 2020], the Inspector General of the Department of Homeland Security shall submit a report that assesses the efforts of the States to waive recoupment related to lost wages assistance under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) to—

"(A) the Committee on Homeland Security and Governmental Affairs, the Committee on Finance, and the Subcommittee on Homeland Security of the Committee on Appropriations of the Senate; and

"(B) the Committee on Transportation and Infrastructure, Committee on Ways and Means, and the Subcommittee on Homeland Security of the Committee on Appropriations of the House of Representatives."

REIMBURSEMENT

Pub. L. 115–254, div. D, §1211(b), Oct. 5, 2018, 132 Stat. 3447, provided that: "The Federal Emergency Management Agency (FEMA) shall reimburse State and local units of government (for requests received within a period of 3 years after the declaration of a major disaster under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170)) upon determination that a locally implemented housing solution, implemented by State or local units of government—

"(1) costs 50 percent of comparable FEMA solution or whatever the locally implemented solution costs, whichever is lower;

"(2) complies with local housing regulations and ordinances; and

"(3) the housing solution was implemented within 90 days of the disaster."

[For definition of "State" as used in section 1211(b) of Pub. L. 115–254, set out above, see section 1203 of Pub. L. 115–254, set out as a note under section 5122 of this title.]

§5174a. Flexibility

(a) Waiver authority

(1) Definition

In this subsection, the term "covered assistance" means assistance provided—

(A) under section 5174 of this title; and

(B) in relation to a major disaster or emergency declared by the President under section 5170 or 5191, respectively, of this title on or after October 28, 2012.

(2) Authority

Notwithstanding section 3716(e) of title 31, the Administrator—

(A) except as provided in subparagraph (B), shall—

(i) waive a debt owed to the United States related to covered assistance provided to an individual or household if the covered assistance was distributed based on an error by the Agency and such debt shall be construed as a hardship; and

(ii) waive a debt owed to the United States related to covered assistance provided to an individual or household if such assistance is subject to a claim or legal action, including in

accordance with section [1] of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5160); and

(B) may not waive a debt under subparagraph (A) if the debt involves fraud, the presentation of a false claim, or misrepresentation by the debtor or any party having an interest in the claim.

(3) Monitoring of covered assistance distributed based on error

(A) In general

The Inspector General of the Department of Homeland Security shall monitor the distribution of covered assistance to individuals and households to determine the percentage of such assistance distributed based on an error.

(B) Report on waiver authority based on excessive error rate

If the Inspector General of the Department of Homeland Security determines, with respect to any 12-month period, that the amount of covered assistance distributed based on an error by the Agency exceeds 4 percent of the total amount of covered assistance distributed—

(i) the Inspector General shall notify the Administrator and publish the determination in the Federal Register; and

(ii) with respect to any major disaster or emergency declared by the President under section 5170 or section 5191, respectively, of this title after the date on which the determination is published under subparagraph (A), the Administrator shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate actions that the Administrator will take to reduce the error rate.

(b) Recoupment of certain assistance prohibited

(1) In general

Notwithstanding section 3716(e) of title 31, and unless there is evidence of civil or criminal fraud, the Agency may not take any action to recoup covered assistance from the recipient of such assistance if the receipt of such assistance occurred on a date that is more than 3 years before the date on which the Agency first provides to the recipient written notification of an intent to recoup.

(2) Covered assistance defined

In this subsection, the term "covered assistance" means assistance provided—

(A) under section 5174 of this title; and

(B) in relation to a major disaster or emergency declared by the President under section 5170 or 5191 of this title, respectively, on or after January 1, 2012.

(c) Statute of limitations

(1) Omitted

(2) Applicability

(A) In general

With respect to disaster or emergency assistance provided to a State or local government on or after January 1, 2004—

(i) no administrative action may be taken to recover a payment of such assistance after October 5, 2018, if the action is prohibited under section 5205(a)(1) of this title, as amended by paragraph (1); and

(ii) any administrative action to recover a payment of such assistance that is pending on such date of enactment shall be terminated if the action is prohibited under section 5205(a)(1) of this title, as amended by paragraph (1).

(B) Limitation

This section, including the amendments made by this section, may not be construed to

invalidate or otherwise affect any administration action completed before October 5, 2018.

(Pub. L. 115–254, div. D, §1216, Oct. 5, 2018, 132 Stat. 3449; Pub. L. 117–263, div. E, title LVI, §5602(a), Dec. 23, 2022, 136 Stat. 3404.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Disaster Recovery Reform Act of 2018 and as part of the FAA Reauthorization Act of 2018, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act which comprises this chapter.

Section is comprised of section 1216 of Pub. L. 115–254. Subsec. (c)(1) of section 1216 of Pub. L. 115–254 amended section 5205 of this title.

AMENDMENTS

2022—Subsec. (a)(2)(A). Pub. L. 117–263, §5602(a)(1), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows:

"(A) subject to subparagraph (B), may waive a debt owed to the United States related to covered assistance provided to an individual or household if—

"(i) the covered assistance was distributed based on an error by the Agency;

"(ii) there was no fault on behalf of the debtor; and

"(iii) the collection of the debt would be against equity and good conscience; and".

Subsec. (a)(3)(B). Pub. L. 117–263, §5602(a)(2)(A), substituted "Report on" for "Removal of" in heading.

Subsec. (a)(3)(B)(ii). Pub. L. 117–263, §5602(a)(2)(B), substituted "the Administrator shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate actions that the Administrator will take to reduce the error rate" for "the authority of the Administrator to waive debt under paragraph (2) shall no longer be effective".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Authorities provided under div. D of Pub. L. 115–254, which enacted this section, applicable to each major disaster and emergency declared by the President under Pub. L. 93–288 on or after Jan. 1, 2016, except as otherwise provided, see section 1202(b) of Pub. L. 115–254, set out in an Effective Date of 2018 Amendment note under section 5121 of this title.

DEFINITIONS

For definitions of terms used in this section, see section 1203 of Pub. L. 115–254, set out as a note under section 5122 of this title.

[1] So in original. Probably should be a reference to section 317 of the Act.

§5174b. Critical document fee waiver

(1) In general

Notwithstanding section 214 of title 22 or any other provision of law, the President, in consultation with the Governor of a State, may provide a waiver under this subsection to an individual or household described in section 5174(e)(1) of this title for the following document replacement fees:

(A) The passport application fee for individuals who lost their United States passport in a major disaster within the preceding three calendar years.

(B) The file search fee for a United States passport.

(C) The Application for Waiver of Passport and/or Visa form (Form I–193) fee.

(D) The Permanent Resident Card replacement form (Form I–90) filing fee.

(E) The Declaration of Intention form (Form N–300) filing fee.
(F) The Naturalization/Citizenship Document replacement form (Form N–565) filing fee.
(G) The Employment Authorization form (Form I–765) filing fee.
(H) The biometric service fee.

(2) Exemption from form requirement

The authority of the President to waive fees under subparagraphs (C) through (H) of paragraph (1) applies regardless of whether the individual or household qualifies for a Form I–912 Request for Fee Waiver, or any successor thereto.

(3) Exemption from assistance maximum

The assistance limit in section 5174(h) of this title shall not apply to any fee waived under this subsection.

(4) Report

Not later than 365 days after October 5, 2018, the Administrator and the head of any other agency given critical document fee waiver authority under this subsection shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the costs associated with providing critical document fee waivers as described in paragraph (1).

(Pub. L. 115–254, div. D, §1238(a), Oct. 5, 2018, 132 Stat. 3465.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Disaster Recovery Reform Act of 2018 and as part of the FAA Reauthorization Act of 2018, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act which comprises this chapter.

Section is comprised of subsec. (a) of section 1238 of Pub. L. 115–254. Subsecs. (b) and (c) of section 1238 of Pub. L. 115–254 amended section 5122 of this title and enacted provisions set out as a note under that section.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Authorities provided under div. D of Pub. L. 115–254, which enacted this section, applicable to each major disaster and emergency declared by the President under Pub. L. 93–288 on or after Jan. 1, 2016, except as otherwise provided, see section 1202(b) of Pub. L. 115–254, set out in an Effective Date of 2018 Amendment note under section 5121 of this title.

DEFINITIONS

For definitions of terms used in this section, see section 1203 of Pub. L. 115–254, set out as a note under section 5122 of this title.

EXECUTIVE DOCUMENTS

DELEGATION OF FUNCTIONS AND AUTHORITIES UNDER SECTION 1238 OF THE FAA REAUTHORIZATION ACT OF 2018

Memorandum of President of the United States, Dec. 21, 2018, 84 F.R. 3957, provided:

Memorandum for the Secretary of State [and] the Secretary of Homeland Security

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby:

(1) delegate to the Secretary of State the functions and authorities vested in the President by sections 1238(a)(1)(A)–(B) of the FAA Reauthorization Act of 2018 (Public Law 115–254) [42 U.S.C. 5174b(a)(1)(A)–(B)]; and

(2) delegate to the Secretary of Homeland Security the functions and authorities vested in the President by

sections 1238(a)(1)(C)–(H) of the FAA Reauthorization Act of 2018.

The delegations in this memorandum shall apply to any provisions of any future public law that are the same or substantially the same as the provisions referenced in this memorandum. The Secretary of State and the Secretary of Homeland Security may redelegate within their departments the functions and authorities delegated by this memorandum to the extent authorized by law.

The Secretary of State is authorized and directed to publish this memorandum in the Federal Register.

DONALD J. TRUMP.

§5175. Repealed. Pub. L. 100–707, title I, §105(m)(2), Nov. 23, 1988, 102 Stat. 4696

Section, Pub. L. 93–288, title IV, §405, May 22, 1974, 88 Stat. 155, related to protection of environment.

§5176. Repealed. Pub. L. 106–390, title I, §104(c)(2), Oct. 30, 2000, 114 Stat. 1559

Section, Pub. L. 93–288, title IV, §409, formerly §406, May 22, 1974, 88 Stat. 155; renumbered §409, Pub. L. 100–707, title I, §106(e), Nov. 23, 1988, 102 Stat. 4703, related to minimum standards for public and private structures.

A prior section 409 of Pub. L. 93–288 was renumbered section 412 by Pub. L. 100–707 and is classified to section 5179 of this title.

§5177. Unemployment assistance

(a) Benefit assistance

The President is authorized to provide to any individual unemployed as a result of a major disaster such benefit assistance as he deems appropriate while such individual is unemployed for the weeks of such unemployment with respect to which the individual is not entitled to any other unemployment compensation (as that term is defined in section 85(b) of title 26) or waiting period credit. Such assistance as the President shall provide shall be available to an individual as long as the individual's unemployment caused by the major disaster continues or until the individual is reemployed in a suitable position, but no longer than 26 weeks after the major disaster is declared. Such assistance for a week of unemployment shall not exceed the maximum weekly amount authorized under the unemployment compensation law of the State in which the disaster occurred. The President is directed to provide such assistance through agreements with States which, in his judgment, have an adequate system for administering such assistance through existing State agencies.

(b) Reemployment assistance

(1) State assistance

A State shall provide, without reimbursement from any funds provided under this chapter, reemployment assistance services under any other law administered by the State to individuals receiving benefits under this section.

(2) Federal assistance

The President may provide reemployment assistance services under other laws to individuals who are unemployed as a result of a major disaster and who reside in a State which does not provide such services.

(c) Application deadline

(1) In general

With respect to a major disaster for which assistance is provided under this section and section 5174 of this title, the application deadline for an individual seeking assistance under this section

shall match the application deadline for individuals and households seeking assistance under section 5174 of this title.

(2) Extension

The President may accept an application from an individual described in paragraph (1) that is submitted after the deadline described in paragraph (1) if—

(A) the individual has good cause for the late submission; and

(B) the individual submits the application before the date on which the period during which assistance is provided under this section for the applicable major disaster expires.

(Pub. L. 93–288, title IV, §410, formerly §407, May 22, 1974, 88 Stat. 156; renumbered §410 and amended Pub. L. 100–707, title I, §106(e), (f), Nov. 23, 1988, 102 Stat. 4703, 4704; Pub. L. 118–44, §2, Mar. 18, 2024, 138 Stat. 455.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(1), was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

PRIOR PROVISIONS

A prior section 410 of Pub. L. 93–288 was renumbered section 413 by Pub. L. 100–707 and is classified to section 5180 of this title.

AMENDMENTS

2024—Subsec. (c). Pub. L. 118–44 added subsec. (c).

1988—Subsec. (a). Pub. L. 100–707, §106(f)(1)–(3), inserted "for the weeks of such unemployment with respect to which the individual is not entitled to any other unemployment compensation (as that term is defined in section 85(b) of title 26) or waiting period credit" for "is unemployed" before period at end of first sentence, substituted "26 weeks" for "one year" in second sentence, and substituted "occurred" for "occurred, and the amount of assistance under this section to any such individual for a week of unemployment shall be reduced by any amount of unemployment compensation or of private income protection insurance compensation available to such individual for such week of unemployment" in third sentence.

Subsec. (b). Pub. L. 100–707, §106(f)(4), inserted heading and amended text generally. Prior to amendment, text read as follows: "The President is further authorized for the purposes of this chapter to provide reemployment assistance services under other laws to individuals who are unemployed as a result of a major disaster."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2024 AMENDMENT

Pub. L. 118–44, §3, Mar. 18, 2024, 138 Stat. 456, provided that: "The amendment made by section 2 [amending this section] shall apply only with respect to amounts appropriated on or after the date of enactment of this Act [Mar. 18, 2024]."

§5177a. Emergency grants to assist low-income migrant and seasonal farmworkers

(a) In general

The Secretary of Agriculture may make grants to public agencies or private organizations with tax exempt status under section 501(c)(3) of title 26, that have experience in providing emergency services to low-income migrant and seasonal farmworkers where the Secretary determines that a local, State or national emergency or disaster has caused low-income migrant or seasonal farmworkers to lose income, to be unable to work, or to stay home or return home in anticipation of

work shortages. Emergency services to be provided with assistance received under this section may include such types of assistance as the Secretary of Agriculture determines to be necessary and appropriate.

(b) "Low-income migrant or seasonal farmworker" defined

For the purposes of this section, the term "low-income migrant or seasonal farmworker" means an individual—

(1) who has, during any consecutive 12 month period within the preceding 24 month period, performed farm work for wages;

(2) who has received not less than one-half of such individual's total income, or been employed at least one-half of total work time in farm work; and

(3) whose annual family income within the 12 month period referred to in paragraph (1) does not exceed the higher of the poverty level or 70 percent of the lower living standard income level.

(c) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this section.

(Pub. L. 101–624, title XXII, §2281, Nov. 28, 1990, 104 Stat. 3978; Pub. L. 107–171, title X, §10102, May 13, 2002, 116 Stat. 488.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act which comprises this chapter.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–171 struck out ", not to exceed $20,000,000 annually," after "Secretary of Agriculture may make grants".

§5178. Repealed. Pub. L. 106–390, title II, §206(c), Oct. 30, 2000, 114 Stat. 1571

Section, Pub. L. 93–288, title IV, §411, as added Pub. L. 100–707, title I, §106(g), Nov. 23, 1988, 102 Stat. 4704, related to individual and family grant programs.

A prior section 5178, Pub. L. 93–288, title IV, §408, May 22, 1974, 88 Stat. 156, related to individual and family grant programs, prior to repeal by Pub. L. 100–707, §106(g).

A prior section 411 of Pub. L. 93–288 was renumbered section 414 by Pub. L. 100–707 and is classified to section 5181 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective 18 months after Oct. 30, 2000, see section 206(d) of Pub. L. 106–390, set out as an Effective Date of 2000 Amendment note under section 5174 of this title.

§5179. Benefits and distribution

(a) Persons eligible; terms and conditions

Whenever the President determines that, as a result of a major disaster, low-income households are unable to purchase adequate amounts of nutritious food, he is authorized, under such terms and conditions as he may prescribe, to distribute through the Secretary of Agriculture or other appropriate agencies benefit allotments to such households pursuant to the provisions of the Food and Nutrition Act of 2008 of 1964 [1] (P.L. 91–671; 84 Stat. 2048) [7 U.S.C. 2011 et seq.] and to make surplus commodities available pursuant to the provisions of this chapter.

(b) Duration of assistance; factors considered

The President, through the Secretary of Agriculture or other appropriate agencies, is authorized to continue to make such benefit allotments and surplus commodities available to such households for so long as he determines necessary, taking into consideration such factors as he deems appropriate, including the consequences of the major disaster on the earning power of the households, to which assistance is made available under this section.

(c) Food and Nutrition Act provisions unaffected

Nothing in this section shall be construed as amending or otherwise changing the provisions of the Food and Nutrition Act of 2008 of 1964 [1] [7 U.S.C. 2011 et seq.] except as they relate to the availability of supplemental nutrition assistance program benefits in an area affected by a major disaster.

(Pub. L. 93–288, title IV, §412, formerly §409, May 22, 1974, 88 Stat. 157; renumbered §412, Pub. L. 100–707, title I, §106(h), Nov. 23, 1988, 102 Stat. 4705; Pub. L. 110–234, title IV, §§4002(b)(1)(C), (E), (2)(DD), 4115(c)(1)(A)(ii), (iv), (B)(v), May 22, 2008, 122 Stat. 1096, 1097, 1109; Pub. L. 110–246, §4(a), title IV, §§4002(b)(1)(C), (E), (2)(DD), 4115(c)(1)(A)(ii), (iv), (B)(v), June 18, 2008, 122 Stat. 1664, 1857, 1859, 1870, 1871.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Food and Nutrition Act of 2008, referred to in subsecs. (a) and (c), is Pub. L. 88–525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

A prior section 412 of Pub. L. 93–288 was renumbered section 415 by Pub. L. 100–707 and is classified to section 5182 of this title.

AMENDMENTS

2008—Pub. L. 110–246, §4115(c)(1)(A)(iv), (B)(v), substituted "Benefits" for "Food coupons" in section catchline.

Pub. L. 110–246, §4002(b)(1)(C), (2)(DD), substituted "Food and Nutrition Act of 2008" for "Food Stamp Act" in subsecs. (a) and (c).

Subsecs. (a), (b). Pub. L. 110–246, §4115(c)(1)(A)(ii), (B)(v), substituted "benefit" for "coupon".

Subsec. (c). Pub. L. 110–246, §4002(b)(1)(E), (2)(DD), substituted "supplemental nutrition assistance program benefits" for "food stamps".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by sections 4002(b)(1)(C), (E), (2)(DD), and 4115(c)(1)(A)(ii), (iv), (B)(v) of Pub. L. 110–246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110–246, set out as a note under section 1161 of Title 2, The Congress.

EXECUTIVE DCOUMENTS

DELEGATION OF FUNCTIONS

Secretary of Agriculture designated and empowered to exercise, without approval, ratification, or other action of President, all authority vested in President by this section concerning food coupons (benefits) and distribution, see section 3 of Ex. Ord. No. 11795, as amended, set out as a note under section 5121 of this title.

[1] *So in original. See 2008 Amendment note below.*

§5180. Food commodities

(a) Emergency mass feeding

The President is authorized and directed to assure that adequate stocks of food will be ready and conveniently available for emergency mass feeding or distribution in any area of the United States which suffers a major disaster or emergency.

(b) Funds for purchase of food commodities

The Secretary of Agriculture shall utilize funds appropriated under section 612c of title 7, to purchase food commodities necessary to provide adequate supplies for use in any area of the United States in the event of a major disaster or emergency in such area.

(Pub. L. 93–288, title IV, §413, formerly §410, May 22, 1974, 88 Stat. 157; renumbered §413, Pub. L. 100–707, title I, §106(h), Nov. 23, 1988, 102 Stat. 4705.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 413 of Pub. L. 93–288 was renumbered section 416 by Pub. L. 100–707 and is classified to section 5183 of this title.

§5181. Relocation assistance

Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) [42 U.S.C. 4601 et seq.] shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by such Act.

(Pub. L. 93–288, title IV, §414, formerly §411, May 22, 1974, 88 Stat. 157; renumbered §414, Pub. L. 100–707, title I, §106(h), Nov. 23, 1988, 102 Stat. 4705.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, referred to in text, is Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, which is classified principally to chapter 61 (§4601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables.

PRIOR PROVISIONS

A prior section 414(a), (b) of Pub. L. 93–288 was renumbered section 417(a), (b) by Pub. L. 100–707 and is classified to section 5184 of this title.

§5182. Legal services

Whenever the President determines that low-income individuals are unable to secure legal services adequate to meet their needs as a consequence of a major disaster, consistent with the goals of the programs authorized by this chapter, the President shall assure that such programs are conducted with the advice and assistance of appropriate Federal agencies and State and local bar associations.

(Pub. L. 93–288, title IV, §415, formerly §412, May 22, 1974, 88 Stat. 157; renumbered §415, Pub. L. 100–707, title I, §106(h), Nov. 23, 1988, 102 Stat. 4705.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

PRIOR PROVISIONS

A prior section 415 of Pub. L. 93–288 was renumbered section 418 by Pub. L. 100–707 and is classified to section 5185 of this title.

§5183. Crisis counseling assistance and training

(a) In general

The President is authorized to provide professional counseling services, including financial assistance to State or local agencies or private mental health organizations to provide such services or training of disaster workers, to victims of major disasters in order to relieve mental health problems caused or aggravated by such major disaster or its aftermath.

(b) Training

Each State, local agency, or private mental health organization providing professional counseling services described in subsection (a) shall ensure that, any individual providing professional counseling services to victims of a major disaster as authorized under subsection (a), including individuals working for nonprofit partners and recovery organizations, is appropriately trained to address impacts from major disasters in communities, and to individuals, with socio-economically disadvantaged backgrounds.

(Pub. L. 93–288, title IV, §416, formerly §413, May 22, 1974, 88 Stat. 157; renumbered §416 and amended Pub. L. 100–707, title I, §106(i), Nov. 23, 1988, 102 Stat. 4705; Pub. L. 117–251, §7(a), Dec. 20, 2022, 136 Stat. 2357.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 416 of Pub. L. 93–288 was renumbered section 419 by Pub. L. 100–707 and is classified to section 5186 of this title.

AMENDMENTS

2022—Pub. L. 117–251 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1988—Pub. L. 100–707 struck out "(through the National Institute of Mental Health)" after "authorized".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117–251, §7(b), Dec. 20, 2022, 136 Stat. 2357, provided that: "The amendments made by this

section [amending this section] shall apply with respect to amounts appropriated on or after the date of enactment of this Act [Dec. 20, 2022]."

§5184. Community disaster loans

(a) In general

The President is authorized to make loans to any local government which may suffer a substantial loss of tax and other revenues as a result of a major disaster, and has demonstrated a need for financial assistance in order to perform its governmental functions.

(b) Amount

The amount of any such loan shall be based on need, shall not exceed—

(1) 25 percent of the annual operating budget of that local government for the fiscal year in which the major disaster occurs, and shall not exceed $5,000,000; or

(2) if the loss of tax and other revenues of the local government as a result of the major disaster is at least 75 percent of the annual operating budget of that local government for the fiscal year in which the major disaster occurs, 50 percent of the annual operating budget of that local government for the fiscal year in which the major disaster occurs, and shall not exceed $5,000,000.

(c) Repayment

(1) Cancellation

Repayment of all or any part of such loan to the extent that revenues of the local government during the three full fiscal year period following the major disaster are insufficient to meet the operating budget of the local government, including additional disaster-related expenses of a municipal operation character shall be cancelled.

(2) Condition on continuing eligibility

A local government shall not be eligible for further assistance under this section during any period in which the local government is in arrears with respect to a required repayment of a loan under this section.

(d) Effect on other assistance

Any loans made under this section shall not reduce or otherwise affect any grants or other assistance under this chapter.

(Pub. L. 93–288, title IV, §417, formerly §414(a), (b), May 22, 1974, 88 Stat. 158; renumbered §417, Pub. L. 100–707, title I, §106(j), Nov. 23, 1988, 102 Stat. 4705; Pub. L. 106–390, title II, §207, Oct. 30, 2000, 114 Stat. 1571; Pub. L. 109–347, title VI, §608, Oct. 13, 2006, 120 Stat. 1942.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (d), was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

CODIFICATION

Prior to renumbering as section 417, section 414 of Pub. L. 93–288 contained a subsec. (c) which was repealed by Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1082.

PRIOR PROVISIONS

A prior section 417 of Pub. L. 93–288 was renumbered section 420 by Pub. L. 100–707 and is classified to section 5187 of this title.

AMENDMENTS

2006—Subsec. (b). Pub. L. 109–347 substituted "exceed—

"(1) 25 percent"

for "exceed 25 per centum" and "; or" for period at end and added par. (2).

2000—Pub. L. 106–390, §207(1)–(3), designated first sentence of subsec. (a) as subsec. (a) and inserted subsec. heading, designated second sentence of subsec. (a) as subsec. (b) and inserted subsec. heading, and designated third sentence of subsec. (a) as subsec. (c)(1) and inserted subsec. and par. headings. Former subsec. (b) redesignated (d).

Subsec. (b). Pub. L. 106–390, §207(5), substituted "shall not exceed" for "and shall not exceed" and inserted before period at end ", and shall not exceed $5,000,000".

Subsec. (c)(2). Pub. L. 106–390, §207(6), added par. (2).

Subsec. (d). Pub. L. 106–390, §207(4), redesignated subsec. (b) as (d) and inserted subsec. heading.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CANCELLATION OF REPAYMENTS OF REMAINING LOAN BALANCES

Pub. L. 117–43, div. B, title VI, §1601(a), Sept. 30, 2021, 135 Stat. 365, provided that: "Repayments of the remaining balances of all loans, as of September 30, 2021, by the Federal Emergency Management Agency under section 417 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5184) are hereby cancelled."

COMMUNITY EMERGENCY DROUGHT RELIEF

Pub. L. 95–31, title I, May 23, 1977, 91 Stat. 169, provided: "That this Act be cited as the 'Community Emergency Drought Relief Act of 1977'.

"SEC. 101. (a) Upon the application of any State, political subdivision of a State, Indian tribe, or public or private nonprofit organization, the Secretary of Commerce is authorized to make grants and loans to applicants in drought impacted areas for projects that implement short-term actions to augment community water supplies where there are severe problems due to water shortages. Such assistance may be for the improvement, expansion, or construction of water supplies, and purchase and transportation of water, which in the opinion of the Secretary of Commerce will make a substantial contribution to the relief of an existing or threatened drought condition in a designated area.

"(b) The Secretary of Commerce may designate any area in the United States as an emergency drought impact area if he or she finds that a major and continuing adverse drought condition exists and is expected to continue, and such condition is causing significant hardships on the affected areas.

"(c) Eligible applicants shall be those States or political subdivisions of States with a population of ten thousand or more, Indian tribes, or public or private nonprofit organizations within areas designated pursuant to subsection (b) of this section.

"(d) Projects assisted under this Act shall be only those with respect to which assurances can be given to the satisfaction of the Secretary of Commerce that the work can be completed by April 30, 1978, or within such extended time as the Secretary may approve in exceptional circumstances.

"SEC. 102. Grants hereunder shall be in an amount not to exceed 50 per centum of allowable project costs. Loans shall be for a term not to exceed 40 years at a per annum interest rate of 5 per centum and shall be on such terms and conditions as the Secretary of Commerce shall determine. In determining the amount of a grant assistance for any project, the Secretary of Commerce may take into consideration such factors as are established by regulation and are consistent with the purposes of this Act.

"SEC. 103. In extending assistance under this Act the Secretary shall take into consideration the relative needs of applicant areas for the projects for which assistance is requested, and the appropriateness of the project for relieving the conditions intended to be alleviated by this Act.

"SEC. 104. The Secretary of Commerce shall have such powers and authorities under this Act as are vested in the Secretary by sections 701 and 708 of the Public Works and Economic Development Act of 1965, as amended [sections 3211 and 3218 of this title], with respect to that Act [section 3121 et seq. of this title].

"SEC. 105. The National Environmental Protection Act of 1969, as amended [section 4321 et seq. of this title], shall be implemented to the fullest extent consistent with but subject to the time constraints imposed by this Act, and the Secretary of Commerce when making the final determination regarding an application for assistance hereunder shall give consideration to the environmental consequences determined within that period.

"SEC. 106. (a) There is hereby authorized to be appropriated for the fiscal year ending September 30, 1977, $225,000,000 of which sum $150,000,000 is to be for the loan program herein, including administration thereof, and $75,000,000 of which is to be used for the grant program herein, including administration thereof,

and such additional amounts for the fiscal year ending September 30, 1978, as may be reasonably needed for administrative expenses in monitoring and closing out the program authorized by the Act. Funds authorized by this Act shall be obligated by December 31, 1977.

"(b) Funds available to the Secretary for this Act shall be available for expenditure for drought impact projects conducted heretofore by eligible applicants during fiscal year 1977 if such projects are found to be compatible with the broad purposes of this Act."

§5185. Emergency communications

The President is authorized during, or in anticipation of, an emergency or major disaster to establish temporary communications systems and to make such communications available to State and local government officials and other persons as he deems appropriate.

(Pub. L. 93–288, title IV, §418, formerly §415, May 22, 1974, 88 Stat. 158; renumbered §418, Pub. L. 100–707, title I, §106(j), Nov. 23, 1988, 102 Stat. 4705.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 418 of Pub. L. 93–288 was renumbered section 421 by Pub. L. 100–707 and is classified to section 5188 of this title.

§5186. Emergency public transportation

The President is authorized to provide temporary public transportation service in an area affected by a major disaster to meet emergency needs and to provide transportation to governmental offices, supply centers, stores, post offices, schools, major employment centers, and such other places as may be necessary in order to enable the community to resume its normal pattern of life as soon as possible.

(Pub. L. 93–288, title IV, §419, formerly §416, May 22, 1974, 88 Stat. 158; renumbered §419, Pub. L. 100–707, title I, §106(j), Nov. 23, 1988, 102 Stat. 4705.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 419 of Pub. L. 93–288 was classified to section 5189 of this title prior to repeal by Pub. L. 100–707.

§5187. Fire management assistance

(a) In general

The President is authorized to provide assistance, including grants, equipment, supplies, and personnel, to any State or local government for the mitigation, management, and control of any fire on public or private forest land or grassland that threatens such destruction as would constitute a major disaster.

(b) Coordination with State and tribal departments of forestry

In providing assistance under this section, the President shall coordinate with State and tribal departments of forestry.

(c) Essential assistance

In providing assistance under this section, the President may use the authority provided under section 5170b of this title.

(d) Hazard mitigation assistance

Whether or not a major disaster is declared, the President may provide hazard mitigation assistance in accordance with section 5170c of this title in any area affected by a fire for which assistance was provided under this section.

(e) Rules and regulations

The President shall prescribe such rules and regulations as are necessary to carry out this section.

(Pub. L. 93–288, title IV, §420, formerly §417, May 22, 1974, 88 Stat. 158; renumbered §420, Pub. L. 100–707, title I, §106(j), Nov. 23, 1988, 102 Stat. 4705; Pub. L. 106–390, title III, §303(a), Oct. 30, 2000, 114 Stat. 1572; Pub. L. 115–254, div. D, §1204(a), Oct. 5, 2018, 132 Stat. 3438.)

EDITORIAL NOTES

AMENDMENTS

2018—Subsecs. (d), (e). Pub. L. 115–254 added subsec. (d) and redesignated former subsec. (d) as (e).

2000—Pub. L. 106–390 amended section catchline and text generally. Prior to amendment, text read as follows: "The President is authorized to provide assistance, including grants, equipment, supplies, and personnel, to any State for the suppression of any fire on publicly or privately owned forest or grassland which threatens such destruction as would constitute a major disaster."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–254 applicable to each major disaster and emergency declared by the President on or after Aug. 1, 2017, and authorities provided under div. D of Pub. L. 115–254 applicable to each major disaster and emergency declared by the President on or after Jan. 1, 2016, except as otherwise provided, see section 1202 of Pub. L. 115–254, set out as a note under section 5121 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–390, title III, §303(b), Oct. 30, 2000, 114 Stat. 1573, provided that: "The amendment made by subsection (a) [amending this section] takes effect 1 year after the date of the enactment of this Act [Oct. 30, 2000]."

REPORTING REQUIREMENT

Pub. L. 115–254, div. D, §1204(c), Oct. 5, 2018, 132 Stat. 3439, provided that: "Not later than 1 year after the date of enactment of this Act [Oct. 5, 2018] and annually thereafter, the Administrator [of the Federal Emergency Management Agency] shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives a report containing a summary of any projects carried out, and any funding provided to those projects, under subsection (d) of section 420 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5187) (as amended by this section)."

§5188. Timber sale contracts

(a) Cost-sharing arrangement

Where an existing timber sale contract between the Secretary of Agriculture or the Secretary of the Interior and a timber purchaser does not provide relief from major physical change not due to negligence of the purchaser prior to approval of construction of any section of specified road or of any other specified development facility and, as a result of a major disaster, a major physical change results in additional construction work in connection with such road or facility by such purchaser with an estimated cost, as determined by the appropriate Secretary, (1) of more than $1,000 for sales

under one million board feet, (2) of more than $1 per thousand board feet for sales of one to three million board feet, or (3) of more than $3,000 for sales over three million board feet, such increased construction cost shall be borne by the United States.

(b) Cancellation of authority

If the appropriate Secretary determines that damages are so great that restoration, reconstruction, or construction is not practical under the cost-sharing arrangement authorized by subsection (a) of this section, he may allow cancellation of a contract entered into by his Department notwithstanding contrary provisions therein.

(c) Public notice of sale

The Secretary of Agriculture is authorized to reduce to seven days the minimum period of advance public notice required by section 476 [1] of title 16, in connection with the sale of timber from national forests, whenever the Secretary determines that (1) the sale of such timber will assist in the construction of any area of a State damaged by a major disaster, (2) the sale of such timber will assist in sustaining the economy of such area, or (3) the sale of such timber is necessary to salvage the value of timber damaged in such major disaster or to protect undamaged timber.

(d) State grants for removal of damaged timber; reimbursement of expenses limited to salvage value of removed timber

The President, when he determines it to be in the public interest, is authorized to make grants to any State or local government for the purpose of removing from privately owned lands timber damaged as a result of a major disaster, and such State or local government is authorized upon application, to make payments out of such grants to any person for reimbursement of expenses actually incurred by such person in the removal of damaged timber, not to exceed the amount that such expenses exceed the salvage value of such timber.

(Pub. L. 93–288, title IV, §421, formerly §418, May 22, 1974, 88 Stat. 158; renumbered §421, Pub. L. 100–707, title I, §106(j), Nov. 23, 1988, 102 Stat. 4705.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 476 of title 16, referred to in subsec. (c), was repealed by Pub. L. 94–588, §13, Oct. 22, 1976, 90 Stat. 2958.

[1] *See References in Text note below.*

§5189. Simplified procedure

(a) In general

If the Federal estimate of the cost of—

(1) repairing, restoring, reconstructing, or replacing under section 5172 of this title any damaged or destroyed public facility or private nonprofit facility,

(2) emergency assistance under section 5170b or 5192 of this title, or

(3) debris removed under section 5173 of this title,

is less than $1,000,000 (or, if the Administrator has established a threshold under subsection (b), the amount established under subsection (b)), the President (on application of the State or local government or the owner or operator of the private nonprofit facility) may make the contribution to such State or local government or owner or operator under section 5170b, 5172, 5173, or 5192 of this title, as the case may be, on the basis of such Federal estimate. Such $1,000,000 amount or, if applicable, the amount established under subsection (b), shall be adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

(b) Threshold

(1) Report

Not later than 1 year after January 29, 2013, the President, acting through the Administrator of the Federal Emergency Management Agency (in this section referred to as the "Administrator"), shall—

(A) complete an analysis to determine whether an increase in the threshold for eligibility under subsection (a) is appropriate, which shall include consideration of cost-effectiveness, speed of recovery, capacity of grantees, past performance, and accountability measures; and

(B) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report regarding the analysis conducted under subparagraph (A).

(2) Amount

After the Administrator submits the report required under paragraph (1), the President shall direct the Administrator to—

(A) immediately establish a threshold for eligibility under this section in an appropriate amount, without regard to chapter 5 of title 5; and

(B) adjust the threshold annually to reflect changes in the Consumer Price Index for all Urban Consumers published by the Department of Labor.

(3) Review and report

Not later than 3 years after the date on which the Administrator establishes a threshold under paragraph (2), and every 3 years thereafter, the President, acting through the Administrator, shall review the threshold for eligibility under this section and submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report regarding such review, including any recommendations developed pursuant to such review.

(Pub. L. 93–288, title IV, §422, as added Pub. L. 100–707, title I, §106(k), Nov. 23, 1988, 102 Stat. 4705; amended Pub. L. 113–2, div. B, §1107, Jan. 29, 2013, 127 Stat. 46; Pub. L. 117–189, §2(a), Oct. 10, 2022, 136 Stat. 2204.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 5189, Pub. L. 93–288, title IV, §419, May 22, 1974, 88 Stat. 159, related to alternate contributions, prior to repeal by Pub. L. 100–707, §106(k).

AMENDMENTS

2022—Subsec. (a). Pub. L. 117–189, §2(a)(1), substituted "$1,000,000" for "$35,000" in two places in concluding provisions.

Subsec. (b)(3). Pub. L. 117–189, §2(a)(2), inserted "and report" after "Review" in heading and "and submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report regarding such review, including any recommendations developed pursuant to such review" after "under this section" in text.

2013—Subsec. (a). Pub. L. 113–2, §1107(3), which directed insertion of "or, if applicable, the amount established under subsection (b)," after "$35,000 amount" the second place appearing, was executed by making the insertion after "$35,000 amount" the only place that phrase appeared, to reflect the probable intent of Congress.

Pub. L. 113–2, §1107(1), (2), designated existing provisions as subsec. (a), inserted heading, and inserted "(or, if the Administrator has established a threshold under subsection (b), the amount established under subsection (b))" after "less than $35,000" in concluding provisions.

Subsec. (b). Pub. L. 113–2, §1107(4), added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117–189, §2(b), Oct. 10, 2022, 136 Stat. 2204, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to any amounts appropriated after the date of enactment of this Act [Oct. 10, 2022]."

§5189a. Appeals of assistance decisions

(a) Right of appeal

Any decision regarding eligibility for, from, or amount of assistance under this subchapter may be appealed within 60 days after the date on which the applicant for such assistance is notified of the award or denial of award of such assistance.

(b) Period for decision

A decision regarding an appeal under subsection (a) shall be rendered within 90 days after the date on which the Federal official designated to administer such appeals receives notice of such appeal.

(c) Rules

The President shall issue rules which provide for the fair and impartial consideration of appeals under this section.

(d) Right of arbitration

(1) In general

Notwithstanding this section, an applicant for assistance under this subchapter may request arbitration to dispute the eligibility for assistance or repayment of assistance provided for a dispute of more than $500,000 for any disaster that occurred after January 1, 2016. Such arbitration shall be conducted by the Civilian Board of Contract Appeals and the decision of such Board shall be binding.

(2) Review

The Civilian Board of Contract Appeals shall consider from the applicant all original and additional documentation, testimony, or other such evidence supporting the applicant's position at any time during arbitration.

(3) Rural areas

For an applicant for assistance in a rural area under this subchapter, the assistance amount eligible for arbitration pursuant to this subsection shall be $100,000.

(4) Rural area defined

For the purposes of this subsection, the term "rural area" means an area with a population of less than 200,000 outside an urbanized area.

(5) Eligibility

To participate in arbitration under this subsection, an applicant—

(A) shall submit the dispute to the arbitration process established under the authority granted under section 601 of Public Law 111–5; and

(B) may submit a request for arbitration after the completion of the first appeal under subsection (a) at any time before the Administrator of the Federal Emergency Management Agency has issued a final agency determination or 180 days after the Administrator's receipt of the appeal if the Administrator has not provided the applicant with a final determination on the appeal. The applicant's request shall contain documentation from the administrative record for the first appeal and may contain additional documentation supporting the applicant's position.

(Pub. L. 93–288, title IV, §423, as added Pub. L. 100–707, title I, §106(l), Nov. 23, 1988, 102 Stat. 4705; amended Pub. L. 115–254, div. D, §1219, Oct. 5, 2018, 132 Stat. 3452.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 601 of Public Law 111–5, referred to in subsec. (d)(5)(A), is Pub. L. 111–5, div. A, title VI, §601, Feb. 17, 2009, 123 Stat. 164, which is not classified to the Code.

AMENDMENTS

2018—Subsec. (d). Pub. L. 115–254 added subsec. (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–254 applicable to each major disaster and emergency declared by the President on or after Aug. 1, 2017, and authorities provided under div. D of Pub. L. 115–254 applicable to each major disaster and emergency declared by the President on or after Jan. 1, 2016, except as otherwise provided, see section 1202 of Pub. L. 115–254, set out as a note under section 5121 of this title.

DISPUTE RESOLUTION PILOT PROGRAM

Pub. L. 113–2, div. B, §1105, Jan. 29, 2013, 127 Stat. 43, as amended by Pub. L. 114–301, §2(c), Dec. 16, 2016, 130 Stat. 1514, provided that:

"(a) DEFINITIONS.—In this section, the following definitions apply:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Emergency Management Agency.

"(2) ELIGIBLE ASSISTANCE.—The term 'eligible assistance' means assistance—

"(A) under section 403, 406, or 407 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170b, 5172, 5173);

"(B) for which the legitimate amount in dispute is not less than $1,000,000, which sum the Administrator shall adjust annually to reflect changes in the Consumer Price Index for all Urban Consumers published by the Department of Labor;

"(C) for which the applicant has a non-Federal share; and

"(D) for which the applicant has received a decision on a first appeal.

"(b) PROCEDURES.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section [Jan. 29, 2013], and in order to facilitate an efficient recovery from major disasters, the Administrator shall establish procedures under which an applicant may request the use of alternative dispute resolution, including arbitration by an independent review panel, to resolve disputes relating to eligible assistance.

"(2) BINDING EFFECT.—A decision by an independent review panel under this section shall be binding upon the parties to the dispute.

"(3) CONSIDERATIONS.—The procedures established under this section shall—

"(A) allow a party of a dispute relating to eligible assistance to request an independent review panel for the review;

"(B) require a party requesting an independent review panel as described in subparagraph (A) to agree to forgo rights to any further appeal of the dispute relating to any eligible assistance;

"(C) require that the sponsor of an independent review panel for any alternative dispute resolution under this section be—

"(i) an individual or entity unaffiliated with the dispute (which may include a Federal agency, an administrative law judge, or a reemployed annuitant who was an employee of the Federal Government) selected by the Administrator; and

"(ii) responsible for identifying and maintaining an adequate number of independent experts qualified to review and resolve disputes under this section;

"(D) require an independent review panel to—

"(i) resolve any remaining disputed issue in accordance with all applicable laws, regulations, and Agency interpretations of those laws through its published policies and guidance;

"(ii) consider only evidence contained in the administrative record, as it existed at the time at which the Agency made its initial decision;

"(iii) only set aside a decision of the Agency found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; and

"(iv) in the case of a finding of material fact adverse to the claimant made on first appeal,

only set aside or reverse such finding if the finding is clearly erroneous;

"(E) require an independent review panel to expeditiously issue a written decision for any alternative dispute resolution under this section; and

"(F) direct that if an independent review panel for any alternative dispute resolution under this section determines that the basis upon which a party submits a request for alternative dispute resolution is frivolous, the independent review panel shall direct the party to pay the reasonable costs to the Federal Emergency Management Agency relating to the review by the independent review panel. Any funds received by the Federal Emergency Management Agency under the authority of this section shall be deposited to the credit of the appropriation or appropriations available for the eligible assistance in dispute on the date on which the funds are received.

"(c) SUNSET.—A request for review by an independent review panel under this section may not be made after December 31, 2015."

§5189b. Date of eligibility; expenses incurred before date of disaster

Eligibility for Federal assistance under this subchapter shall begin on the date of the occurrence of the event which results in a declaration by the President that a major disaster exists; except that reasonable expenses which are incurred in anticipation of and immediately preceding such event may be eligible for Federal assistance under this chapter.

(Pub. L. 93–288, title IV, §424, as added Pub. L. 100–707, title I, §106(l), Nov. 23, 1988, 102 Stat. 4706.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

§5189c. Transportation assistance to individuals and households

The President may provide transportation assistance to relocate individuals displaced from their predisaster primary residences as a result of an incident declared under this chapter or otherwise transported from their predisaster primary residences under section 5170b(a)(3) or 5192 of this title, to and from alternative locations for short or long-term accommodation or to return an individual or household to their predisaster primary residence or alternative location, as determined necessary by the President.

(Pub. L. 93–288, title IV, §425, as added Pub. L. 109–295, title VI, §689f, Oct. 4, 2006, 120 Stat. 1452.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

CODIFICATION

Another section 425 of Pub. L. 93–288 was renumbered section 427 and is classified to section 5189e of this title.

§5189d. Case management services

(a) In general

The President may provide case management services, including financial assistance, to State or local government agencies or qualified private organizations to provide such services, to victims of major disasters to identify and address unmet needs.

(b) Training

Each State, local government agency, or qualified private organization providing professional counseling services described in subsection (a) shall ensure that any individual providing case management services to victims of a major disaster as authorized under subsection (a), including individuals working for nonprofit partners and recovery organizations, is appropriately trained to address impacts from major disasters in communities, and to individuals, with socio-economically disadvantaged backgrounds.

(Pub. L. 93–288, title IV, §426, as added Pub. L. 109–295, title VI, §689f, Oct. 4, 2006, 120 Stat. 1453; amended Pub. L. 117–251, §8(a), Dec. 20, 2022, 136 Stat. 2357.)

EDITORIAL NOTES

AMENDMENTS

2022—Pub. L. 117–251 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117–251, §8(b), Dec. 20, 2022, 136 Stat. 2357, provided that: "The amendments made by this section [amending this section] shall apply with respect to amounts appropriated on or after the date of enactment of this Act [Dec. 20, 2022]."

§5189e. Essential service providers

(a) Definition

In this section, the term "essential service provider" means an entity that—

(1)(A) provides

(i) wireline or mobile telephone service, Internet access service, radio or television broadcasting, cable service, or direct broadcast satellite service;

(ii) electrical power;

(iii) natural gas;

(iv) water and sewer services; or

(v) any other essential service, as determined by the President; or

(B) is a tower owner or operator;

(2) is—

(A) a municipal entity;

(B) a nonprofit entity; or

(C) a private, for profit entity; and

(3) is contributing to efforts to respond to an emergency or major disaster.

(b) Authorization for accessibility

Unless exceptional circumstances apply, in an emergency or major disaster, the head of a Federal agency, to the greatest extent practicable, shall not—

(1) deny or impede access to the disaster site to an essential service provider whose access is necessary to restore and repair an essential service; or

(2) impede the restoration or repair of the services described in subsection (a)(1).

(c) Implementation

In implementing this section, the head of a Federal agency shall follow all applicable Federal laws, regulations, and policies.

(Pub. L. 93–288, title IV, §427, formerly §425, as added Pub. L. 109–347, title VI, §607, Oct. 13, 2006, 120 Stat. 1941; renumbered §427, Pub. L. 113–2, div. B, §1102(1), Jan. 29, 2013, 127 Stat. 39; amended Pub. L. 115–141, div. P, title III, §302, Mar. 23, 2018, 132 Stat. 1087.)

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (a)(1). Pub. L. 115–141 designated existing provisions as subpar. (A), redesignated former subpars. (A) to (E) as cls. (i) to (v), respectively, of subpar. (A), substituted "wireline or mobile telephone service, Internet access service, radio or television broadcasting, cable service, or direct broadcast satellite service" for "telecommunications service" in cl. (i), and added subpar. (B).

§5189f. Public assistance program alternative procedures

(a) Approval of projects

The President, acting through the Administrator of the Federal Emergency Management Agency, may approve projects under the alternative procedures adopted under this section for any major disaster or emergency declared on or after January 29, 2013. The Administrator may also apply the alternate procedures adopted under this section to a major disaster or emergency declared before enactment of this Act for which construction has not begun as of the date of enactment of this Act.[1]

(b) Adoption

The Administrator, in coordination with States, tribal and local governments, and owners or operators of private nonprofit facilities, may adopt alternative procedures to administer assistance provided under sections 5170b(a)(3)(A), 5172, 5173, and 5192(a)(5) of this title.

(c) Goals of procedures

The alternative procedures adopted under subsection (a) shall further the goals of—

(1) reducing the costs to the Federal Government of providing such assistance;

(2) increasing flexibility in the administration of such assistance;

(3) expediting the provision of such assistance to a State, tribal or local government, or owner or operator of a private nonprofit facility; and

(4) providing financial incentives and disincentives for a State, tribal or local government, or owner or operator of a private nonprofit facility for the timely and cost-effective completion of projects with such assistance.

(d) Participation

(1) In general

Participation in the alternative procedures adopted under this section shall be at the election of a State, tribal or local government, or owner or operator of a private nonprofit facility consistent with procedures determined by the Administrator.

(2) No conditions

The President may not condition the provision of Federal assistance under this chapter on the election by a State, local, or Indian tribal government, or owner or operator of a private nonprofit facility to participate in the alternative procedures adopted under this section.

(e) Minimum procedures

The alternative procedures adopted under this section shall include the following:

(1) For repair, restoration, and replacement of damaged facilities under section 5172 of this title—

(A) making grants on the basis of fixed estimates, if the State, tribal or local government, or owner or operator of the private nonprofit facility agrees to be responsible for any actual costs that exceed the estimate;

(B) providing an option for a State, tribal or local government, or owner or operator of a private nonprofit facility to elect to receive an in-lieu contribution, without reduction, on the basis of estimates of—

(i) the cost of repair, restoration, reconstruction, or replacement of a public facility owned or controlled by the State, tribal or local government or owner or operator of a private nonprofit facility; and

(ii) management expenses;

(C) consolidating, to the extent determined appropriate by the Administrator, the facilities of a State, tribal or local government, or owner or operator of a private nonprofit facility as a single project based upon the estimates adopted under the procedures;

(D) if the actual costs of a project completed under the procedures are less than the estimated costs thereof, the Administrator may permit a grantee or subgrantee to use all or part of the excess funds for—

(i) cost-effective activities that reduce the risk of future damage, hardship, or suffering from a major disaster; and

(ii) other activities to improve future Public Assistance operations or planning;

(E) in determining eligible costs under section 5172 of this title, the Administrator shall make available, at an applicant's request and where the Administrator or the certified cost estimate prepared by the applicant's professionally licensed engineers has estimated an eligible Federal share for a project of at least $5,000,000, an independent expert panel to validate the estimated eligible cost consistent with applicable regulations and policies implementing this section;

(F) in determining eligible costs under section 5172 of this title, the Administrator shall, at the applicant's request, consider properly conducted and certified cost estimates prepared by professionally licensed engineers (mutually agreed upon by the Administrator and the applicant), to the extent that such estimates comply with applicable regulations, policy, and guidance; and

(G) once certified by a professionally licensed engineer and accepted by the Administrator, the estimates on which grants made pursuant to this section are based shall be presumed to be reasonable and eligible costs, as long as there is no evidence of fraud.

(2) For debris removal under sections 5170b(a)(3)(A), 5173, and 5192(a)(5) of this title—

(A) making grants on the basis of fixed estimates to provide financial incentives and disincentives for the timely or cost-effective completion if the State, tribal or local government, or owner or operator of the private nonprofit facility agrees to be responsible to pay for any actual costs that exceed the estimate;

(B) using a sliding scale for determining the Federal share for removal of debris and wreckage based on the time it takes to complete debris and wreckage removal;

(C) allowing use of program income from recycled debris without offset to the grant amount;

(D) reimbursing base and overtime wages for employees and extra hires of a State, tribal or local government, or owner or operator of a private nonprofit facility performing or administering debris and wreckage removal;

(E) providing incentives to a State or tribal or local government to have a debris management plan approved by the Administrator and have pre-qualified 1 or more debris and wreckage removal contractors before the date of declaration of the major disaster; and

(F) if the actual costs of projects under subparagraph (A) are less than the estimated costs of the project, the Administrator may permit a grantee or subgrantee to use all or part of the excess

funds for—

(i) debris management planning;

(ii) acquisition of debris management equipment for current or future use; and

(iii) other activities to improve future debris removal operations, as determined by the Administrator.

(f) Waiver authority

Until such time as the Administrator promulgates regulations to implement this section, the Administrator may—

(1) waive notice and comment rulemaking, if the Administrator determines the waiver is necessary to expeditiously implement this section; and

(2) carry out the alternative procedures under this section as a pilot program.

(g) Overtime payments

The guidelines for reimbursement for costs under subsection (e)(2)(D) shall ensure that no State or local government is denied reimbursement for overtime payments that are required pursuant to the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

(h) Report

(1) In general

Not earlier than 3 years, and not later than 5 years, after January 29, 2013, the Inspector General of the Department of Homeland Security shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the alternative procedures for the repair, restoration, and replacement of damaged facilities under section 5172 of this title authorized under this section.

(2) Contents

The report shall contain an assessment of the effectiveness of the alternative procedures, including—

(A) whether the alternative procedures helped to improve the general speed of disaster recovery;

(B) the accuracy of the estimates relied upon;

(C) whether the financial incentives and disincentives were effective;

(D) whether the alternative procedures were cost effective;

(E) whether the independent expert panel described in subsection (e)(1)(E) was effective; and

(F) recommendations for whether the alternative procedures should be continued and any recommendations for changes to the alternative procedures.

(Pub. L. 93–288, title IV, §428, as added Pub. L. 113–2, div. B, §1102(2), Jan. 29, 2013, 127 Stat. 39; amended Pub. L. 115–254, div. D, §1207(c), (d), Oct. 5, 2018, 132 Stat. 3440, 3441.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this Act, referred to in subsec. (a), probably means the date of enactment of Pub. L. 113–2, which enacted this section and was approved Jan. 29, 2013.

This chapter, referred to in subsec. (d)(2), was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

The Fair Labor Standards Act of 1938, referred to in subsec. (g), is act June 25, 1938, ch. 676, 52 Stat. 1060, which is classified generally to chapter 8 (§201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables.

AMENDMENTS

2018—Subsec. (d). Pub. L. 115–254, §1207(c), designated existing provisions as par. (1), inserted heading,

and added par. (2).

Subsec. (e)(1)(G). Pub. L. 115–254, §1207(d), added subpar. (G).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–254 applicable to each major disaster and emergency declared by the President on or after Aug. 1, 2017, and authorities provided under div. D of Pub. L. 115–254 applicable to each major disaster and emergency declared by the President on or after Jan. 1, 2016, except as otherwise provided, see section 1202 of Pub. L. 115–254, set out as a note under section 5121 of this title.

[1] *See References in Text note below.*

§5189g. Unified Federal review

(a) In general

Not later than 18 months after January 29, 2013, and in consultation with the Council on Environmental Quality and the Advisory Council on Historic Preservation, the President shall establish an expedited and unified interagency review process to ensure compliance with environmental and historic requirements under Federal law relating to disaster recovery projects, in order to expedite the recovery process, consistent with applicable law.

(b) Contents

The review process established under this section shall include mechanisms to expeditiously address delays that may occur during the recovery from a major disaster and be updated, as appropriate, consistent with applicable law.

(Pub. L. 93–288, title IV, §429, as added Pub. L. 113–2, div. B, §1106, Jan. 29, 2013, 127 Stat. 45.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

UNIFIED FEDERAL ENVIRONMENTAL AND HISTORIC PRESERVATION REVIEW

Pub. L. 115–254, div. D, §1220, Oct. 5, 2018, 132 Stat. 3453, provided that:

"(a) REVIEW AND ANALYSIS.—Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Emergency Management Agency] shall review the Unified Federal Environmental and Historic Preservation review process established pursuant to section 429 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5189g), and submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate that includes the following:

"(1) An analysis of whether and how the unified process has expedited the interagency review process to ensure compliance with the environmental and historic requirements under Federal law relating to disaster recovery projects.

"(2) A survey and analysis of categorical exclusions used by other Federal agencies that may be applicable to any activity related to a major disaster or emergency declared by the President under section 401 or 501, respectively, of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170, 5191).

"(3) Recommendations on any further actions, including any legislative proposals, needed to expedite and streamline the review process.

"(b) REGULATIONS.—After completing the review, survey, and analyses under subsection (a), but not later than 2 years after the date of enactment of this Act, and after providing notice and opportunity for public comment, the Administrator shall issue regulations to implement any regulatory recommendations, including any categorical exclusions identified under subsection (a), to the extent that the categorical exclusions meet the criteria for a categorical exclusion under section 1508.4 of title 40, Code of Federal Regulations, and section II of DHS Instruction Manual 023–01–001–01."

§5189h. Agency accountability

(a) Public assistance

Not later than 5 days after an award of a public assistance grant is made under section 5172 of this title that is in excess of $1,000,000, the Administrator of the Federal Emergency Management Agency shall publish on the website of the Federal Emergency Management Agency the specifics of each such grant award, including—

(1) identifying the Federal Emergency Management Agency Region;
(2) the disaster or emergency declaration number;
(3) the State, county, and applicant name;
(4) if the applicant is a private nonprofit organization;
(5) the damage category code;
(6) the amount of the Federal share obligated; and
(7) the date of the award.

(b) Mission assignments

(1) In general

Not later than 5 days after the issuance of a mission assignment or mission assignment task order, the Administrator of the Federal Emergency Management Agency shall publish on the website of the Federal Emergency Management Agency any mission assignment or mission assignment task order to another Federal department or agency regarding a major disaster in excess of $1,000,000, including—

(A) the name of the impacted State or Indian Tribe;
(B) the disaster declaration for such State or Indian Tribe;
(C) the assigned agency;
(D) the assistance requested;
(E) a description of the disaster;
(F) the total cost estimate;
(G) the amount obligated;
(H) the State or Indian tribal government cost share, if applicable;
(I) the authority under which the mission assignment or mission assignment task order was directed; and
(J) if applicable, the date a State or Indian Tribe requested the mission assignment.

(2) Recording changes

Not later than 10 days after the last day of each month until a mission assignment or mission assignment task order described in paragraph (1) is completed and closed out, the Administrator of the Federal Emergency Management Agency shall update any changes to the total cost estimate and the amount obligated.

(c) Disaster relief monthly report

Not later than 10 days after the first day of each month, the Administrator of the Federal Emergency Management Agency shall publish on the website of the Federal Emergency Management Agency reports, including a specific description of the methodology and the source data used in developing such reports, including—

(1) an estimate of the amounts for the fiscal year covered by the President's most recent budget pursuant to section 1105(a) of title 31 including—
(A) the unobligated balance of funds to be carried over from the prior fiscal year to the budget year;
(B) the unobligated balance of funds to be carried over from the budget year to the budget year plus 1;
(C) the amount of obligations for noncatastrophic events for the budget year;
(D) the amount of obligations for the budget year for catastrophic events delineated by event and by State;

(E) the total amount that has been previously obligated or will be required for catastrophic events delineated by event and by State for all prior years, the current fiscal year, the budget year, and each fiscal year thereafter;

(F) the amount of previously obligated funds that will be recovered for the budget year;

(G) the amount that will be required for obligations for emergencies, as described in section 5122(1) of this title, major disasters, as described in section 5122(2) of this title, fire management assistance grants, as described in section 5187 of this title, surge activities, and disaster readiness and support activities; and

(H) the amount required for activities not covered under section 901(b)(2)(D)(iii) of title 2; and

(2) an estimate or actual amounts, if available, of the following for the current fiscal year, which shall be submitted not later than the fifth day of each month, published by the Administrator of the Federal Emergency Management Agency on the website of the Federal Emergency Management Agency not later than the fifth day of each month:

(A) A summary of the amount of appropriations made available by source, the transfers executed, the previously allocated funds recovered, and the commitments, allocations, and obligations made.

(B) A table of disaster relief activity delineated by month, including—

(i) the beginning and ending balances;

(ii) the total obligations to include amounts obligated for fire assistance, emergencies, surge, and disaster support activities;

(iii) the obligations for catastrophic events delineated by event and by State; and

(iv) the amount of previously obligated funds that are recovered.

(C) A summary of allocations, obligations, and expenditures for catastrophic events delineated by event.

(D) The cost of the following categories of spending:

(i) Public assistance.

(ii) Individual assistance.

(iii) Mitigation.

(iv) Administrative.

(v) Operations.

(vi) Any other relevant category (including emergency measures and disaster resources) delineated by disaster.

(E) The date on which funds appropriated will be exhausted.

(d) Contracts

(1) Information

Not later than 10 days after the first day of each month, the Administrator of the Federal Emergency Management Agency shall publish on the website of the Federal Emergency Management Agency the specifics of each contract in excess of $1,000,000 that the Federal Emergency Management Agency enters into, including—

(A) the name of the party;

(B) the date the contract was awarded;

(C) the amount and scope of the contract;

(D) if the contract was awarded through a competitive bidding process;

(E) if no competitive bidding process was used, the reason why competitive bidding was not used; and

(F) the authority used to bypass the competitive bidding process.

The information shall be delineated by disaster, if applicable, and specify the damage category

code, if applicable.

(2) Report

Not later than 10 days after the last day of the fiscal year, the Administrator of the Federal Emergency Management Agency shall provide a report to the appropriate committees of Congress summarizing the following information for the preceding fiscal year:

(A) The number of contracts awarded without competitive bidding.

(B) The reasons why a competitive bidding process was not used.

(C) The total amount of contracts awarded with no competitive bidding.

(D) The damage category codes, if applicable, for contracts awarded without competitive bidding.

(e) Collection of public assistance recipient and subrecipient contracts

(1) In general

Not later than 180 days after October 5, 2018, the Administrator of the Federal Emergency Management Agency shall initiate and maintain an effort to collect and store information, prior to the project closeout phase on any contract entered into by a public assistance recipient or subrecipient that through the base award, available options, or any subsequent modifications has an estimated value of more than $1,000,000 and is funded through section 5165b, 5170b, 5170c, 5172, 5173, 5189f, or 5192 of this title, including—

(A) the disaster number, project worksheet number, and the category of work associated with each contract;

(B) the name of each party;

(C) the date the contract was awarded;

(D) the amount of the contract;

(E) the scope of the contract;

(F) the period of performance for the contract; and

(G) whether the contract was awarded through a competitive bidding process.

(2) Availability of information collected

The Administrator of the Federal Emergency Management Agency shall make the information collected and stored under paragraph (1) available to the Inspector General of the Department of Homeland Security, the Government Accountability Office, and appropriate committees of Congress, upon request.

(3) Report

Not later than 365 days after October 5, 2018, the Administrator of the Federal Emergency Management Agency shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the efforts of the Federal Emergency Management Agency to collect the information described in paragraph (1).

(Pub. L. 93–288, title IV, §430, as added Pub. L. 115–254, div. D, §1224, Oct. 5, 2018, 132 Stat. 3455.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Enactment of section by Pub. L. 115–254 applicable to each major disaster and emergency declared by the President on or after Aug. 1, 2017, and authorities provided under div. D of Pub. L. 115–254 applicable to each major disaster and emergency declared by the President on or after Jan. 1, 2016, except as otherwise provided, see section 1202 of Pub. L. 115–254, set out as an Effective Date of 2018 Amendment note under section 5121 of this title.

SUBCHAPTER IV–A—EMERGENCY ASSISTANCE PROGRAMS

§5191. Procedure for declaration

(a) Request and declaration

All requests for a declaration by the President that an emergency exists shall be made by the Governor of the affected State. Such a request shall be based on a finding that the situation is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. As a part of such request, and as a prerequisite to emergency assistance under this chapter, the Governor shall take appropriate action under State law and direct execution of the State's emergency plan. The Governor shall furnish information describing the State and local efforts and resources which have been or will be used to alleviate the emergency, and will define the type and extent of Federal aid required. Based upon such Governor's request, the President may declare that an emergency exists.

(b) Certain emergencies involving Federal primary responsibility

The President may exercise any authority vested in him by section 5192 of this title or section 5193 of this title with respect to an emergency when he determines that an emergency exists for which the primary responsibility for response rests with the United States because the emergency involves a subject area for which, under the Constitution or laws of the United States, the United States exercises exclusive or preeminent responsibility and authority. In determining whether or not such an emergency exists, the President shall consult the Governor of any affected State, if practicable. The President's determination may be made without regard to subsection (a).

(c) Indian tribal government requests

(1) In general

The Chief Executive of an affected Indian tribal government may submit a request for a declaration by the President that an emergency exists consistent with the requirements of subsection (a).

(2) References

In implementing assistance authorized by the President under this subchapter in response to a request of the Chief Executive of an affected Indian tribal government for an emergency declaration, any reference in this subchapter or subchapter III (except sections 5153 and 5165d of this title) to a State or the Governor of a State is deemed to refer to an affected Indian tribal government or the Chief Executive of an affected Indian tribal government, as appropriate.

(3) Savings provision

Nothing in this subsection shall prohibit an Indian tribal government from receiving assistance under this subchapter through a declaration made by the President at the request of a State under subsection (a) if the President does not make a declaration under this subsection for the same incident.

(Pub. L. 93–288, title V, §501, as added Pub. L. 100–707, title I, §107(a), Nov. 23, 1988, 102 Stat. 4706; amended Pub. L. 113–2, div. B, §1110(b), Jan. 29, 2013, 127 Stat. 48.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

PRIOR PROVISIONS

A prior section 501 of Pub. L. 93–288 enacted subchapter VIII (§3231 et seq.) of chapter 38 of this title.

AMENDMENTS

2013—Subsec. (c). Pub. L. 113–2 added subsec. (c).

§5192. Federal emergency assistance

(a) Specified

In any emergency, the President may—

(1) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical and advisory services) in support of State and local emergency assistance efforts to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe, including precautionary evacuations;

(2) coordinate all disaster relief assistance (including voluntary assistance) provided by Federal agencies, private organizations, and State and local governments;

(3) provide technical and advisory assistance to affected State and local governments for—

(A) the performance of essential community services;

(B) issuance of warnings of risks or hazards;

(C) public health and safety information, including dissemination of such information;

(D) provision of health and safety measures; and

(E) management, control, and reduction of immediate threats to public health and safety;

(4) provide emergency assistance through Federal agencies;

(5) remove debris in accordance with the terms and conditions of section 5173 of this title;

(6) provide assistance in accordance with section 5174 of this title and section 5183 of this title;

(7) assist State and local governments in the distribution of medicine, food, and other consumable supplies, and emergency assistance; and

(8) provide accelerated Federal assistance and Federal support where necessary to save lives, prevent human suffering, or mitigate severe damage, which may be provided in the absence of a specific request and in which case the President—

(A) shall, to the fullest extent practicable, promptly notify and coordinate with a State in which such assistance or support is provided; and

(B) shall not, in notifying and coordinating with a State under subparagraph (A), delay or impede the rapid deployment, use, and distribution of critical resources to victims of an emergency.

(b) General

Whenever the Federal assistance provided under subsection (a) with respect to an emergency is inadequate, the President may also provide assistance with respect to efforts to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe, including precautionary evacuations.

(c) Guidelines

The President shall promulgate and maintain guidelines to assist Governors in requesting the declaration of an emergency in advance of a natural or man-made disaster (including for the purpose of seeking assistance with special needs and other evacuation efforts) under this section by defining the types of assistance available to affected States and the circumstances under which such requests are likely to be approved.

(Pub. L. 93–288, title V, §502, as added Pub. L. 100–707, title I, §107(a), Nov. 23, 1988, 102 Stat. 4706; amended Pub. L. 106–390, title II, §206(b), Oct. 30, 2000, 114 Stat. 1570; Pub. L. 109–295, title VI, §681(b), Oct. 4, 2006, 120 Stat. 1444; Pub. L. 117–263, div. G, title LXXIII, §7321(a), Dec. 23, 2022, 136 Stat. 3691.)

EDITORIAL NOTES

AMENDMENTS

2022—Subsec. (a)(6). Pub. L. 117–263 inserted "and section 5183 of this title" after "section 5174 of this title".

2006—Subsec. (a)(1). Pub. L. 109–295, §681(b)(1)(A), inserted ", including precautionary evacuations" before semicolon at end.

Subsec. (a)(8). Pub. L. 109–295, §681(b)(1)(B)–(D), added par. (8).

Subsec. (b). Pub. L. 109–295, §681(b)(2), inserted ", including precautionary evacuations" before period at end.

Subsec. (c). Pub. L. 109–295, §681(b)(3), added subsec. (c).

2000—Subsec. (a)(6). Pub. L. 106–390 struck out "temporary housing" after "provide".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117–263, div. G, title LXXIII, §7321(b), Dec. 23, 2022, 136 Stat. 3691, provided that: "The amendment made by subsection (a) [amending this section] shall only apply to amounts appropriated on or after the date of enactment of this Act [Dec. 23, 2022]."

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–390 effective 18 months after Oct. 30, 2000, see section 206(d) of Pub. L. 106–390, set out as a note under section 5174 of this title.

§5193. Amount of assistance

(a) Federal share

The Federal share for assistance provided under this subchapter shall be equal to not less than 75 percent of the eligible costs.

(b) Limit on amount of assistance

(1) In general

Except as provided in paragraph (2), total assistance provided under this subchapter for a single emergency shall not exceed $5,000,000.

(2) Additional assistance

The limitation described in paragraph (1) may be exceeded when the President determines that—

(A) continued emergency assistance is immediately required;

(B) there is a continuing and immediate risk to lives, property, public health or safety; and

(C) necessary assistance will not otherwise be provided on a timely basis.

(3) Report

Whenever the limitation described in paragraph (1) is exceeded, the President shall report to the Congress on the nature and extent of emergency assistance requirements and shall propose additional legislation if necessary.

(Pub. L. 93–288, title V, §503, as added Pub. L. 100–707, title I, §107(a), Nov. 23, 1988, 102 Stat. 4707.)

SUBCHAPTER IV–B—EMERGENCY PREPAREDNESS

§5195. Declaration of policy

The purpose of this subchapter is to provide a system of emergency preparedness for the protection of life and property in the United States from hazards and to vest responsibility for emergency preparedness jointly in the Federal Government and the States and their political subdivisions. The Congress recognizes that the organizational structure established jointly by the Federal Government and the States and their political subdivisions for emergency preparedness purposes can be effectively utilized to provide relief and assistance to people in areas of the United States struck by a hazard. The Federal Government shall provide necessary direction, coordination, and guidance, and shall provide necessary assistance, as authorized in this subchapter so that a comprehensive emergency preparedness system exists for all hazards.

(Pub. L. 93–288, title VI, §601, as added Pub. L. 103–337, div. C, title XXXIV, §3411(a)(3), Oct. 5, 1994, 108 Stat. 3100.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2251 of the former Appendix to Title 50, War and National Defense, prior to repeal by Pub. L. 103–337, §3412(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

MULTIHAZARD PREPAREDNESS AND MITIGATION

Pub. L. 106–74, title III, Oct. 20, 1999, 113 Stat. 1086, as amended by Pub. L. 109–295, title VI, §612(c), Oct. 4, 2006, 120 Stat. 1410, provided in part: "That beginning in fiscal year 2000 and each fiscal year thereafter, and notwithstanding any other provision of law, the Administrator of FEMA is authorized to provide assistance from funds appropriated under this heading [EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE], subject to terms and conditions as the Administrator of FEMA shall establish, to any State for multi-hazard preparedness and mitigation through consolidated emergency management performance grants".

MULTIHAZARD RESEARCH, PLANNING, AND MITIGATION; FUNCTIONS, ETC., OF FEDERAL EMERGENCY MANAGEMENT AGENCY

Pub. L. 96–472, title III, §§301, 302, Oct. 19, 1980, 94 Stat. 2260, as amended by Pub. L. 97–80, title III, §301, Nov. 20, 1981, 95 Stat. 1083; Pub. L. 97–464, title II, §201, Jan. 12, 1983, 96 Stat. 2533; Pub. L. 109–295, title VI, §612(c), Oct. 4, 2006, 120 Stat. 1410, provided that:

"SEC. 301. It is recognized that natural and manmade hazards may not be independent of one another in any given disaster, and it is also recognized that emergency personnel are often called upon to meet emergencies outside of their primary field of service. Furthermore, planning for and responding to different hazards have certain common elements. To make maximum use of these commonalities, the Administrator of the Federal Emergency Management Agency (hereinafter referred to as the 'Director') is authorized and directed to:

"(1) initiate, within one year after the date of enactment of this Act [Oct. 19, 1980], studies with the objective of defining and developing a multihazard research, planning, and implementation process within the Agency;

"(2) develop, within one year after the date of enactment of this Act [Oct. 19, 1980], in cooperation

with State and local governments, prototypical multihazard mitigation projects which can be used to evaluate several approaches to the varying hazard mitigation needs of State and local governments and to assess the applicability of these prototypes to other jurisdictions with similar needs;

"(3) investigate and evaluate, within one year after the date of enactment of this Act [Oct. 19, 1980], the effectiveness of a range of incentives for hazard reductions that can be applied at the State and local government levels;

"(4) prepare recommendations as to the need for legislation that will limit the legal liability of those third party persons or groups which are called upon to provide technical assistance and advice to public employees, including policemen, firemen, and transportation employees, who are generally the first to respond to a hazardous incident; which recommendations shall be provided to the appropriate committees of Congress within one hundred and eighty days after the date of enactment of this Act [Oct. 19, 1980];

"(5) prepare, within one hundred and eighty days after the date of enactment of this Act [Oct. 19, 1980], a report on the status of the Agency's emergency information and communications systems which will provide recommendations on—

"(A) the advisability of developing a single, unified emergency information and communication system for use by the Agency in carrying out its emergency management activities;

"(B) the potential for using communication and remote sensing satellites as part of the Agency's emergency information and communication system; and

"(C) the type of system to be developed, if needed, including the relationship of the proposed system and its needs to the existing and emerging information and communication systems in other Federal agencies;

"(6) conduct a program of multihazard research, planning, and mitigation in coordination with those studies and evaluations authorized in paragraphs (1) through (5), as well as other hazard research, planning, and mitigation deemed necessary by the Director;

"(7) conduct emergency first response programs so as to better train and prepare emergency personnel to meet emergencies outside of their primary field of service; and

"(8) conduct a program of planning, preparedness, and mitigation related to the multiple direct and indirect hazards resulting from the occurrence of large earthquakes.

"SEC. 302. (a) For the fiscal year ending September 30, 1981, there are authorized to be appropriated to the Director $1,000,000 to carry out paragraphs (1) through (5) of section 301 and such sums as may be necessary to carry out paragraph (6) of such section.

"(b) For the fiscal year ending September 30, 1982, there are authorized to be appropriated to the Director—

"(1) $4,939,000 to carry out section 301, which amount shall include—

"(A) not less than $700,000 to carry out the purposes of paragraphs (1) through (6) of such section;

"(B) such sums as may be necessary, but in any case not less than $939,000, for use by the United States Fire Administration in carrying out paragraph (7) of such section; and

"(C) not less than $3,300,000 to carry out paragraph (8) of such section with respect to those large California earthquakes which were identified by the National Security Council's Ad Hoc Committee on Assessment of Consequences and Preparations for a Major California Earthquake; and

"(2) such further sums as may be necessary for adjustments required by law in salaries, pay, retirement, and employee benefits incurred in the conduct of activities for which funds are authorized by paragraph (1) of this subsection.

"(c) For the fiscal year ending September 30, 1983, there are authorized to be appropriated to the Director—

"(1) $2,774,000 to carry out section 301, which amount shall include—

"(A) not less than $300,000 to carry out the purposes of paragraphs (1) through (6) of such section;

"(B) such sums as may be necessary, but in any case not less than $939,000, for use by the United States Fire Administration in carrying out paragraph (7) of such section; and

"(C) not less than $1,535,000 to carry out paragraph (8) of such section with respect to those large California earthquakes which were identified by the National Security Council's Ad Hoc Committee on Assessment of Consequences and Preparations for a Major California Earthquake and with respect to other high seismic risk areas in the United States; and

"(2) such further sums as may be necessary for adjustments required by law in salaries, pay, retirement, and employee benefits incurred in the conduct of activities for which funds are authorized by paragraph (1) of this subsection."

EXECUTIVE DOCUMENTS

REORGANIZATION PLAN NO. 1 OF 1958

Eff. July 1, 1958, 23 F.R. 4991, 72 Stat. 1799, as amended Pub. L. 85–763, Aug. 26, 1958, 72 Stat. 861; Pub. L. 87–296, §1, Sept. 22, 1961, 75 Stat. 630; Pub. L. 87–367, title I, §103(10), Oct. 4, 1961, 75 Stat. 788; Pub. L. 88–426, title III, §305(11), Aug. 14, 1964, 78 Stat. 423; Pub. L. 90–608, ch. IV, §402, Oct. 21, 1968, 82 Stat. 1194; Reorg. Plan No. 1 of 1973, §3(a), eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, April 24, 1958, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended [see 5 U.S.C. 901 et seq.].

CIVILIAN MOBILIZATION

SECTION 1. TRANSFER OF FUNCTIONS TO THE PRESIDENT

(a) There are hereby transferred to the President of the United States all functions vested by law (including reorganization plan) in the following: The Office of Defense Mobilization, the Director of the Office of Defense Mobilization, the Federal Civil Defense Administration, and the Federal Civil Defense Administrator.

(b) The President may from time to time delegate any of the functions transferred to him by subsection (a) of this section to any officer, agency, or employee of the executive branch of the Government, and may authorized such officer, agency, or employee to redelegate any of such functions delegated to him.

SEC. 2. OFFICE OF EMERGENCY PREPAREDNESS

[The Office of Emergency Preparedness including the offices of Director and Deputy Director, and all offices of Assistant Director, were abolished by Reorg. Plan No. 1 of 1973, §3(a)(1), eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089, set out below.]

SEC. 3. REGIONAL DIRECTORS

[All offices of Regional Director of the Office of Emergency Preparedness were abolished by Reorg. Plan No. 1 of 1973, §3(a)(1), eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089, set out below.]

SEC. 4. MEMBERSHIP ON NATIONAL SECURITY COUNCIL

[The functions of the Director of the Office of Emergency Preparedness as a member of the National Security Council were abolished by Reorg. Plan No. 1 of 1973, §3(a)(2), eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089, set out below.]

SEC. 5. CIVIL DEFENSE ADVISORY COUNCIL

[The Civil Defense Advisory Council, together with its functions, was abolished by Reorg. Plan No. 1 of 1973, §3(a)(3), eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089, set out below.]

SEC. 6. ABOLITIONS

The offices of Federal Civil Defense Administrator and Deputy Administrator provided for in section 101 of the Federal Civil Defense Act ([former] 50 U.S.C. App. 2271) and the offices of the Director of the Office of Defense Mobilization and Deputy Director of the Office of Defense Mobilization provided for in section 1 of Reorganization Plan Numbered 3 of 1953 (67 Stat. 634) are hereby abolished. The Director of the Office of Emergency Preparedness shall make such provisions as may be necessary in order to wind up any outstanding affairs of the offices abolished by this section which are not otherwise provided for in this reorganization plan. [As amended Pub. L. 90–608, ch. IV, §402, Oct. 21, 1968, 82 Stat. 1194.]

SEC. 7. RECORDS, PROPERTY, PERSONNEL, AND FUNDS

(a) The records, property, personnel, and unexpended balances, available or to be made available, of appropriations, allocations, and other funds of the Office of Defense Mobilization and of the Federal Civil Defense Administration shall, upon the taking effect of the provisions of this reorganization plan, become records, property, personnel, and unexpended balances of the Office of Emergency Preparedness.

(b) Records, property, personnel, and unexpended balances, available or to be made available, of appropriations, allocations, and other funds of any agency (including the Office of Emergency Preparedness), relating to functions vested in or delegated or assigned to the Office of Defense Mobilization or the Federal Civil Defense Administration immediately prior to the taking effect of the provisions of this reorganization plan, may be transferred from time to time to any other agency of the Government by the Director of the Bureau of the Budget under authority of this subsection for use, subject to the provisions of the

Reorganization Act of 1949, as amended, in connection with any of the said functions authorized at time of transfer under this subsection to be performed by the transferee agency.

(c) Such further measures and dispositions as the Director of the Bureau of the Budget shall determine to be necessary in connection with the provisions of subsections (a) and (b) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate. [As amended Pub. L. 90–608, ch. IV, §402, Oct. 21, 1968, 82 Stat. 1194.]

SEC. 8. INTERIM PROVISIONS

The President may authorize any person who immediately prior to the effective date of this reorganization plan holds an office abolished by section 6 hereof to hold any office established by section 2 of this reorganization plan until the latter office is filled pursuant to the said section 2 or by recess appointment, as the case may be, but in no event for any period extending more than 120 days after the said effective date.

SEC. 9. EFFECTIVE DATE

The provisions of this reorganization plan shall take effect at the time determined under the provisions of section 6(a) of the Reorganization Act of 1949, as amended, or on July 1, 1958, whichever is later.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 1 of 1958, prepared in accordance with the Reorganization Act of 1949, as amended. The reorganization plan provides new arrangements for the conduct of Federal defense mobilization and civil defense functions.

In formulating Reorganization Plan No. 1, I have had the benefit of several studies made by the executive branch as well as those conducted by the Congress. The reorganization plan will overcome the major difficulties revealed by those studies and mentioned in my 1959 budget message where I made the following statement:

The structure of Federal organization for the planning, coordination, and conduct of our nonmilitary defense programs has been reviewed, and I have concluded that the existing statues assigning responsibilities for the central coordination and direction of these programs are out of date. The rapid technical advances of military science have led to a serious overlap among agencies carrying on these leadership and planning functions. Because the situation will continue to change and because these functions transcend the responsibility of any single department or agency, I have concluded that they should be vested in no one short of the President. I will make recommendations to the Congress on this subject.

The principal effects of the organization plan are—

First, it transfers to the President the functions vested by law in the Federal Civil Defense Administration and those so vested in the Office of Defense Mobilization. The result is to establish a single pattern with respect to the vesting of defense mobilization and civil defense functions. At the present time disparity exists in that civil defense functions are vested in the President only to a limited degree while a major part of the functions administered by the Office of Defense Mobilization are vested by law in the President and delegated by him to that Office. Under the plan, the broad program responsibilities for coordinating and conducting the interrelated defense mobilization and civil defense functions will be vested in the President for appropriate delegation as the rapidly changing character of the nonmilitary preparedness program warrants.

Second, the reorganization plan consolidates the Office of Defense Mobilization and the Federal Civil Defense Administration to form a new Office of Defense and Civilian Mobilization in the Executive Office of the President. I have concluded that, in many instances, the interests and activities of the Office of Defense Mobilization and the Federal Civil Defense Administration overlap to such a degree that it is not possible to work out a satisfactory division of those activities and interests between the two agencies. I have also concluded that a single civilian mobilization agency of appropriate stature and authority is needed and that such an agency will ensue from the consolidation and from the granting of suitable authority to that agency for directing and coordinating the preparedness activities of the Federal departments and agencies and for providing unified guidance and assistance to the State and local governments.

Third, the reorganization plan transfers the membership of the Director of the Office of Defense Mobilization on the National Security Council to the Director of the Office of Defense and Civilian Mobilization and also transfers the Civil Defense Advisory Council to the Office of Defense and Civilian Mobilization.

Initially, the Office of Defense and Civilian Mobilization will perform the civil defense and defense mobilization functions now performed by the Office of Defense Mobilization and the Federal Civil Defense Administration. One of its first tasks will be to advise me with respect to the actions to be taken to clarify and expand the roles of the Federal departments and agencies in carrying out nonmilitary defense preparedness

functions. After such actions are taken, the direction and coordination of the civil defense and defense mobilization activities assigned to the departments and agencies will comprise a principal remaining responsibility of the Office of Defense and Civilian Mobilization.

After investigation, I have found and hereby declare that each reorganization included in Reorganization Plan No. 1 of 1958 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended.

I have also found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of new officers specified in sections 2 and 3 of the plan. The rates of compensation fixed for these officers are, respectively those which I have found to prevail in respect of comparable officers in the executive branch of the Government.

The taking effect of the reorganizations included in Reorganization Plan No. 1 of 1958 will immediately reduce the number of Federal agencies by one and, by providing sounder organizational arrangements for the administration of the affected functions, should promote the increased economy and effectiveness of the Federal expenditures concerned. It is, however, impracticable to itemize at this time the reduction of expenditures which it is probable will be brought about by such taking effect.

I urge that the Congress allow the reorganization plan to become effective.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, April 24, 1958.

REORGANIZATION PLAN NO. 1 OF 1973

Eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089, as amended May 11, 1976, Pub. L. 94–282, title V, §502, 90 Stat. 472

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, January 26, 1973, pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.

EXECUTIVE OFFICE OF THE PRESIDENT

SECTION 1. TRANSFER OF FUNCTIONS TO THE PRESIDENT

Except as provided in section 3(a)(2) of this reorganization plan, there are hereby transferred to the President of the United States all functions vested by law in the Office of Emergency Preparedness or the Director of the Office of Emergency Preparedness after the effective date of Reorganization Plan No. 1 of 1958.

SEC. 2. [Repealed. Pub. L. 94–282, title V, §502, May 11, 1976, 90 Stat. 472. Section transferred to the Director of the National Science Foundation all functions vested by law in the Office of Science and Technology or the Director or Deputy Director of the Office of Science and Technology.]

SEC. 3. ABOLITIONS

(a) The following are hereby abolished:

(1) The Office of Emergency Preparedness including the offices of Director, Deputy Director, and all offices of Assistant Director, and Regional Director of the Office of Emergency Preparedness provided for by sections 2 and 3 of Reorganization Plan No. 1 of 1958 (5 U.S.C., App.).

(2) The functions of the Director of the Office of Emergency Preparedness with respect to being a member of the National Security Council.

(3) The Civil Defense Advisory Council, created by section 102(a) of the Federal Civil Defense Act of 1950 ([former] 50 U.S.C. App. 2272(a)), together with its functions.

(4) The National Aeronautics and Space Council, created by section 201 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2471), including the office of Executive Secretary of the Council, together with its functions.

(5) The Office of Science and Technology, including the offices of Director and Deputy Director, provided for by sections 1 and 2 of Reorganization Plan No. 2 of 1962 (5 U.S.C., App.).

(b) The Director of the Office of Management and Budget shall make such provisions as he shall deem necessary respecting the winding up of any outstanding affairs of the agencies abolished by the provisions of this section.

SEC. 4. INCIDENTAL TRANSFERS

(a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations,

and other funds employed, used, held, available, or to be made available in connection with the functions transferred by sections 1 and 2 of this reorganization plan as the Director of the Office of Management and Budget shall determine shall be transferred at such time or times as he shall direct for use in connection with the functions transferred.

(b) Such further measures and dispositions as the Director of the Office of Management and Budget shall deem to be necessary in order to effectuate the transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 5. EFFECTIVE DATE

The provisions of this reorganization plan shall take effect as provided by section 906(a) of title 5 of the United States Code, or on July 1, 1973, whichever is later.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

On January 5 I announced a three-part program to streamline the executive branch of the Federal Government. By concentrating less responsibility in the President's immediate staff and more in the hands of the departments and agencies, this program should significantly improve the services of the Government. I believe these reforms have become so urgently necessary that I intend, with the cooperation of the Congress, to pursue them with all of the resources of my office during the coming year.

The first part of this program is a renewed drive to achieve passage of my legislative proposals to overhaul the Cabinet departments. Secondly, I have appointed three Cabinet Secretaries as Counsellors to the President with coordinating responsibilities in the broad areas of human resources, natural resources, and community development, and five Assistants to the President with special responsibilities in the areas of domestic affairs, economic affairs, foreign affairs, executive management, and operations of the White House.

The third part of this program is a sharp reduction in the overall size of the Executive Office of the President and a reorientation of that office back to its original mission as a staff for top-level policy formation and monitoring of policy execution in broad functional areas. The Executive Office of the President should no longer be encumbered with the task of managing or administering programs which can be run more effectively by the departments and agencies. I have therefore concluded that a number of specialized operational and program functions should be shifted out of the Executive Office into the line departments and agencies of the Government. Reorganization Plan No. 1 of 1973, transmitted herewith, would effect such changes with respect to emergency preparedness functions and scientific and technological affairs.

STREAMLINING THE FEDERAL SCIENCE ESTABLISHMENT

When the National Science Foundation was established by an act of the Congress in 1950, its statutory responsibilities included evaluation of the Government's scientific research programs and development of basic science policy. In the late 1950's, however, with the effectiveness of the U.S. science effort under serious scrutiny as a result of sputnik, the post of Science Advisor to the President was established. The White House became increasingly involved in the evaluation and coordination of research and development programs and in science policy matters, and that involvement was institutionalized in 1962 when a reorganization plan established the Office of Science and Technology within the Executive Office of the President, through transfer of authorities formerly vested in the National Science Foundation.

With advice and assistance from OST during the past decade; the scientific and technological capability of the Government has been markedly strengthened. This administration is firmly committed to a sustained, broadbased national effort in science and technology, as I made plain last year in the first special message on the subject ever sent by a President to the Congress. The research and development capability of the various executive departments and agencies, civilian as well as defense, has been upgraded. The National Science Foundation has broadened from its earlier concentration on basic research support to take on a significant role in applied research as well. It has matured in its ability to play a coordinating and evaluative role within the Government and between the public and private sectors.

I have therefore concluded that it is timely and appropriate to transfer to the Director of the National Science Foundation all functions presently vested in the Office of Science and Technology, and to abolish that office. Reorganization Plan No. 1 would effect these changes.

The multi-disciplinary staff resources of the Foundation will provide analytic capabilities for performance of the transferred functions. In addition, the Director of the Foundation will be able to draw on expertise from all of the Federal agencies, as well as from outside the Government, for assistance in carrying out his new responsibilities.

It is also my intention, after the transfer of responsibilities is effected, to ask Dr. H. Guyford Stever, the

current Director of the Foundation, to take on the additional post of Science Adviser. In this capacity, he would advise and assist the White House, Office of Management and Budget, Domestic Council, and other entities within the Executive Office of the President on matters where scientific and technological expertise is called for, and would act as the President's representative in selected cooperative programs in international scientific affairs, including chairing such joint bodies as the U.S.—U.S.S.R. Joint Commission on Scientific and Technical Cooperation.

In the case of national security, the Department of Defense has strong capabilities for assessing weapons needs and for undertaking new weapons development, and the President will continue to draw primarily on this source for advice regarding military technology. The President in special situations also may seek independent studies or assessments concerning military technology from within or outside the Federal establishment, using the machinery of the National Security Council for this purpose, as well as the Science Adviser when appropriate.

In one special area of technology—space and aeronautics—a coordinating council has existed within the Executive Office of the President since 1958. This body, the National Aeronautics and Space Council, met a major need during the evolution of our nation's space program. Vice President Agnew has served with distinction as its chairman for the past four years. At my request, beginning in 1969, the Vice President also chaired a special Space Task Group charged with developing strategy alternatives for a balanced U.S. space program in the coming years.

As a result of this work, basic policy issues in the United States space effort have been resolved, and the necessary interagency relationships have been established. I have therefore concluded, with the Vice President's concurrence, that the Council can be discontinued. Needed policy coordination can now be achieved through the resources of the executive departments and agencies, such as the National Aeronautics and Space Administration, augmented by some of the former Council staff. Accordingly, my reorganization plan proposes the abolition of the National Aeronautics and Space Council.

A NEW APPROACH TO EMERGENCY PREPAREDNESS

The organization within the Executive Office of the President which has been known in recent years as the Office of Emergency Preparedness dates back, through its numerous predecessor agencies, more than 20 years. It has performed valuable functions in developing plans for emergency preparedness, in administering Federal disaster relief, and in overseeing and assisting the agencies in this area.

OEP's work as a coordinating and supervisory authority in this field has in fact been so effective—particularly under the leadership of General George A. Lincoln, its director for the past four years, who retired earlier this month after an exceptional military and public service career—that the line departments and agencies which in the past have shared in the performance of the various preparedness functions now possess the capability to assume full responsibility for those functions. In the interest of efficiency and economy, we can now further streamline the Executive Office of the President by formally relocating those responsibilities and closing the Office of Emergency Preparedness.

I propose to accomplish this reform in two steps. First, Reorganization Plan No. 1 would transfer to the President all functions previously vested by law in the Office or its Director, except the Director's role as a member of the National Security Council, which would be abolished; and it would abolish the Office of Emergency Preparedness.

The functions to be transferred to the President from OEP are largely incidental to emergency authorities already vested in him. They include functions under the Disaster Relief Act of 1970 [42 U.S.C. 4401 et seq.]; the function of determining whether a major disaster has occurred within the meaning of (1) Section 7 of the Act of September 30, 1950, as amended, 20 U.S.C. 241–1, or (2) Section 762(a) of the Higher Education Act of 1965, as added by Section 161(a) of the Education Amendments of 1972, Public Law 92–318, 86 Stat. 288 at 299 (relating to the furnishing by the Commissioner of Education of disaster relief assistance for educational purposes) [20 U.S.C. 1132d–1]; and functions under Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), with respect to the conduct of investigations to determine the effects on national security of the importation of certain articles.

The Civil Defense Advisory Council within OEP would also be abolished by this plan, as changes in domestic and international conditions since its establishment in 1950 have now obviated the need for a standing council of this type. Should advice of the kind the Council has provided be required again in the future, State and local officials and experts in the field can be consulted on an ad hoc basis.

Second, as soon as the plan became effective, I would delegate OEP's former functions as follows:

All OEP responsibilities having to do with preparedness for and relief of civil emergencies and disasters would be transferred to the Department of Housing and Urban Development. This would provide greater field capabilities for coordination of Federal disaster assistance with that provided by States and

local communities, and would be in keeping with the objective of creating a broad, new Department of Community Development.

OEP's responsibilities for measures to ensure the continuity of civil government operations in the event of major military attack would be reassigned to the General Services Administration, as would responsibility for resource mobilization including the management of national security stockpiles, with policy guidance in both cases to be provided by the National Security Council, and with economic considerations relating to changes in stockpile levels to be coordinated by the Council on Economic Policy.

Investigations of imports which might threaten the national security—assigned to OEP by Section 232 of the Trade Expansion Act of 1962 [19 U.S.C. 1862]—would be reassigned to the Treasury Department, whose other trade studies give it a readymade capability in this field; the National Security Council would maintain its supervisory role over strategic imports.

Those disaster relief authorities which have been reserved to the President in the past, such as the authority to declare major disasters, will continue to be exercised by him under these new arrangements. In emergency situations calling for rapid interagency coordination, the Federal response will be coordinated by the Executive Office of the President under the general supervision of the Assistant to the President in charge of executive management.

The Oil Policy Committee will continue to function as in the past, unaffected by this reorganization, except that I will designate the Deputy Secretary of the Treasury as chairman in place of the Director of OEP. The committee will operate under the general supervision of the Assistant to the President in charge of economic affairs.

DECLARATIONS

After investigation, I have found that each action included in the accompanying plan is necessary to accomplish one or more of the purposes set forth in Section 901(a) of title 5 of the United States Code. In particular, the plan is responsive to the intention of the Congress as expressed in Section 901(a)(1), "to promote better execution of the laws, more effective management of the executive branch and of its agencies and functions, and expeditious administration of the public business;" and in Section 901(a)(3), "to increase the efficiency of the operations of the Government to the fullest extent practicable;" and in Section 901(a)(5), "to reduce the number of agencies by consolidating those having similar functions under a single head, and to abolish such agencies or functions as may not be necessary for the efficient conduct of the Government."

While it is not practicable to specify all of the expenditure reductions and other economies which will result from the actions proposed, personnel and budget savings from abolition of the National Aeronautics and Space Council and the Office of Science and Technology alone will exceed $2 million annually, and additional savings should result from a reduction of Executive Pay Schedule positions now associated with other transferred and delegated functions.

The plan has as its one logically consistent subject matter the streamlining of the Executive Office of the President and the disposition of major responsibilities currently conducted in the Executive Office of the President, which can better be performed elsewhere or abolished.

The functions which would be abolished by this plan, and the statutory authorities for each, are:

(1) the functions of the Director of the Office of Emergency Preparedness with respect to being a member of the National Security Council (Sec. 101, National Security Act of 1947, as amended, 50 U.S.C. 402 [now 50 U.S.C. 3021]; and Sec. 4, Reorganization Plan No. 1 of 1958);

(2) the functions of the Civil Defense Advisory Council (Sec. 102(a) Federal Civil Defense Act of 1950; [former] 50 U.S.C. App. 2272(a)); and

(3) the functions of the National Aeronautics and Space Council (Sec. 201, National Aeronautics and Space Act of 1958; 42 U.S.C. 2471).

The proposed reorganization is a necessary part of the restructuring of the Executive Office of the President. It would provide through the Director of the National Science Foundation a strong focus for Federal efforts to encourage the development and application of science and technology to meet national needs. It would mean better preparedness for and swifter response to civil emergencies, and more reliable precautions against threats to the national security. The leaner and less diffuse Presidential staff structure which would result would enhance the President's ability to do his job and would advance the interests of the Congress as well.

I am confident that this reorganization plan would significantly increase the overall efficiency and effectiveness of the Federal Government. I urge the Congress to allow it to become effective.

RICHARD NIXON.

THE WHITE HOUSE, January 26, 1973.

EXECUTIVE ORDER NO. 10186

Ex. Ord. No. 10186, Dec. 1, 1950, 15 F.R. 8557, established the Federal Civil Defense Administration in the Office for Emergency Management of the Executive Office of the President, provided for the appointment of an Administrator and a Deputy Administrator, and delineated the purposes, functions, and authority of the Administration and the Administrator.

EXECUTIVE ORDER NO. 10222

Ex. Ord. No. 10222, Mar. 8, 1951, 16 F.R. 2247, which transferred to Federal Civil Defense Administration functions of Health Resources Office of National Security Resources Board, was revoked by section 904(a)(2) of Ex. Ord. No. 12919, June 3, 1994, 59 F.R. 29533, formerly set out as a note under section 2153 of the Appendix to Title 50, War and National Defense.

EXECUTIVE ORDER NO. 10346

Ex. Ord. No. 10346, Apr. 17, 1952, 17 F.R. 3477, as amended by Ex. Ord. No. 10438, Mar. 13, 1953, 18 F.R. 1491; Ex. Ord. No. 10773, July 1, 1958, 23 F.R. 5061; Ex. Ord. No. 10782, Sept. 6, 1958, 23 F.R. 6971; Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683, which related to the preparation by Federal agencies of civil defense emergency plans, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

EXECUTIVE ORDER NO. 10529

Ex. Ord. No. 10529, Apr. 22, 1954, 19 F.R. 2397, as amended by Ex. Ord. No. 10773, July 1, 1958, 23 F.R. 5061; Ex. Ord. No. 10782, Sept. 6, 1958, 23 F.R. 6971; Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683, which related to Federal employee participation in State and local civil defense programs, was revoked by section 5–104 of Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43243, set out below.

EXECUTIVE ORDER NO. 10611

Ex. Ord. No. 10611, May 11, 1955, 20 F.R. 3245, which related to establishment of the Civil Defense Coordinating Board, was revoked by section 7(7) of Ex. Ord. No. 10773.

EXECUTIVE ORDER NO. 10773

Ex. Ord. No. 10773, July 1, 1958, 23 F.R. 5061, as amended by Ex. Ord. No. 10782, Sept. 6, 1958, 23 F.R. 6971, which related to the delegation and transfer of functions to the Office of Civil and Defense Mobilization, was superseded by Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683, see below.

EXECUTIVE ORDER NO. 10902

Ex. Ord. No. 10902, Jan. 9, 1961, 26 F.R. 217, which related to the issuance of emergency preparedness orders, was superseded by Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683, see below.

EXECUTIVE ORDER NO. 10952

Ex. Ord. No. 10952, July 20, 1961, 26 F.R. 6577, as amended by Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683, which related to the assignment of civil defense responsibilities, was revoked by section 5–108 of Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43243, set out below.

EXECUTIVE ORDER NO. 10958

Ex. Ord. No. 10958, Aug. 14, 1961, 26 F.R. 7571, as amended by Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683, which provided for the delegation of functions respecting stockpiles of medical supplies and equipment and food, was revoked by Ex. Ord. No. 11794, July 11, 1974, 39 F.R. 25937.

EXECUTIVE ORDER NO. 10997

Ex. Ord. No. 10997, Feb. 16, 1962, 27 F.R. 1522, which related to assignment of emergency preparedness functions to Secretary of the Interior, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

EXECUTIVE ORDER NO. 10998

Ex. Ord. No. 10998, Feb. 16, 1962, 27 F.R. 1524, which related to assignment of emergency preparedness functions to Secretary of Agriculture, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

EXECUTIVE ORDER NO. 10999

Ex. Ord. No. 10999, Feb. 16, 1962, 27 F.R. 1527, which related to assignment of emergency preparedness functions to Secretary of Commerce, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see

below.

EXECUTIVE ORDER NO. 11000

Ex. Ord. No. 11000, Feb. 16, 1962, 27 F.R. 1532, which related to assignment of emergency preparedness functions to Secretary of Labor, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

EXECUTIVE ORDER NO. 11001

Ex. Ord. No. 11001, Feb. 16, 1962, 27 F.R. 1534, which related to assignment of emergency preparedness functions to Secretary of Health, Education, and Welfare, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

EXECUTIVE ORDER NO. 11002

Ex. Ord. No. 11002, Feb. 16, 1962, 27 F.R. 1539, which related to assignment of emergency preparedness functions to Postmaster General, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

EXECUTIVE ORDER NO. 11003

Ex. Ord. No. 11003, Feb. 16, 1962, 27 F.R. 1540, which related to assignment of emergency preparedness functions to Administrator of Federal Aviation Agency, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

EXECUTIVE ORDER NO. 11004

Ex. Ord. No. 11004, Feb. 16, 1962, 27 F.R. 1542, which related to assignment of emergency preparedness functions to Housing and Home Finance Administrator, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

EXECUTIVE ORDER NO. 11005

Ex. Ord. No. 11005, Feb. 16, 1962, 27 F.R. 1544, which related to assignment of emergency preparedness functions to Interstate Commerce Commission, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

EXECUTIVE ORDER NO. 11051

Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683, as amended by Ex. Ord. No. 11075, Jan. 15, 1963, 28 F.R. 473; Ex. Ord. No. 11556, Sept. 4, 1970, 35 F.R. 14193; Ex. Ord. No. 11725, June 27, 1973, 38 F.R. 17175; Ex. Ord. No. 12046, Mar. 27, 1978, 43 F.R. 13349, which related to responsibility of the Office of Emergency Preparedness, was revoked by section 5–109 of Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43243, set out below.

EXECUTIVE ORDER NO. 11087

Ex. Ord. No. 11087, Feb. 26, 1963, 28 F.R. 1835, which related to assignment of emergency preparedness functions to Secretary of State, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

EXECUTIVE ORDER NO. 11088

Ex. Ord. No. 11088, Feb. 26, 1963, 28 F.R. 1837, which related to assignment of emergency preparedness functions to Secretary of the Treasury, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

EXECUTIVE ORDER NO. 11089

Ex. Ord. No. 11089, Feb. 26, 1963, 28 F.R. 1839, which related to assignment of emergency preparedness functions to Atomic Energy Commission, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

EXECUTIVE ORDER NO. 11090

Ex. Ord. No. 11090, Feb. 26, 1963, 28 F.R. 1841, which related to assignment of emergency preparedness functions to Civil Aeronautics Board, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

EXECUTIVE ORDER NO. 11091

Ex. Ord. No. 11091, Feb. 26, 1963, 28 F.R. 1843, which related to assignment of emergency preparedness functions to Civil Service Commission, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567,

see below.

EXECUTIVE ORDER NO. 11092

Ex. Ord. No. 11092, Feb. 26, 1963, 28 F.R. 1847, which related to assignment of emergency preparedness functions to Federal Communications Commission, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

EXECUTIVE ORDER NO. 11093

Ex. Ord. No. 11093, Feb. 26, 1963, 28 F.R. 1851, which related to assignment of emergency preparedness functions to Administrator of General Services, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

EXECUTIVE ORDER NO. 11094

Ex. Ord. No. 11094, Feb. 26, 1963, 28 F.R. 1855, which related to assignment of emergency preparedness functions to Board of Governors of Federal Reserve System, Federal Home Loan Bank Board, Farm Credit Administration, Export-Import Bank of Washington, Board of Directors of Federal Deposit Insurance Corporation, Securities and Exchange Commission, Administrator of Small Business Administration, and Administrator of Veterans Affairs, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

EXECUTIVE ORDER NO. 11095

Ex. Ord. No. 11095, Feb. 26, 1963, 28 F.R. 1859, which related to assignment of emergency preparedness functions to Board of Directors of Tennessee Valley Authority, Railroad Retirement Board, Administrator of National Aeronautics and Space Administration, Federal Power Commission, and Director of National Science Foundation, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

EXECUTIVE ORDER NO. 11426

Ex. Ord. No. 11426, Aug. 31, 1968, 33 F.R. 12615, which provided for Federal-State liaison and cooperation, was superseded by Ex. Ord. No. 11455, Feb. 14, 1969, 34 F.R. 2299.

EXECUTIVE ORDER NO. 11490

Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, as amended by Ex. Ord. No. 11522, Apr. 6, 1970, 35 F.R. 5659; Ex. Ord. No. 11556, Sept. 4, 1970, 35 F.R. 14193; Ex. Ord. No. 11746, Nov. 7, 1973, 38 F.R. 30991; Ex. Ord. No. 11921, June 11, 1976, 41 F.R. 24294; Ex. Ord. No. 11953, Jan. 7, 1977, 42 F.R. 2492; Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957; Ex. Ord. No. 12046, Mar. 27, 1978, 43 F.R. 13349; Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055; Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239; Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, which related to assignment of emergency preparedness functions to Federal agencies and departments, was revoked by section 2901 of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out below.

EXECUTIVE ORDER NO. 11522

Ex. Ord. No. 11522, Apr. 6, 1970, 35 F.R. 5659, which related to the assignment of emergency preparedness functions to the United States Information Agency, was superseded by Ex. Ord. No. 11921, June 11, 1976, 41 F.R. 24294.

EXECUTIVE ORDER NO. 11725

Ex. Ord. No. 11725, June 27, 1973, 38 F.R. 17175, as amended by Ex. Ord. No. 11749, Dec. 10, 1973, 38 F.R. 34177; Ex. Ord. No. 12046, Mar. 27, 1978, 43 F.R. 13349, which related to transfer of certain functions of the Office of Emergency Preparedness, was revoked by section 5–112 of Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43243, set out below.

EXECUTIVE ORDER NO. 11746

Ex. Ord. No. 11746, Nov. 7, 1973, 38 F.R. 30991, which related to the assignment of emergency preparedness functions to the Department of the Treasury, was superseded by Ex. Ord. No. 11921, June 11, 1976, 41 F.R. 24294.

EX. ORD. NO. 12148. FEDERAL EMERGENCY MANAGEMENT

Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, as amended by Ex. Ord. No. 12155, Sept. 10, 1979, 44 F.R. 53071; Ex. Ord. No. 12156, Sept. 10, 1979, 44 F.R. 53073; Ex. Ord. No. 12381, Sept. 8, 1982, 47 F.R. 39795; Ex. Ord. No. 12673, Mar. 23, 1989, 54 F.R. 12571; Ex. Ord. No. 12919, §904(a)(8), June 3, 1994, 59

F.R. 29533; Ex. Ord. No. 13286, §52, Feb. 28, 2003, 68 F.R. 10628, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Civil Defense Act of 1950, as amended ([former] 50 U.S.C. App. 2251 et seq.), the Disaster Relief Act of 1970, as amended (42 U.S.C. Chapter 58 note), the Disaster Relief Act of 1974 (88 Stat. 143; 42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), Section 4 of Public Law 92–385 (86 Stat. 556), Section 43 of the Act of August 10, 1956, as amended (50 U.S.C. App. 2285) [now 6 U.S.C. 765], the National Security Act of 1947, as amended [see Tables for classification], the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.) [now 50 U.S.C. 4501 et seq.], Reorganization Plan No. 1 of 1958 [set out above], Reorganization Plan No. 1 of 1973 [set out above], the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98 et seq.), Section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c) [31 U.S.C. 1531], and Section 301 of Title 3 of the United States Code, and in order to transfer emergency functions to the Department of Homeland Security, it is hereby ordered as follows:

SECTION 1. TRANSFERS OR REASSIGNMENTS

1–1. *Transfer or Reassignment of Existing Functions.*

1–101. All functions vested in the President that have been delegated or assigned to the Defense Civil Preparedness Agency, Department of Defense, are transferred or reassigned to the Secretary of Homeland Security.

1–102. All functions vested in the President that have been delegated or assigned to the Federal Disaster Assistance Administration, Department of Housing and Urban Development, are transferred or reassigned to the Secretary of Homeland Security, including any of those functions redelegated or reassigned to the Department of Commerce with respect to assistance to communities in the development of readiness plans for severe weather-related emergencies.

1–103. All functions vested in the President that have been delegated or assigned to the Federal Preparedness Agency, General Services Administration, are transferred or reassigned to the Secretary of Homeland Security.

1–104. All functions vested in the President by the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), including those functions performed by the Office of Science and Technology Policy, are delegated, transferred, or reassigned to the Secretary of Homeland Security.

1–2. *Transfer or Reassignment of Resources.*

1–201. The records, property, personnel and positions, and unexpended balances of appropriations, available or to be made available, which relate to the functions transferred, reassigned, or redelegated by this Order are hereby transferred to the Secretary of Homeland Security.

1–202. The Director of the Office of Management and Budget shall make such determinations, issue such orders, and take all actions necessary or appropriate to effectuate the transfers or reassignments provided by this Order, including the transfer of funds, records, property, and personnel.

SEC. 2. MANAGEMENT OF EMERGENCY PLANNING AND ASSISTANCE

2–1. *General.*

2–101. The Secretary of Homeland Security shall establish Federal policies for, and coordinate, all civil defense and civil emergency planning, management, mitigation, and assistance functions of Executive agencies.

2–102. The Secretary of Homeland Security shall periodically review and evaluate the civil defense and civil emergency functions of the Executive agencies. In order to improve the efficiency and effectiveness of those functions, the Secretary of Homeland Security shall recommend to the President alternative methods of providing Federal planning, management, mitigation, and assistance.

2–103. The Secretary of Homeland Security shall be responsible for the coordination of efforts to promote dam safety, for the coordination of natural and nuclear disaster warning systems, and for the coordination of preparedness and planning to reduce the consequences of major terrorist incidents.

2–104. The Secretary of Homeland Security shall represent the President in working with State and local governments and private sector to stimulate vigorous participation in civil emergency preparedness, mitigation, response, and recovery programs.

2–105. The Secretary of Homeland Security shall provide an annual report to the President for subsequent transmittal to the Congress on the functions of the Department of Homeland Security. The report shall assess the current overall state of effectiveness of Federal civil defense and civil emergency functions, organizations, resources, and systems and recommend measures to be taken to improve planning, management, assistance, and relief by all levels of government, the private sector, and volunteer organizations.

2–2. *Implementation.*

2–201. In executing the functions under this Order, the Secretary of Homeland Security shall develop policies which provide that all civil defense and civil emergency functions, resources, and systems of Executive agencies are:

(a) founded on the use of existing organizations, resources, and systems to the maximum extent practicable;

(b) integrated effectively with organizations, resources, and programs of State and local governments, the private sector and volunteer organizations; and

(c) developed, tested and utilized to prepare for, mitigate, respond to and recover from the effects on the population of all forms of emergencies.

2–202. Assignments of civil emergency functions shall, whenever possible, be based on extensions (under emergency conditions) of the regular missions of the Executive agencies.

2–203. For purposes of this Order, "civil emergency" means any accidental, natural, man-caused, or wartime emergency or threat thereof, which causes or may cause substantial injury or harm to the population or substantial damage to or loss of property.

2–204. In order that civil defense planning continues to be fully compatible with the Nation's overall strategic policy, and in order to maintain an effective link between strategic nuclear planning and nuclear attack preparedness planning, the development of civil defense policies and programs by the Secretary of Homeland Security shall be subject to oversight by the Secretary of Defense and the National Security Council.

2–205. To the extent authorized by law and within available resources, the Secretary of Defense shall provide the Secretary of Homeland Security with support for civil defense programs in the areas of program development and administration, technical support, research, communications, transportation, intelligence, and emergency operations.

2–206. All Executive agencies shall cooperate with and assist the Secretary of Homeland Security in the performance of his functions.

2–3. *Transition Provisions.*

2–301. The functions which have been transferred, reassigned, or redelegated by Section 1 of this Order are recodified and revised as set forth in this Order at Section 4, and as provided by the amendments made at Section 5 to the provisions of other Orders.

2–302. Notwithstanding the revocations, revisions, codifications, and amendments made by this Order, the Secretary of Homeland Security may continue to perform the functions transferred to him by Section 1 of this Order, except where they may otherwise be inconsistent with the provisions of this Order.

SEC. 3. FEDERAL EMERGENCY MANAGEMENT COUNCIL

[Revoked by Ex. Ord. No. 12919, §904(a)(8), June 3, 1994, 59 F.R. 29533.]

SEC. 4. DELEGATIONS

4–1. *Delegation of Functions Transferred to the President.*

4–101. [Revoked by Ex. Ord. No. 12155, Sept. 10, 1979, 44 F.R. 53071.]

4–102. The functions vested in the Director of the Office of Defense Mobilization by Sections 103 and 303 of the National Security Act of 1947, as amended by Sections 8 and 50 of the Act of September 3, 1954 (Public Law 779; 68 Stat. 1228 and 1244) (50 U.S.C. 404 and 405) [now 50 U.S.C. 3042 and 3073], were transferred to the President by Section 1(a) of Reorganization Plan No. 1 of 1958, as amended ([former] 50 U.S.C. App. 2271 note) [now set out above], and they are hereby delegated to the Secretary of Homeland Security.

4–103. (a) The functions vested in the Federal Civil Defense Administration or its Administrator by the Federal Civil Defense Act of 1950, as amended ([former] 50 U.S.C. App. 2251 et seq.), were transferred to the President by Reorganization Plan No. 1 of 1958, and they are hereby delegated to the Secretary of Homeland Security.

(b) Excluded from the delegation in subsection (a) is the function under Section 205(a)(4) of the Federal Civil Defense Act of 1950, as amended ([former] 50 U.S.C. App. 2286(a)(4)), relating to the establishment and maintenance of personnel standards on the merit basis that was delegated to the Director of the Office of Personnel Management by Section 1(b) of Executive Order No. 11589, as amended (Section 2–101(b) of Executive Order No. 12107) [5 U.S.C. 3376 note].

4–104. The Secretary of Homeland Security is authorized to redelegate, in accord with the provisions of Section 1(b) of Reorganization Plan No. 1 of 1958 (50 U.S.C. App. 2271 note) [now set out above], any of the functions delegated by Sections 4–101, 4–102, and 4–103 of this Order.

4–105. The functions vested in the Administrator of the Federal Civil Defense Administration by Section 43 of the Act of August 10, 1956 (70A Stat. 636) [former 50 U.S.C. App. 2285], were transferred to the President by Reorganization Plan No. 1 of 1958, as amended ([former] 50 U.S.C. App. 2271 note) [now set out above],

were subsequently revested in the Director of the Office of Civil and Defense Mobilization by Section 512 of Public Law 86–500 (50 U.S.C. App. 2285) [the office was changed to Office of Emergency Planning by Public Law 87–296 (75 Stat. 630) and then to the Office of Emergency Preparedness by Section 402 of Public Law 90–608 (82 Stat. 1194)], were again transferred to the President by Section 1 of Reorganization Plan No. 1 of 1973 ([former] 50 U.S.C. App. 2271 note) [now set out above], and they are hereby delegated to the Secretary of Homeland Security.

4–106. The functions vested in the Director of the Office of Emergency Preparedness by Section 16 of the Act of September 23, 1950, as amended (20 U.S.C. 646), and by Section 7 of the Act of September 30, 1950, as amended (20 U.S.C. 241–1), were transferred to the President by Section 1 of Reorganization Plan No. 1 of 1973 (50 U.S.C. App. 2271 note) [now set out above], and they are hereby delegated to the Secretary of Homeland Security.

4–107. That function vested in the Director of the Office of Emergency Preparedness by Section 762(a) of the Higher Education Act of 1965, as added by Section 161(a) of the Education Amendments of 1972, and as further amended (20 U.S.C. 1132d–1(a)), to the extent transferred to the President by Reorganization Plan No. 1 of 1973 (50 U.S.C. App. 2271 note) [now set out above], is hereby delegated to the Secretary of Homeland Security.

4–2. *Delegation of Functions Vested in the President.*

4–201. The functions vested in the President by the Disaster Relief Act of 1970, as amended (42 U.S.C. Chapter 58 note), are hereby delegated to the Secretary of Homeland Security.

4–202. The functions (related to grants for damages resulting from hurricane and tropical storm Agnes) vested in the President by Section 4 of Public Law 92–335 (86 Stat. 556) are hereby delegated to the Secretary of Homeland Security.

Section [sic] 4–203. The functions vested in the President by the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5121 *et seq*.), except those functions vested in the President by Section 401 (relating to the declaration of major disasters and emergencies) [42 U.S.C. 5170], Section 501 (relating to the declaration of emergencies) [42 U.S.C. 5191], Section 405 (relating to the repair, reconstruction, restoration, or replacement of Federal facilities) [42 U.S.C. 5171], and Section 412 (relating to food coupons [benefits] and distribution) [42 U.S.C. 5179], are hereby delegated to the Secretary of Homeland Security.

4–204. The functions vested in the President by the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.) are delegated to the Secretary of Homeland Security.

4–205. Effective July 30, 1979, the functions vested in the President by Section 4(h) of the Commodity Credit Corporation Charter Act, as amended (15 U.S.C. 714b(h)), are hereby delegated to the Secretary of Homeland Security.

4–206. Effective July 30, 1979, the functions vested in the President by Section 204(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 485(f)) [now 40 U.S.C. 574(d)], are hereby delegated to the Secretary of Homeland Security.

4–207. The functions vested in the President by Section 502 of the Federal Civil Defense Act of 1950, as amended ([former] 50 U.S.C. App. 2302), are delegated to the Secretary of Homeland Security.

SEC. 5. OTHER EXECUTIVE ORDERS

5–1. *Revocations.*

5–101. Executive Order No. 10242, as amended, entitled "Prescribing Regulations Governing the Exercise by the Federal Civil Defense Administrator of Certain Administrative Authority Granted by the Federal Civil Defense Act of 1950", is revoked.

5–102. Sections 1 and 2 of Executive Order No. 10296, as amended, entitled "Providing for the Performance of Certain Defense Housing and Community Facilities and Service Functions", are revoked.

5–103. Executive Order No. 10494, as amended, relating to the disposition of remaining functions, is revoked.

5–104. Executive Order No. 10529, as amended, relating to federal employee participation in State and local civil defense programs, is revoked.

5–105. Section 3 of Executive Order No. 10601, as amended, which concerns the Commodity Set Aside, is revoked.

5–106. Executive Order No. 10634, as amended, relating to loans for facilities destroyed or damaged by a major disaster, is revoked.

5–107. Section 4(d)(2) of Executive Order No. 10900, as amended, which concerns foreign currencies made available to make purchases for the supplemental stockpile, is revoked.

5–108. Executive Order No. 10952, as amended, entitled "Assigning Civil Defense Responsibilities to the

Secretary of Defense and Others", is revoked.

5–109. Executive Order No. 11051, as amended, relating to responsibilities of the Office of Emergency Preparedness, is revoked.

5–110. Executive Order No. 11415, as amended, relating to the Health Resources Advisory Committee, is revoked.

5–111. Executive Order No. 11795, as amended, entitled "Delegating Disaster Relief Functions Pursuant to the Disaster Relief Act of 1974", is revoked, except for Section 3 thereof.

5–112. Executive Order No. 11725, as amended, entitled "Transfer of Certain Functions of the Office of Emergency Preparedness", is revoked.

5–113. Executive Order No. 11749, as amended, entitled "Consolidating Disaster Relief Functions Assigned to the Secretary of Housing and Urban Development" is revoked.

5–2. *Amendments.*

5–201. Executive Order No. 10421, as amended, relating to physical security of defense facilities [formerly set out under 50 U.S.C. 404, which was reclassified and renumbered as 50 U.S.C. 3042] is further amended by (a) substituting the "Director of the Federal Emergency Management Agency" for "Director of the Office of Emergency Planning" in Sections 1(a), 1(c), and 6(b); and, (b) substituting "Federal Emergency Management Agency" for "Office of Emergency Planning" in Sections 6(b) and 7(b).

5–202. Executive Order No. 10480, as amended [former 50 U.S.C. App. 2153 note], is further amended by (a) substituting "Director of the Federal Emergency Management Agency" for "Director of the Office of Emergency Planning" in Sections 101(a), 101(b), 201(a), 201(b), 301, 304, 307, 308, 310(b), 311(b), 312, 313, 401(b), 401(e), and 605; and, (b) substituting "Director of the Federal Emergency Management Agency" for "Administrator of General Services" in Sections 305, 501, and 610.

5–203. Section 3(d) of Executive Order No. 10582, as amended [41 U.S.C. 8303 note], which relates to determinations under the Buy American Act is amended by deleting "Director of the Office of Emergency Planning" and substituting therefor "Director of the Federal Emergency Management Agency".

5–204. Paragraph 21 of Executive Order No. 10789, as amended [50 U.S.C. 1431 note], is further amended by adding "The Federal Emergency Management Agency" after "Government Printing Office".

5–205. Executive Order No. 11179, as amended, concerning the National Defense Executive Reserve [former 50 U.S.C. App. 2153 note], is further amended by deleting "Director of the Office of Emergency Planning" in Section 2 and substituting therefor "Director of the Federal Emergency Management Agency".

5–206. Section 7 of Executive Order No. 11912, as amended, concerning energy policy and conservation [42 U.S.C. 6201 note], is further amended by deleting "Administrator of General Services" and substituting therefor "Director of the Federal Emergency Management Agency".

5–207. Section 2(d) of Executive Order No. 11988 entitled "Floodplain Management" [42 U.S.C. 4321 note] is amended by deleting "Federal Insurance Administration" and substituting therefor "Director of the Federal Emergency Management Agency".

5–208. Section 5–3 of Executive Order No. 12046 of March 29, 1978 [47 U.S.C. 305 note], is amended by deleting "General Services Administration" and substituting therefor "Federal Emergency Management Agency" and by deleting "Administrator of General Services" and substituting therefor "Director of the Federal Emergency Management Agency".

5–209. Section 1–201 of [former] Executive Order No. 12065 is amended by adding "The Director of the Federal Emergency Management Agency" after "The Administrator, National Aeronautics and Space Administration" and by deleting "Director, Federal Preparedness Agency and to the" from the parentheses after "The Administrator of General Services".

5–210. Section 1–102 of Executive Order No. 12075 of August 16, 1978 [42 U.S.C. 1450 note], is amended by adding in alphabetical order "(p) Federal Emergency Management Agency".

5–211. Section 1–102 of Executive Order No. 12083 of September 27, 1978 [42 U.S.C. 7101 note] is amended by adding in alphabetical order "(z) the Director of the Federal Emergency Management Agency".

5–212. Section 9.11(b) of Civil Service Rule IX (5 CFR Part 9) [former 5 U.S.C. 3301 note] is amended by deleting "the Defense Civil Preparedness Agency and".

5–213. [Revoked by Ex. Ord. No. 12381, Sept. 8, 1982, 47 F.R. 39795.]

5–214. Executive Order No. 11490, as amended [see note above] is further amended as follows:

(a) Delete the last sentence of Section 102(a) and substitute therefor the following: "The activities undertaken by the departments and agencies pursuant to this Order, except as provided in Section 3003, shall be in accordance with guidance provided by, and subject to, evaluation by the Director of the Federal Emergency Management Agency.".

(b) Delete Section 103 entitled "Presidential Assistance" and substitute the following new Section 103: *"Sec. 103 General Coordination*. The Director of the Federal Emergency Management Agency (FEMA) shall

determine national preparedness goals and policies for the performance of functions under this Order and coordinate the performance of such functions with the total national preparedness programs.".

(c) Delete the portion of the first sentence of Section 401 prior to the colon and insert the following: "The Secretary of Defense shall perform the following emergency preparedness functions".

(d) Delete "Director of the Federal Preparedness Agency (GSA)" or "the Federal Preparedness Agency (GSA)" and substitute therefor "Director, FEMA", in Sections 401(3), 401(4), 401(5), 401(9), 401(10), 401(14), 401(15), 401(16), 401(19), 401(21), 401(22), 501(8), 601(2), 904(2), 1102(2), 1204(2), 1401(a), 1701, 1702, 2003, 2004, 2801(5), 3001, 3002(2), 3004, 3005, 3006, 3008, 3010, and 3013.

(e) The number assigned to this Order shall be substituted for "11051 of September 27, 1962" in Section 3001, and for "11051" in Sections 1802, 2002(3), 3002 and 3008(1).

(f) The number assigned to this Order shall be substituted for "10952" in Sections 1103, 1104, 1205, and 3002.

(g) Delete "Department of Defense" in Sections 502, 601(1), 804, 905, 1103, 1104, 1106(4), 1205, 2002(8), the first sentence of Section 3002, and Sections 3008(1) and 3010 and substitute therefor "Director of the Federal Emergency Management Agency.".

SEC. 6.

This Order is effective July 15, 1979.

[Section 1–106 of Ex. Ord. No. 12155, which enacted sections 4–205 and 4–206 of Ex. Ord. No. 12148, was revoked by Pub. L. 100–180, div. C, title II, §3203(b), Dec. 4, 1987, 101 Stat. 1247.]

[Ex. Ord. No. 13286, §52, which directed amendment of Ex. Ord. No. 12148, set out above, by substituting "the Secretary of Homeland Security" for "the Director of the Federal Emergency Management Agency" wherever appearing, was executed by substituting "Secretary of Homeland Security" for "Director of the Federal Emergency Management Agency" wherever appearing, including after "The" in section 2–101, and for "Director" in sections 2–102 to 2–105, 2–201, 2–206, and 2–302.]

EXECUTIVE ORDER NO. 12472

Ex. Ord. No. 12472, Apr. 3, 1984, 49 F.R. 13471, as amended by Ex. Ord. No. 13286, §46, Feb. 28, 2003, 68 F.R. 10627; Ex. Ord. No. 13407, §5(a), June 26, 2006, 71 F.R. 36976, which related to assignment of national security and emergency preparedness telecommunications functions, was revoked by Ex. Ord. No. 13618, §7(b), July 6, 2012, 77 F.R. 40783, set out below.

EX. ORD. NO. 12656. ASSIGNMENT OF EMERGENCY PREPAREDNESS RESPONSIBILITIES

Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, as amended by Ex. Ord. No. 13074, Feb. 9, 1998, 63 F.R. 7277; Ex. Ord. No. 13228, §9, Oct. 8, 2001, 66 F.R. 51816; Ex. Ord. No. 13286, §42, Feb. 28, 2003, 68 F.R. 10626; Ex. Ord. No. 13603, §803(a), Mar. 16, 2012, 77 F.R. 16660, provided:

WHEREAS our national security is dependent upon our ability to assure continuity of government, at every level, in any national security emergency situation that might confront the Nation; and

WHEREAS effective national preparedness planning to meet such an emergency, including a massive nuclear attack, is essential to our national survival; and

WHEREAS effective national preparedness planning requires the identification of functions that would have to be performed during such an emergency, the assignment of responsibility for developing plans for performing these functions, and the assignment of responsibility for developing the capability to implement those plans; and

WHEREAS the Congress has directed the development of such national security emergency preparedness plans and has provided funds for the accomplishment thereof;

NOW, THEREFORE, by virtue of the authority vested in me as President by the Constitution and laws of the United States of America, and pursuant to Reorganization Plan No. 1 of 1958 (72 Stat. 1799) [set out above], the National Security Act of 1947, as amended [50 U.S.C. 3001 et seq.], the Defense Production Act of 1950, as amended [see 50 U.S.C. 4501], and the Federal Civil Defense Act, as amended, it is hereby ordered that the responsibilities of the Federal departments and agencies in national security emergencies shall be as follows:

PART 1—PREAMBLE

SECTION 101. *National Security Emergency Preparedness Policy.*

(a) The policy of the United States is to have sufficient capabilities at all levels of government to meet essential defense and civilian needs during any national security emergency. A national security emergency is any occurrence, including natural disaster, military attack, technological emergency, or other emergency, that seriously degrades or seriously threatens the national security of the United States. Policy for national security

emergency preparedness shall be established by the President. Pursuant to the President's direction, the National Security Council shall be responsible for developing and administering such policy, except that the Homeland Security Council shall be responsible for administering such policy with respect to terrorist threats and attacks within the United States. All national security emergency preparedness activities shall be consistent with the Constitution and laws of the United States and with preservation of the constitutional government of the United States.

(b) Effective national security emergency preparedness planning requires: identification of functions that would have to be performed during such an emergency; development of plans for performing these functions; and development of the capability to execute those plans.

SEC. 102. *Purpose.*

(a) The purpose of this Order is to assign national security emergency preparedness responsibilities to Federal departments and agencies. These assignments are based, whenever possible, on extensions of the regular missions of the departments and agencies.

(b) This Order does not constitute authority to implement the plans prepared pursuant to this Order. Plans so developed may be executed only in the event that authority for such execution is authorized by law.

SEC. 103. *Scope.*

(a) This Order addresses national security emergency preparedness functions and activities. As used in this Order, preparedness functions and activities include, as appropriate, policies, plans, procedures, and readiness measures that enhance the ability of the United States Government to mobilize for, respond to, and recover from a national security emergency.

(b) This Order does not apply to those natural disasters, technological emergencies, or other emergencies, the alleviation of which is normally the responsibility of individuals, the private sector, volunteer organizations, State and local governments, and Federal departments and agencies unless such situations also constitute a national security emergency.

(c) This Order does not require the provision of information concerning, or evaluation of, military policies, plans, programs, or states of military readiness.

(d) This Order does not apply to national security emergency preparedness telecommunications functions and responsibilities that are otherwise assigned by Executive Order 12472 [formerly set out above].

SEC. 104. *Management of National Security Emergency Preparedness.*

(a) The National Security Council is the principal forum for consideration of national security emergency preparedness policy, except that the Homeland Security Council is the principal forum for consideration of policy relating to terrorist threats and attacks within the United States.

(b) The National Security Council and the Homeland Security Council shall arrange for Executive branch liaison with, and assistance to, the Congress and the Federal judiciary on national security-emergency preparedness matters.

(c) The Secretary of Homeland Security shall serve as an advisor to the National Security Council and the Homeland Security Council on issues of national security emergency preparedness, including mobilization preparedness, civil defense, continuity of government, technological disasters, and other issues, as appropriate. Pursuant to such procedures for the organization and management of the National Security Council and Homeland Security Council processes as the President may establish, the Secretary of Homeland Security also shall assist in the implementation of and management of those processes as the President may establish. The Secretary of Homeland Security also shall assist in the implementation of national security emergency preparedness policy by coordinating with the other Federal departments and agencies and with State and local governments, and by providing periodic reports to the National Security Council and the Homeland Security Council on implementation of national security emergency preparedness policy.

(d) National security emergency preparedness functions that are shared by more than one agency shall be coordinated by the head of the Federal department or agency having primary responsibility and shall be supported by the heads of other departments and agencies having related responsibilities.

(e) There shall be a national security emergency exercise program that shall be supported by the heads of all appropriate Federal departments and agencies.

(f) Plans and procedures will be designed and developed to provide maximum flexibility to the President for his implementation of emergency actions.

SEC. 105. *Interagency Coordination.*

(a) All appropriate Cabinet members and agency heads shall be consulted regarding national security emergency preparedness programs and policy issues. Each department and agency shall support interagency coordination to improve preparedness and response to a national security emergency and shall develop and maintain decentralized capabilities wherever feasible and appropriate.

(b) Each Federal department and agency shall work within the framework established by, and cooperate

with those organizations assigned responsibility in, Executive Order No. 12472 [formerly set out above], to ensure adequate national security emergency preparedness telecommunications in support of the functions and activities addressed by this Order.

PART 2—GENERAL PROVISIONS

SEC. 201. *General*. The head of each Federal department and agency, as appropriate, shall:

(1) Be prepared to respond adequately to all national security emergencies, including those that are international in scope, and those that may occur within any region of the Nation;

(2) Consider national security emergency preparedness factors in the conduct of his or her regular functions, particularly those functions essential in time of emergency. Emergency plans and programs, and an appropriate state of readiness, including organizational infrastructure, shall be developed as an integral part of the continuing activities of each Federal department and agency;

(3) Appoint a senior policy official as Emergency Coordinator, responsible for developing and maintaining a multi-year, national security emergency preparedness plan for the department or agency to include objectives, programs, and budgetary requirements;

(4) Design preparedness measures to permit a rapid and effective transition from routine to emergency operations, and to make effective use of the period following initial indication of a probable national security emergency. This will include:

(a) Development of a system of emergency actions that defines alternatives, processes, and issues to be considered during various stages of national security emergencies;

(b) Identification of actions that could be taken in the early stages of a national security emergency or pending national security emergency to mitigate the impact of or reduce significantly the lead times associated with full emergency action implementation;

(5) Base national security emergency preparedness measures on the use of existing authorities, organizations, resources, and systems to the maximum extent practicable;

(6) Identify areas where additional legal authorities may be needed to assist management and, consistent with applicable Executive orders, take appropriate measures toward acquiring those authorities;

(7) Make policy recommendations to the National Security Council and the Homeland Security Council regarding national security emergency preparedness activities and functions of the Federal Government;

(8) Coordinate with State and local government agencies and other organizations, including private sector organizations, when appropriate. Federal plans should include appropriate involvement of and reliance upon private sector organizations in the response to national security emergencies;

(9) Assist State, local, and private sector entities in developing plans for mitigating the effects of national security emergencies and for providing services that are essential to a national response;

(10) Cooperate, to the extent appropriate, in compiling, evaluating, and exchanging relevant data related to all aspects of national security emergency preparedness;

(11) Develop programs regarding congressional relations and public information that could be used during national security emergencies;

(12) Ensure a capability to provide, during a national security emergency, information concerning Acts of Congress, presidential proclamations, Executive orders, regulations, and notices of other actions to the Archivist of the United States, for publication in the Federal Register, or to each agency designated to maintain the Federal Register in an emergency;

(13) Develop and conduct training and education programs that incorporate emergency preparedness and civil defense information necessary to ensure an effective national response;

(14) Ensure that plans consider the consequences for essential services provided by State and local governments, and by the private sector, if the flow of Federal funds is disrupted;

(15) Consult and coordinate with the Secretary of Homeland Security to ensure that those activities and plans are consistent with current Presidential guidelines and policies.

SEC. 202. *Continuity of Government*. The head of each Federal department and agency shall ensure the continuity of essential functions in any national security emergency by providing for: succession to office and emergency delegation of authority in accordance with applicable law; safekeeping of essential resources, facilities, and records; and establishment of emergency operating capabilities.

SEC. 203. *Resource Management*. The head of each Federal department and agency, as appropriate within assigned areas of responsibility, shall:

(1) Develop plans and programs to mobilize personnel (including reservist programs), equipment, facilities, and other resources;

(2) Assess essential emergency requirements and plan for the possible use of alternative resources to meet essential demands during and following national security emergencies;

(3) Prepare plans and procedures to share between and among the responsible agencies resources such as energy, equipment, food, land, materials, minerals, services, supplies, transportation, water, and workforce needed to carry out assigned responsibilities and other essential functions, and cooperate with other agencies in developing programs to ensure availability of such resources in a national security emergency;

(4) Develop plans to set priorities and allocate resources among civilian and military claimants;

(5) identify occupations and skills for which there may be a critical need in the event of a national security emergency.

SEC. 204. *Protection of Essential Resources and Facilities*. The head of each Federal department and agency, within assigned areas of responsibility, shall:

(1) Identify facilities and resources, both government and private, essential to the national defense and national welfare, and assess their vulnerabilities and develop strategies, plans, and programs to provide for the security of such facilities and resources, and to avoid or minimize disruptions of essential services during any national security emergency;

(2) Participate in interagency activities to assess the relative importance of various facilities and resources to essential military and civilian needs and to integrate preparedness and response strategies and procedures;

(3) Maintain a capability to assess promptly the effect of attack and other disruptions during national security emergencies.

SEC. 205. *Federal Benefit, Insurance, and Loan Programs*. The head of each Federal department and agency that administers a loan, insurance, or benefit program that relies upon the Federal Government payment system shall coordinate with the Secretary of the Treasury in developing plans for the continuation or restoration, to the extent feasible, of such programs in national security emergencies.

SEC. 206. *Research*. The Director of the Office of Science and Technology Policy and the heads of Federal departments and agencies having significant research and development programs shall advise the National Security Council and the Homeland Security Council of scientific and technological developments that should be considered in national security emergency preparedness planning.

SEC. 207. *Redelegation*. The head of each Federal department and agency is hereby authorized, to the extent otherwise permitted by law, to redelegate the functions assigned by this Order, and to authorize successive redelegations to organizations, officers, or employees within that department or agency.

SEC. 208. *Transfer of Functions*. Recommendations for interagency transfer of any emergency preparedness function assigned under this Order or for assignment of any new emergency preparedness function shall be coordinated with all affected Federal departments and agencies before submission to the National Security Council or the Homeland Security Council.

SEC. 209. *Retention of Existing Authority*. Nothing in this Order shall be deemed to derogate from assignments of functions to any Federal department or agency or officer thereof made by law.

PART 3—DEPARTMENT OF AGRICULTURE

SEC. 301. *Lead Responsibilities*. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Agriculture shall:

(1) Develop plans to provide for the continuation of agriculture production, food processing, storage, and distribution through the wholesale level in national security emergencies, and to provide for the domestic distribution of seed, feed, fertilizer, and farm equipment to agricultural producers;

(2) Develop plans to provide food and agricultural products to meet international responsibilities in national security emergencies;

(3) Develop plans and procedures for administration and use of Commodity Credit Corporation inventories of food and fiber resources in national security emergencies;

(4) Develop plans for the use of resources under the jurisdiction of the Secretary of Agriculture and, in cooperation with the Secretaries of Commerce, Defense, and the Interior, the Board of Directors of the Tennessee Valley Authority, and the heads of other government entities, plan for the national security emergency management, production, and processing of forest products;

(5) Develop, in coordination with the Secretary of Defense, plans and programs for water to be used in agricultural production and food processing in national security emergencies;

(6) In cooperation with Federal, State, and local agencies, develop plans for a national program relating to the prevention and control of fires in rural areas of the United States caused by the effects of enemy attack or other national security emergencies;

(7) Develop plans to help provide the Nation's farmers with production resources, including national security emergency financing capabilities;

(8) Develop plans, in consonance with those of the Department of Health and Human Services, the Department of the Interior, and the Environmental Protection Agency, for national security emergency

agricultural health services and forestry, including:

(a) Diagnosis and control or eradication of diseases, pests, or hazardous agents (biological, chemical, or radiological) against animals, crops, timber, or products thereof;

(b) Protection, treatment, and handling of livestock and poultry, or products thereof, that have been exposed to or affected by hazardous agents;

(c) Use and handling of crops, agricultural commodities, timber, and agricultural lands that have been exposed to or affected by hazardous agents; and

(d) Assuring the safety and wholesomeness, and minimizing losses from hazards, of animals and animal products and agricultural commodities and products subject to continuous inspection by the Department of Agriculture or owned by the Commodity Credit Corporation or by the Department of Agriculture;

(9) In consultation with the Secretary of State and the Secretary of Homeland Security, represent the United States in agriculture-related international civil emergency preparedness planning and related activities.

SEC. 302. *Support Responsibility*. The Secretary of Agriculture shall assist the Secretary of Defense in formulating and carrying out plans for stockpiling strategic and critical agricultural materials.

PART 4—DEPARTMENT OF COMMERCE

SEC. 401. *Lead Responsibilities*. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Commerce shall:

(1) Develop control systems for priorities, allocation, production, and distribution of materials and other resources that will be available to support both national defense and essential civilian programs in a national security emergency;

(2) In cooperation with the Secretary of Defense and other departments and agencies, identify those industrial products and facilities that are essential to mobilization readiness, national defense, or post-attack survival and recovery;

[(3), (4) Revoked by Ex. Ord. No. 13603, §803(a), Mar. 16, 2012, 77 F.R. 16660.]

(5) In cooperation with the Secretary of the Treasury, develop plans for providing emergency assistance to the private sector through direct or participation loans for the financing of production facilities and equipment;

(6) In cooperation with the Secretaries of State, Defense, Transportation, and the Treasury, prepare plans to regulate and control exports and imports in national security emergencies;

(7) Provide for the collection and reporting of census information on human and economic resources, and maintain a capability to conduct emergency surveys to provide information on the status of these resources as required for national security purposes;

(8) Develop overall plans and programs to ensure that the fishing industry continues to produce and process essential protein in national security emergencies;

(9) Develop plans to provide meteorological, hydrologic, marine weather, geodetic, hydrographic, climatic, seismic, and oceanographic data and services to Federal, State, and local agencies, as appropriate;

(10) In coordination with the Secretary of State and the Secretary of Homeland Security, represent the United States in industry-related international (NATO and allied) civil emergency preparedness planning and related activities.

SEC. 402. *Support Responsibilities*. The Secretary of Commerce shall:

(1) Assist the Secretary of Defense in formulating and carrying out plans for stockpiling strategic and critical materials;

(2) Support the Secretary of Agriculture in planning for the national security management, production, and processing of forest and fishery products;

(3) Assist, in consultation with the Secretaries of State and Defense, the Secretary of the Treasury in the formulation and execution of economic measures affecting other nations.

PART 5—DEPARTMENT OF DEFENSE

SEC. 501. *Lead Responsibilities*. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Defense shall:

(1) Ensure military preparedness and readiness to respond to national security emergencies;

(2) In coordination with the Secretary of Commerce, develop, with industry, government, and the private sector, reliable capabilities for the rapid increase of defense production to include industrial resources required for that production;

(3) Develop and maintain, in cooperation with the heads of other departments and agencies, national security emergency plans, programs, and mechanisms to ensure effective mutual support between and among the military, civil government, and the private sector;

(4) Develop and maintain damage assessment capabilities and assist the Secretary of Homeland Security and the heads of other departments and agencies in developing and maintaining capabilities to assess attack

damage and to estimate the effects of potential attack on the Nation;

(5) Arrange, through agreements with the heads of other Federal departments and agencies, for the transfer of certain Federal resources to the jurisdiction and/or operational control of the Department of Defense in national security emergencies;

(6) Acting through the Secretary of the Army, develop, with the concurrence of the heads of all affected departments and agencies, overall plans for the management, control, and allocation of all usable waters from all sources within the jurisdiction of the United States. This includes:

(a) Coordination of national security emergency water resource planning at the national, regional, State, and local levels;

(b) Development of plans to assure emergency provision of water from public works projects under the jurisdiction of the Secretary of the Army to public water supply utilities and critical defense production facilities during national security emergencies;

(c) Development of plans to assure emergency operation of waterways and harbors; and

(d) Development of plans to assure the provision of potable water;

(7) In consultation with the Secretaries of State and Energy, the Secretary of Homeland Security, and others, as required, develop plans and capabilities for identifying, analyzing, mitigating, and responding to hazards related to nuclear weapons, materials, and devices; and maintain liaison, as appropriate, with the Secretary of Energy and the Members of the Nuclear Regulatory Commission to ensure the continuity of nuclear weapons production and the appropriate allocation of scarce resources, including the recapture of special nuclear materials from Nuclear Regulatory Commission licensees when appropriate;

(8) Coordinate with the Administrator of the National Aeronautics and Space Adminstration [sic] and the Secretary of Energy, as appropriate, to prepare for the use, maintenance, and development of technologically advanced aerospace and aeronautical-related systems, equipment, and methodologies applicable to national security emergencies;

(9) Develop, in coordination with the Secretaries of Labor and Homeland Security, the Directors of the Selective Service System, the Office of Personnel Management, and the Federal Emergency Management Agency, plans and systems to ensure that the Nation's human resources are available to meet essential military and civilian needs in national security emergencies;

(10) Develop national security emergency operational procedures, and coordinate with the Secretary of Housing and Urban Development with respect to residential property, for the control, acquisition, leasing, assignment and priority of occupancy of real property within the jurisdiction of the Department of Defense;

(11) Review the priorities and allocations systems developed by other departments and agencies to ensure that they meet Department of Defense needs in a national security emergency; and develop and maintain the Department of Defense programs necessary for effective utilization of all priorities and allocations systems;

(12) Develop, in coordination with the Attorney General of the United States, specific procedures by which military assistance to civilian law enforcement authorities may be requested, considered, and provided;

(13) In cooperation with the Secretary of Commerce and other departments and agencies, identify those industrial products and facilities that are essential to mobilization readiness, national defense, or post-attack survival and recovery;

(14) In cooperation with the Secretary of Commerce and other Federal departments and agencies, analyze potential effects of national security emergencies on actual production capability, taking into account the entire production complex, including shortages of resources, and develop preparedness measures to strengthen capabilities for production increases in national security emergencies;

(15) With the assistance of the heads of other Federal departments and agencies, provide management direction for the stockpiling of strategic and critical materials, conduct storage, maintenance, and quality assurance operations for the stockpile of strategic and critical materials, and formulate plans, programs, and reports relating to the stockpiling of strategic and critical materials.[;]

(16) Subject to the direction of the President, and pursuant to procedures to be developed jointly by the Secretary of Defense and the Secretary of State, be responsible for the deployment and use of military forces for the protection of United States citizens and nationals and, in connection therewith, designated other persons or categories of persons, in support of their evacuation from threatened areas overseas.

SEC. 502. *Support Responsibilities*. The Secretary of Defense shall:

(1) Advise and assist the heads of other Federal departments and agencies in the development of plans and programs to support national mobilization. This includes providing, as appropriate:

(a) Military requirements, prioritized and time-phased to the extent possible, for selected end-items and supporting services, materials, and components;

(b) Recommendations for use of financial incentives and other methods to improve defense production as provided by law; and

(c) Recommendations for export and import policies;

(2) Advise and assist the Secretary of State and the heads of other Federal departments and agencies, as appropriate, in planning for the protection, evacuation, and repatriation of United States citizens in threatened areas overseas;

(3) Support the Secretary of Housing and Urban Development and the heads of other agencies, as appropriate, in the development of plans to restore community facilities;

(4) Support the Secretary of Energy in international liaison activities pertaining to nuclear materials facilities;

(5) In consultation with the Secretaries of State and Commerce, assist the Secretary of the Treasury in the formulation and execution of economic measures that affect other nations;

(6) Support the Secretary of State and the heads of other Federal departments and agencies as appropriate in the formulation and implementation of foreign policy, and the negotiation of contingency and post-emergency plans, intergovernmental agreements, and arrangements with allies and friendly nations, which affect national security;

(7) Coordinate with the Secretary of Homeland Security the development of plans for mutual civil-military support during national security emergencies;

(8) Develop plans to support the Secretary of Labor in providing education and training to overcome shortages of critical skills.

PART 6—DEPARTMENT OF EDUCATION

SEC. 601. *Lead Responsibilities*. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Education shall:

(1) Assist school systems in developing their plans to provide for the earliest possible resumption of activities following national security emergencies;

(2) Develop plans to provide assistance, including efforts to meet shortages of critical educational personnel, to local educational agencies;

(3) Develop plans, in coordination with the Secretary of Homeland Security, for dissemination of emergency preparedness instructional material through educational institutions and the media during national security emergencies.

SEC. 602. *Support Responsibilities*. The Secretary of Education shall:

(1) Develop plans to support the Secretary of Labor in providing education and training to overcome shortages of critical skills;

(2) Support the Secretary of Health and Human Services in the development of human services educational and training materials, including self-help program materials for use by human service organizations and professional schools.

PART 7—DEPARTMENT OF ENERGY

SEC. 701. *Lead Responsibilities*. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Energy shall:

(1) Conduct national security emergency preparedness planning, including capabilities development, and administer operational programs for all energy resources, including:

(a) Providing information, in cooperation with Federal, State, and energy industry officials, on energy supply and demand conditions and on the requirements for and the availability of materials and services critical to energy supply systems;

(b) In coordination with appropriate departments and agencies and in consultations with the energy industry, develop implementation plans and operational systems for priorities and allocation of all energy resource requirements for national defense and essential civilian needs to assure national security emergency preparedness;

(c) Developing, in consultation with the Board of Directors of the Tennessee Valley Authority, plans necessary for the integration of its power system into the national supply system;

(2) Identify energy facilities essential to the mobilization, deployment, and sustainment of resources to support the national security and national welfare, and develop energy supply and demand strategies to ensure continued provision of minimum essential services in national security emergencies;

(3) In coordination with the Secretary of Defense, ensure continuity of nuclear weapons production consistent with national security requirements;

(4) Assure the security of nuclear materials, nuclear weapons, or devices in the custody of the Department of Energy, as well as the security of all other Department of Energy programs and facilities;

(5) In consultation with the Secretaries of State and Defense and the Secretary of Homeland Security, conduct appropriate international liaison activities pertaining to matters within the jurisdiction of the

Department of Energy;

(6) In consultation with the Secretaries of State, Defense, and Homeland Security, the Members of the Nuclear Regulatory Commission, and others, as required, develop plans and capabilities for identification, analysis, damage assessment, and mitigation of hazards from nuclear weapons, materials, and devices;

(7) Coordinate with the Secretary of Transportation in the planning and management of transportation resources involved in the bulk movement of energy;

(8) At the request of or with the concurrence of the Nuclear Regulatory Commission and in consultation with the Secretary of Defense, recapture special nuclear materials from Nuclear Regulatory Commission licensees where necessary to assure the use, preservation, or safeguarding of such material for the common defense and security;

(9) Develop national security emergency operational procedures for the control, utilization, acquisition, leasing, assignment, and priority of occupancy of real property within the jurisdiction of the Department of Energy;

(10) Manage all emergency planning and response activities pertaining to Department of Energy nuclear facilities.

SEC. 702. *Support Responsibilities*. The Secretary of Energy shall:

(1) Provide advice and assistance, in coordination with appropriate agencies, to Federal, State, and local officials and private sector organizations to assess the radiological impact associated with national security emergencies;

(2) Coordinate with the Secretaries of Defense and the Interior regarding the operation of hydroelectric projects to assure maximum energy output;

(3) Support the Secretary of Housing and Urban Development and the heads of other agencies, as appropriate, in the development of plans to restore community facilities;

(4) Coordinate with the Secretary of Agriculture regarding the emergency preparedness of the rural electric supply systems throughout the Nation and the assignment of emergency preparedness responsibilities to the Rural Electrification Administration.

PART 8—DEPARTMENT OF HEALTH AND HUMAN SERVICES

SEC. 801. *Lead Responsibilities*. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Health and Human Services shall:

(1) Develop national plans and programs to mobilize the health industry and health resources for the provision of health, mental health, and medical services in national security emergencies;

(2) Promote the development of State and local plans and programs for provision of health, mental health, and medical services in national security emergencies;

(3) Develop national plans to set priorities and allocate health, mental health, and medical services' resources among civilian and military claimants;

(4) Develop health and medical survival information programs and a nationwide program to train health and mental health professionals and paraprofessionals in special knowledge and skills that would be useful in national security emergencies;

(5) Develop programs to reduce or eliminate adverse health and mental health effects produced by hazardous agents (biological, chemical, or radiological), and, in coordination with appropriate Federal agencies, develop programs to minimize property and environmental damage associated with national security emergencies;

(6) Develop guidelines that will assure reasonable and prudent standards of purity and/or safety in the manufacture and distribution of food, drugs, biological products, medical devices, food additives, and radiological products in national security emergencies;

(7) Develop national plans for assisting State and local governments in rehabilitation of persons injured or disabled during national security emergencies;

(8) Develop plans and procedures to assist State and local governments in the provision of emergency human services, including lodging, feeding, clothing, registration and inquiry, social services, family reunification and mortuary services and interment;

(9) Develop, in coordination with the Secretary of Education, human services educational and training materials for use by human service organizations and professional schools; and develop and distribute, in coordination with the Secretary of Homeland Security, civil defense information relative to emergency human services;

(10) Develop plans and procedures, in coordination with the heads of Federal departments and agencies, for assistance to United States citizens or others evacuated from overseas areas.

SEC. 802. *Support Responsibility*. The Secretary of Health and Human Services shall support the Secretary

of Agriculture in the development of plans related to national security emergency agricultural health services.

PART 9—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 901. *Lead Responsibilities*. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Housing and Urban Development shall:

(1) Develop plans for provision and management of housing in national security emergencies, including:

(a) Providing temporary housing using Federal financing and other arrangements;

(b) Providing for radiation protection by encouraging voluntary construction of shelters and voluntary use of cost-efficient design and construction techniques to maximize population protection;

(2) Develop plans, in cooperation with the heads of other Federal departments and agencies and State and local governments, to restore community facilities, including electrical power, potable water, and sewage disposal facilities, damaged in national security emergencies.

PART 10—DEPARTMENT OF THE INTERIOR

SEC. 1001. *Lead Responsibilities*. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of the Interior shall:

(1) Develop programs and encourage the exploration, development, and mining of strategic and critical and other nonfuel minerals for national security emergency purposes;

(2) Provide guidance to mining industries in the development of plans and programs to ensure continuity of production during national security emergencies;

(3) Develop and implement plans for the management, control, allocation, and use of public land under the jurisdiction of the Department of the Interior in national security emergencies and coordinate land emergency planning at the Federal, State, and local levels.

SEC. 1002. *Support Responsibilities*. The Secretary of the Interior shall:

(1) Assist the Secretary of Defense in formulating and carrying out plans for stockpiling strategic and critical minerals;

(2) Cooperate with the Secretary of Commerce in the identification and evaluation of facilities essential for national security emergencies;

(3) Support the Secretary of Agriculture in planning for the national security management, production, and processing of forest products.

PART 11—DEPARTMENT OF JUSTICE

SEC. 1101. *Lead Responsibilities*. In addition to the applicable responsibilities covered in Parts 1 and 2, the Attorney General of the United States shall:

(1) Provide legal advice to the President and the heads of Federal departments and agencies and their successors regarding national security emergency powers, plans, and authorities;

(2) Coordinate Federal Government domestic law enforcement activities related to national security emergency preparedness, including Federal law enforcement liaison with, and assistance to, State and local governments;

(3) Coordinate contingency planning for national security emergency law enforcement activities that are beyond the capabilities of State and local agencies;

(4) Develop national security emergency plans for regulation of immigration, regulation of nationals of enemy countries, and plans to implement laws for the control of persons entering or leaving the United States;

(5) Develop plans and procedures for the custody and protection of prisoners and the use of Federal penal and correctional institutions and resources during national security emergencies;

(6) Provide information and assistance to the Federal Judicial branch and the Federal Legislative branch concerning law enforcement, continuity of government, and the exercise of legal authority during national security emergencies;

(7) Develop intergovernmental and interagency law enforcement plans and counterterrorism programs to interdict and respond to terrorism incidents in the United States that may result in a national security emergency or that occur during such an emergency;

(8) Develop intergovernmental and interagency law enforcement plans to respond to civil disturbances that may result in a national security emergency or that occur during such an emergency.

SEC. 1102. *Support Responsibilities*. The Attorney General of the United States shall:

(1) Assist the heads of Federal departments and agencies, State and local governments, and the private sector in the development of plans to physically protect essential resources and facilities;

(2) Support the Secretaries of State and the Treasury in plans for the protection of international organizations and foreign diplomatic, consular, and other official personnel, property, and other assets within the jurisdiction of the United States;

(3) Support the Secretary of the Treasury in developing plans to control the movement of property entering and leaving the United States;

(4) Support the heads of other Federal departments and agencies and State and local governments in developing programs and plans for identifying fatalities and reuniting families in national security emergencies;

(5) Support the intelligence community in the planning of its counterintelligence and counterterrorism programs.

PART 12—DEPARTMENT OF LABOR

SEC. 1201. *Lead Responsibilities*. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Labor shall:

(1) Develop plans and issue guidance to ensure effective use of civilian workforce resources during national security emergencies. Such plans shall include, but not necessarily be limited to:

(a) Priorities and allocations, recruitment, referral, training, employment stabilization including appeals procedures, use assessment, and determination of critical skill categories; and

(b) Programs for increasing the availability of critical workforce skills and occupations;

(2) In consultation with the Secretary of the Treasury, develop plans and procedures for wage, salary, and benefit costs stabilization during national security emergencies;

(3) Develop plans and procedures for protecting and providing incentives for the civilian labor force during national security emergencies;

(4) In consultation with other appropriate government agencies and private entities, develop plans and procedures for effective labor-management relations during national security emergencies.

SEC. 1202. *Support Responsibilities*. The Secretary of Labor shall:

(1) Support planning by the Secretary of Defense and the private sector for the provision of human resources to critical defense industries during national security emergencies;

(2) Support planning by the Secretary of Defense and the Director of Selective Service for the institution of conscription in national security emergencies.

PART 13—DEPARTMENT OF STATE

SEC. 1301. *Lead Responsibilities*. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of State shall:

(1) Provide overall foreign policy coordination in the formulation and execution of continuity of government and other national security emergency preparedness activities that affect foreign relations;

(2) Prepare to carry out Department of State responsibilities in the conduct of the foreign relations of the United States during national security emergencies, under the direction of the President and in consultation with the heads of other appropriate Federal departments and agencies, including, but not limited to:

(a) Formulation and implementation of foreign policy and negotiation regarding contingency and post-emergency plans, intergovernmental agreements, and arrangements with United States' allies;

(b) Formulation, negotiation, and execution of policy affecting the relationships of the United States with neutral states;

(c) Formulation and execution of political strategy toward hostile or enemy states;

(d) Conduct of mutual assistance activities;

(e) Provision of foreign assistance, including continuous supervision and general direction of authorized economic and military assistance programs;

(f) Protection or evacuation of United States citizens and nationals abroad and safeguarding their property abroad, in consultation with the Secretaries of Defense and Health and Human Services;

(g) Protection of international organizations and foreign diplomatic, consular, and other official personnel and property, or other assets, in the United States, in coordination with the Attorney General and the Secretary of the Treasury;

(h) Formulation of policies and provisions for assistance to displaced persons and refugees abroad;

(i) Maintenance of diplomatic and consular representation abroad; and

(j) Reporting of and advising on conditions overseas that bear upon national security emergencies.

SEC. 1302. *Support Responsibilities*. The Secretary of State shall:

(1) Assist appropriate agencies in developing planning assumptions concerning accessibility of foreign sources of supply;

(2) Support the Secretary of the Treasury, in consultation, as appropriate, with the Secretaries of Commerce and Defense, in the formulation and execution of economic measures with respect to other nations;

(3) Support the Secretary of Energy in international liaison activities pertaining to nuclear materials facilities;

(4) Support the Secretary of Homeland Security in the coordination and integration of United States policy regarding the formulation and implementation of civil emergency resources and preparedness planning;

(5) Assist the Attorney General of the United States in the formulation of national security emergency plans for the control of persons entering or leaving the United States.

PART 14—DEPARTMENT OF TRANSPORTATION

SEC. 1401. *Lead Responsibilities*. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Transportation shall:

(1) Develop plans to promulgate and manage overall national policies, programs, procedures, and systems to meet essential civil and military transportation needs in national security emergencies;

(2) Be prepared to provide direction to all modes of civil transportation in national security emergencies, including air, surface, water, pipelines, and public storage and warehousing, to the extent such responsibility is vested in the Secretary of Transportation. This direction may include:

(a) Implementation of priorities for all transportation resource requirements for service, equipment, facilities, and systems;

(b) Allocation of transportation resource capacity; and

(c) Emergency management and control of civil transportation resources and systems, including privately owned automobiles, urban mass transit, intermodal transportation systems, the National Railroad Passenger Corporation and the St. Lawrence Seaway Development Corporation;

(3) Develop plans to provide for the smooth transition of the Coast Guard as a service to the Department of the Navy during national security emergencies. These plans shall be compatible with the Department of Defense planning systems, especially in the areas of port security and military readiness;

(4) In coordination with the Secretary of State and the Secretary of Homeland Security, represent the United States in transportation-related international (including NATO and allied) civil emergency preparedness planning and related activities;

(5) Coordinate with State and local highway agencies in the management of all Federal, State, city, local, and other highways, roads, streets, bridges, tunnels, and publicly owned highway maintenance equipment to assure efficient and safe use of road space during national security emergencies;

(6) Develop plans and procedures in consultation with appropriate agency officials for maritime and port safety, law enforcement, and security over, upon, and under the high seas and waters subject to the jurisdiction of the United States to assure operational readiness for national security emergency functions;

(7) Develop plans for the emergency operation of U.S. ports and facilities, use of shipping resources (U.S. and others), provision of government war risks insurance, and emergency construction of merchant ships for military and civil use;

(8) Develop plans for emergency management and control of the National Airspace System, including provision of war risk insurance and for transfer of the Federal Aviation Administration, in the event of war, to the Department of Defense;

(9) Coordinate the Interstate Commerce Commission's development of plans and preparedness programs for the reduction of vulnerability, maintenance, restoration, and operation of privately owned railroads, motor carriers, inland waterway transportation systems, and public storage facilities and services in national security emergencies.

SEC. 1402. *Support Responsibility*. The Secretary of Transportation shall coordinate with the Secretary of Energy in the planning and management of transportation resources involved in the bulk movement of energy materials.

PART 15—DEPARTMENT OF THE TREASURY

SEC. 1501. *Lead Responsibilities*. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of the Treasury shall:

(1) Develop plans to maintain stable economic conditions and a market economy during national security emergencies; emphasize measures to minimize inflation and disruptions; and, minimize reliance on direct controls of the monetary, credit, and financial systems. These plans will include provisions for:

(a) Increasing capabilities to minimize economic dislocations by carrying out appropriate fiscal, monetary, and regulatory policies and reducing susceptibility to manipulated economic pressures;

(b) Providing the Federal Government with efficient and equitable financing sources and payment mechanisms;

(c) Providing fiscal authorities with adequate legal authority to meet resource requirements;

(d) Developing, in consultation with the Board of Governors of the Federal Reserve System, and in cooperation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the National Credit Union Administration Board, the Farm Credit Administration Board and

other financial institutions, plans for the continued or resumed operation and liquidity of banks, savings and loans, credit unions, and farm credit institutions, measures for the reestablishment of evidence of assets or liabilities, and provisions for currency withdrawals and deposit insurance;

(2) Provide for the protection of United States financial resources including currency and coin production and redemption facilities, Federal check disbursement facilities, and precious monetary metals;

(3) Provide for the preservation of, and facilitate emergency operations of, public and private financial institution systems, and provide for their restoration during or after national security emergencies;

(4) Provide, in coordination with the Secretary of State, for participation in bilateral and multilateral financial arrangements with foreign governments;

(5) Maintain the Federal Government accounting and financial reporting system in national security emergencies;

(6) Develop plans to protect the President, the Vice President, other officers in the order of presidential succession, and other persons designated by the President;

(7) Develop plans for restoration of the economy following an attack; for the development of emergency monetary, credit, and Federal benefit payment programs of those Federal departments and agencies that have responsibilities dependent on the policies or capabilities of the Department of the Treasury; and for the implementation of national policy on sharing war losses;

(8) Develop plans for initiating tax changes, waiving regulations, and, in conjunction with the Secretary of Commerce or other guaranteeing agency, granting or guaranteeing loans for the expansion of industrial capacity, the development of technological processes, or the production or acquisition of essential materials;

(9) Develop plans, in coordination with the heads of other appropriate Federal departments and agencies, to acquire emergency imports, make foreign barter arrangements, or otherwise provide for essential material from foreign sources using, as appropriate, the resources of the Export-Import Bank or resources available to the Bank;

(10) Develop plans for encouraging capital inflow and discouraging the flight of capital from the United States and, in coordination with the Secretary of State, for the seizure and administration of assets of enemy aliens during national security emergencies;

(11) Develop plans, in consultation with the heads of approporiate Federal departments and agencies, to regulate financial and commercial transactions with other countries;

(12) Develop plans, in coordination with the Secretary of Commerce and the Attorney General of the United States, to control the movement of property entering or leaving the United States;

(13) Cooperate and consult with the Chairman of the Securities and Exchange Commission, the Chairman of the Federal Reserve Board, the Chairman of the Commodities Futures Trading Commission in the development of emergency financial control plans and regulations for trading of stocks and commodities, and in the development of plans for the maintenance and restoration of stable and orderly markets;

(14) Develop plans, in coordination with the Secretary of State, for the formulation and execution of economic measures with respect to other nations in national security emergencies.

SEC. 1502. *Support Responsibilities*. The Secretary of the Treasury shall:

(1) Cooperate with the Attorney General of the United States on law enforcement activities, including the control of people entering and leaving the United States;

(2) Support the Secretary of Labor in developing plans and procedures for wage, salary, and benefit costs stabilization;

(3) Support the Secretary of State in plans for the protection of international organizations and foreign diplomatic, consular, and other official personnel and property or other assets in the United States.

PART 16—ENVIRONMENTAL PROTECTION AGENCY

SEC. 1601. *Lead Responsibilities*. In addition to the applicable responsibilities covered in Parts 1 and 2, the Administrator of the Environmental Protection Agency shall:

(1) Develop Federal plans and foster development of State and local plans designed to prevent or minimize the ecological impact of hazardous agents (biological, chemical, or radiological) introduced into the environment in national security emergencies;

(2) Develop, for national security emergencies, guidance on acceptable emergency levels of nuclear radiation, assist in determining acceptable emergency levels of biological agents, and help to provide detection and identification of chemical agents;

(3) Develop, in coordination with the Secretary of Defense, plans to assure the provision of potable water supplies to meet community needs under national security emergency conditions, including claimancy for materials and equipment for public water systems.

SEC. 1602. *Support Responsibilities*. The Administrator of the Environmental Protection Agency shall:

(1) Assist the heads of other Federal agencies that are responsible for developing plans for the detection, reporting, assessment, protection against, and reduction of effects of hazardous agents introduced into the environment;

(2) Advise the heads of Federal departments and agencies regarding procedures for assuring compliance with environmental restrictions and for expeditious review of requests for essential waivers.

PART 17—DEPARTMENT OF HOMELAND SECURITY

SEC. 1701. *Lead Responsibilities*. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Homeland Security shall:

(1) Coordinate and support the initiation, development, and implementation of national security emergency preparedness programs and plans among Federal departments and agencies;

(2) Coordinate the development and implementation of plans for the operation and continuity of essential domestic emergency functions of the Federal Government during national security emergencies;

(3) Coordinate the development of plans, in cooperation with the Secretary of Defense, for mutual civil-military support during national security emergencies;

(4) Guide and assist State and local governments and private sector organizations in achieving preparedness for national security emergencies, including development of plans and procedures for assuring continuity of government, and support planning for prompt and coordinated Federal assistance to States and localities in responding to national security emergencies;

(5) Provide the President a periodic assessment of Federal, State, and local capabilities to respond to national security emergencies;

(6) Coordinate the implementation of policies and programs for efficient mobilization of Federal, State, local, and private sector resources in response to national security emergencies;

(7) Develop and coordinate with all appropriate agencies civil defense programs to enhance Federal, State, local, and private sector capabilities for national security emergency crisis management, population protection, and recovery in the event of an attack on the United States;

(8) Develop and support public information, education and training programs to assist Federal, State, and local government and private sector entities in planning for and implementing national security emergency preparedness programs;

(9) Coordinate among the heads of Federal, State, and local agencies the planning, conduct, and evaluation of national security emergency exercises;

(10) With the assistance of the heads of other appropriate Federal departments and agencies, develop and maintain capabilities to assess actual attack damage and residual recovery capabilities as well as capabilities to estimate the effects of potential attacks on the Nation;

(11) Provide guidance to the heads of Federal departments and agencies on the appropriate use of defense production authorities, including resource claimancy, in order to improve the capability of industry and infrastructure systems to meet national security emergency needs;

(12) Assist the Secretary of State in coordinating the formulation and implementation of United States policy for NATO and other allied civil emergency planning, including the provision of:

(a) advice and assistance to the departments and agencies in alliance civil emergency planning matters;

(b) support to the United States Mission to NATO in the conduct of day-to-day civil emergency planning activities; and

(c) support facilities for NATO Civil Wartime Agencies in cooperation with the Departments of Agriculture, Commerce, Energy, State, and Transportation.

SEC. 1702. *Support Responsibilities*. The Secretary of Homeland Security shall:

(1) Support the heads of other Federal departments and agencies in preparing plans and programs to discharge their national security emergency preparedness responsibilities, including, but not limited to, such programs as mobilization preparedness, continuity of government planning, and continuance of industry and infrastructure functions essential to national security;

(2) Support the Secretary of Energy, the Secretary of Defense, and the Members of the Nuclear Regulatory Commission in developing plans and capabilities for identifying, analyzing, mitigating, and responding to emergencies related to nuclear weapons, materials, and devices, including mobile and fixed nuclear facilities, by providing, inter alia, off-site coordination;

(3) Support the Administrator of General Services in efforts to promote a government-wide program with respect to Federal buildings and installations to minimize the effects of attack and establish shelter management organizations.

PART 18—GENERAL SERVICES ADMINISTRATION

SEC. 1801. *Lead Responsibilities*. In addition to the applicable responsibilities covered in Parts 1 and 2, the

Administrator of General Services shall:

(1) Develop national security emergency plans and procedures for the operation, maintenance, and protection of federally owned and occupied buildings managed by the General Services Administration, and for the construction, alteration, and repair of such buildings;

(2) Develop national security emergency operating procedures for the control, acquisition, leasing, assignment, and priority of occupancy of real property by the Federal Government, and by State and local governments acting as agents of the Federal Government, except for the military facilities and facilities with special nuclear materials within the jurisdiction of the Departments of Defense and Energy;

(3) Develop national security emergency operational plans and procedures for the use of public utility services (other than telecommunications services) by Federal departments and agencies, except for Department of Energy-operated facilities;

(4) Develop plans and operating procedures of government-wide supply programs to meet the requirements of Federal departments and agencies during national security emergencies;

(5) Develop plans and operating procedures for the use, in national security emergencies, of excess and surplus real and personal property by Federal, State, and local governmental entities;

(6) Develop plans, in coordination with the Secretary of Homeland Security, with respect to Federal buildings and installations, to minimize the effects of attack and establish shelter management organizations;

SEC. 1802. *Support Responsibility*. The Administrator of General Services shall develop plans to assist Federal departments and agencies in operation and maintenance of essential automated information processing facilities during national security emergencies:[.]

PART 19—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SEC. 1901. *Lead Responsibility*. In addition to the applicable responsibilities covered in Parts 1 and 2, the Administrator of the National Aeronautics and Space Administration shall coordinate with the Secretary of Defense to prepare for the use, maintenance, and development of technologically advanced aerospace and aeronautical-related systems, equipment, and methodologies applicable to national security emergencies.

PART 20—NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

SEC. 2001. *Lead Responsibilities*. In addition to the applicable responsibilities covered in Parts 1 and 2, the Archivist of the United States shall:

(1) Develop procedures for publication during national security emergencies of the Federal Register for as broad public dissemination as is practicable of presidential proclamations and Executive orders, Federal administrative regulations, Federal emergency notices and actions, and Acts of Congress;

(2) Develop emergency procedures for providing instructions and advice on the handling and preservation of records critical to the operation of the Federal Government in national security emergencies.

PART 21—NUCLEAR REGULATORY COMMISSION

SEC. 2101. *Lead Responsibilities*. In addition to the applicable responsibilities covered in Parts 1 and 2, the Members of the Nuclear Regulatory Commission shall:

(1) Promote the development and maintenance of national security emergency preparedness programs through security and safeguards programs by licensed facilities and activities;

(2) Develop plans to suspend any licenses granted by the Commission; to order the operations of any facility licensed under Section 103 or 104; Atomic Energy Act of 1954, as amended (42 U.S.C. 2133 or 2134); to order the entry into any plant or facility in order to recapture special nuclear material as determined under Subsection (3) below; and operate such facilities;

(3) Recapture or authorize recapture of special nuclear materials from licensees where necessary to assure the use, preservation, or safeguarding of such materials for the common defense and security, as determined by the Commission or as requested by the Secretary of Energy.

SEC. 2102. *Support Responsibilities*. The Members of the Nuclear Regulatory Commission shall:

(1) Assist the Secretary of Energy in assessing damage to Commission-licensed facilities, identifying useable facilities, and estimating the time and actions necessary to restart inoperative facilities;

(2) Provide advice and technical assistance to Federal, State, and local officials and private sector organizations regarding radiation hazards and protective actions in national security emergencies.

PART 22—OFFICE OF PERSONNEL MANAGEMENT

SEC. 2201. *Lead Responsibilities*. In addition to the applicable responsibilities covered in Parts 1 and 2, the Director of the Office of Personnel Management shall:

(1) Prepare plans to administer the Federal civilian personnel system in national security emergencies, including plans and procedures for the rapid mobilization and reduction of an emergency Federal workforce;

(2) Develop national security emergency work force policies for Federal civilian personnel;

(3) Develop plans to accommodate the surge of Federal personnel security background and pre-employment investigations during national security emergencies.

SEC. 2202. *Support Responsibilities*. The Director of the Office of Personnel Management shall:

(1) Assist the heads of other Federal departments and agencies with personnel management and staffing in national security emergencies, including facilitating transfers between agencies of employees with critical skills;

(2) In consultation with the Secretary of Defense and the Director of Selective Service, develop plans and procedures for a system to control any conscription of Federal civilian employees during national security emergencies.

PART 23—SELECTIVE SERVICE SYSTEM

SEC. 2301. *Lead Responsibilities*. In addition to the applicable responsibilities covered in Parts 1 and 2, the Director of Selective Service shall:

(1) Develop plans to provide by induction, as authorized by law, personnel that would be required by the armed forces during national security emergencies;

(2) Develop plans for implementing an alternative service program.

PART 24—TENNESSEE VALLEY AUTHORITY

SEC. 2401. *Lead Responsibility*. In addition to the applicable responsibilities covered in Parts 1 and 2, the Board of Directors of the Tennessee Valley Authority shall develop plans and maintain river control operations for the prevention or control of floods affecting the Tennessee River System during national security emergencies.

SEC. 2402. *Support Responsibilities*. The Board of Directors of the Tennessee Valley Authority shall:

(1) Assist the Secretary of Energy in the development of plans for the integration of the Tennessee Valley Authority power system into nationwide national security emergency programs;

(2) Assist the Secretaries of Defense, Interior, and Transportation and the Chairman of the Interstate Commerce Commission in the development of plans for operation and maintenance of inland waterway transportation in the Tennessee River System during national security emergencies.

PART 25—UNITED STATES INFORMATION AGENCY

SEC. 2501. *Lead Responsibilities*. In addition to the applicable responsibilities covered in Parts 1 and 2, the Director of the United States Information Agency shall:

(1) Plan for the implementation of information programs to promote an understanding abroad of the status of national security emergencies within the United States;

(2) In coordination with the Secretary of State's exercise of telecommunications functions affecting United States diplomatic missions and consular offices overseas, maintain the capability to provide television and simultaneous direct radio broadcasting in major languages to all areas of the world, and the capability to provide wireless file to all United States embassies during national security emergencies.

SEC. 2502. *Support Responsibility*. The Director of the United States Information Agency shall assist the heads of other Federal departments and agencies in planning for the use of media resources and foreign public information programs during national security emergencies.

PART 26—UNITED STATES POSTAL SERVICE

SEC. 2601. *Lead Responsibility*. In addition to the applicable responsibilities covered in Parts 1 and 2, the Postmaster General shall prepare plans and programs to provide essential postal services during national security emergencies.

SEC. 2602. *Support Responsibilities*. The Postmaster General shall:

(1) Develop plans to assist the Attorney General of the United States in the registration of nationals of enemy countries residing in the United States;

(2) Develop plans to assist the Secretary of Health and Human Services in registering displaced persons and families;

(3) Develop plans to assist the heads of other Federal departments and agencies in locating and leasing privately owned property for Federal use during national security emergencies.

PART 27—VETERANS' ADMINISTRATION

SEC. 2701. *Lead Responsibilities*. In addition to the applicable responsibilities covered in Parts 1 and 2, the Administrator of Veterans' Affairs [now Secretary of Veterans Affairs] shall:

(1) Develop plans for provision of emergency health care services to veteran beneficiaries in Veterans'

Administration [now Department of Veterans Affairs] medical facilities, to active duty military personnel and, as resources permit, to civilians in communities affected by national security emergencies;

(2) Develop plans for mortuary services for eligible veterans, and advise on methods for interment of the dead during national security emergencies.

SEC. 2702. *Support Responsibilities*. The Administrator of Veterans' Affairs [now Secretary of Veterans Affairs] shall:

(1) Assist the Secretary of Health and Human Services in promoting the development of State and local plans for the provision of medical services in national security emergencies, and develop appropriate plans to support such State and local plans;

(2) Assist the Secretary of Health and Human Services in developing national plans to mobilize the health care industry and medical resources during national security emergencies;

(3) Assist the Secretary of Health and Human Services in developing national plans to set priorities and allocate medical resources among civilian and military claimants.

PART 28—OFFICE OF MANAGEMENT AND BUDGET

SEC. 2801. In addition to the applicable responsibilities covered in Parts 1 and 2, the Director of the Office of Management and Budget shall prepare plans and programs to maintain its functions during national security emergencies. In connection with these functions, the Director of the Office of Management and Budget shall:

(1) Develop plans to ensure the preparation, clearance, and coordination of proposed Executive orders and proclamations;

(2) Prepare plans to ensure the preparation, supervision, and control of the budget and the formulation of the fiscal program of the Government;

(3) Develop plans to coordinate and communicate Executive branch views to the Congress regarding legislation and testimony by Executive branch officials;

(4) Develop plans for keeping the President informed of the activities of government agencies, continuing the Office of Management and Budget's management functions, and maintaining presidential supervision and direction with respect to legislation and regulations in national security emergencies.

PART 29—GENERAL

SEC. 2901. Executive Order Nos. 10421 and 11490, as amended, are hereby revoked. This Order shall be effective immediately.

[Responsibilities assigned to specific Federal officials pursuant to Ex. Ord. No. 12656, set out above, that are substantially the same as any responsibility assigned to, or function transferred to, the Secretary of Homeland Security pursuant to the Homeland Security Act of 2002, 6 U.S.C. 101 et seq., or intended or required to be carried out by an agency or an agency component transferred to the Department of Homeland Security pursuant to such Act, reassigned to the Secretary of Homeland Security by section 42 of Ex. Ord. No. 13286, Feb. 28, 2003, 68 F.R. 10626, set out as a note under section 111 of Title 6, Domestic Security.]

[For abolition of United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau), transfer of functions, and treatment of references thereto, see sections 6531, 6532, and 6551 of Title 22, Foreign Relations and Intercourse.]

[Ex. Ord. No. 13286, §42, which directed amendment of Ex. Ord. No. 12656, set out above, by substituting "the Secretary of Homeland Security" for "the Director of the Federal Emergency Management Agency" in section "1801(b)", was executed by making the substitution in section 1801(6).]

EX. ORD. NO. 12657. DEPARTMENT OF HOMELAND SECURITY ASSISTANCE IN EMERGENCY PREPAREDNESS PLANNING AT COMMERCIAL NUCLEAR POWER PLANTS

Ex. Ord. No. 12657, Nov. 18, 1988, 53 F.R. 47513, as amended by Ex. Ord. No. 13286, §41, Feb. 28, 2003, 68 F.R. 10626, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Civil Defense Act of 1950, as amended ([former] 50 U.S.C. App. 2251 *et seq*.), the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq*.), the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq*.), Reorganization Plan No. 1 of 1958 [set out above], Reorganization Plan No. 1 of 1973 [set out above], and Section 301 of Title 3 of the United States Code, and in order to ensure that plans and procedures are in place to respond to radiological emergencies at commercial nuclear power plants in operation or under construction, it is hereby ordered as follows:

SECTION 1. *Scope*. (a) This Order applies whenever State or local governments, either individually or together, decline or fail to prepare commercial nuclear power plant radiological emergency preparedness plans that are sufficient to satisfy Nuclear Regulatory Commission ("NRC") licensing requirements or to participate

adequately in the preparation, demonstration, testing, exercise, or use of such plans.

(b) In order to request the assistance of the Department of Homeland Security ("DHS") provided for in this Order, an affected nuclear power plant applicant or licensee ("licensee") shall certify in writing to DHS that the situation described in Subsection (a) exists.

SEC. 2. *Generally Applicable Principles and Directives*. (a) Subject to the principles articulated in this Section, the Secretary of Homeland Security is hereby authorized and directed to take the actions specified in Sections 3 through 6 of this Order.

(b) In carrying out any of its responsibilities under this Order, DHS:

(1) shall work actively with the licensee, and, before relying upon its resources or those of any other Department or agency within the Executive branch, shall make maximum feasible use of the licensee's resources;

(2) shall take care not to supplant State and local resources. DHS shall substitute its own resources for those of the State and local governments only to the extent necessary to compensate for the nonparticipation or inadequate participation of those governments, and only as a last resort after appropriate consultation with the Governors and responsible local officials in the affected area regarding State and local participation;

(3) is authorized, to the extent permitted by law, to enter into interagency Memoranda of Understanding providing for utilization of the resources of other Executive branch Departments and agencies and for delegation to other Executive branch Departments and agencies of any of the functions and duties assigned to DHS under this Order; however, any such Memorandum of Understanding shall be subject to approval by the Director of the Office of Management and Budget ("OMB") and published in final form in the Federal Register; and

(4) shall assume for purposes of Sections 3 and 4 of this Order that, in the event of an actual radiological emergency or disaster, State and local authorities would contribute their full resources and exercise their authorities in accordance with their duties to protect the public from harm and would act generally in conformity with the licensee's radiological emergency preparedness plan.

(c) The Director of OMB shall resolve any issue concerning the obligation of Federal funds arising from the implementation of this Order. In resolving issues under this Subsection, the Director of OMB shall ensure:

(1) that DHS has utilized to the maximum extent possible the resources of the licensee and State and local governments before it relies upon its appropriated and lawfully available resources or those of any Department or agency in the Executive branch;

(2) that DHS shall use its existing resources to coordinate and manage, rather than duplicate, other available resources;

(3) that implementation of this Order is accomplished with an economy of resources; and

(4) that full reimbursement to the Federal Government is provided, to the extent permitted by law.

SEC. 3. *DHS Participation in Emergency Preparedness Planning*. (a) DHS assistance in emergency preparedness planning shall include advice, technical assistance, and arrangements for facilities and resources as needed to satisfy the emergency planning requirements under the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.], and any other Federal legislation or regulations pertaining to issuance or retention of a construction permit or an operating license for a nuclear power plant.

(b) DHS shall make all necessary plans and arrangements to ensure that the Federal Government is prepared to assume any and all functions and undertakings necessary to provide adequate protection to the public in cases within the scope of this Order. In making such plans and arrangements,

(1) DHS shall focus planning of Federal response activities to ensure that:

(A) adequate resources and arrangements will exist, as of the time when an initial response is needed, given the absence or inadequacy of advance State and local commitments; and

(B) attention has been given to coordinating (including turning over) response functions when State and local governments do exercise their authority, with specific attention to the areas where prior State and local participation has been insufficient or absent;

(2) FEMA's [DHS's] planning for Federal participation in responding to a radiological emergency within the scope of this Order shall include, but not be limited to, arrangements for using existing Federal resources to provide prompt notification of the emergency to the general public; to assist in any necessary evacuation; to provide reception centers or shelters and related facilities and services for evacuees; to provide emergency medical services at Federal hospitals, including those operated by the military services and by the Veterans' Administration [now Department of Veterans Affairs]; and to ensure the creation and maintenance of channels of communication from commercial nuclear power plant licensees or applicants to State and local governments and to surrounding members of the public.

SEC. 4. *Evaluation of Plans*. (a) DHS shall consider and evaluate all plans developed under the authority of this Order as though drafted and submitted by a State or local government.

(b) DHS shall take all actions necessary to carry out the evaluation referred to in the preceding Subsection and to permit the NRC to conduct its evaluation of radiological emergency preparedness plans including, but not limited to, planning, participating in, and evaluating exercises, drills, and tests, on a timely basis, as necessary to satisfy NRC requirements for demonstrations of off-site radiological emergency preparedness.

SEC. 5. *Response to a Radiological Emergency*. (a) In the event of an actual radiological emergency or disaster, DHS shall take all steps necessary to ensure the implementation of the plans developed under this Order and shall coordinate the actions of other Federal agencies to achieve the maximum effectiveness of Federal efforts in responding to the emergency.

(b) DHS shall coordinate Federal response activities to ensure that adequate resources are directed, when an initial response is needed, to activities hindered by the absence or inadequacy of advance State and local commitments. DHS shall also coordinate with State and local governmental authorities and turn over response functions as appropriate when State and local governments do exercise their authority.

(c) DHS shall assume any necessary command-and-control function, or delegate such function to another Federal agency, in the event that no competent State and local authority is available to perform such function.

(d) In any instance in which Federal personnel may be called upon to fill a command-and-control function during a radiological emergency, in addition to any other powers it may have, DHS or its designee is authorized to accept volunteer assistance from utility employees and other nongovernmental personnel for any purpose necessary to implement the emergency response plan and facilitate off-site emergency response.

SEC. 6. *Implementation of Order*. (a) DHS shall issue interim and final directives and procedures implementing this Order as expeditiously as is feasible and in any event shall issue interim directives and procedures not more than 90 days following the effective date of this Order and shall issue final directives and procedures not more than 180 days following the effective date of this Order.

(b) Immediately upon the effective date of this Order, DHS shall review, and initiate necessary revisions of, all DHS regulations, directives, and guidance to conform them to the terms and policies of this Order.

(c) Immediately upon the effective date of this Order, DHS shall review, and initiate necessary renegotiations of, all interagency agreements to which DHS is a party, so as to conform them to the terms and policies of this Order. This directive shall include, but not be limited to, the Federal Radiological Emergency Response Plan (50 *Fed. Reg*. 46542 (November 8, 1985)).

(d) To the extent permitted by law, DHS is directed to obtain full reimbursement, either jointly or severally, for services performed by DHS or other Federal agencies pursuant to this Order from any affected licensee and from any affected nonparticipating or inadequately participating State or local government.

SEC. 7. *Amendments*. This Executive Order amends Executive Order Nos. 11490 (34 *Fed. Reg*. 17567 (October 28, 1969)) [see note above], 12148 (44 *Fed. Reg*. 43239 (July 20, 1979)) [set out above], and 12241 (45 *Fed. Reg*. 64879 (September 29, 1980)), and the same are hereby superseded to the extent that they are inconsistent with this Order.

SEC. 8. *Judicial Review*. This Order is intended only to improve the internal management of the Executive branch, and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

SEC. 9. *Effective Date*. This Order shall be effective November 18, 1988.

EX. ORD. NO. 12673. DELEGATION OF DISASTER RELIEF AND EMERGENCY ASSISTANCE FUNCTIONS

Ex. Ord. No. 12673, Mar. 23, 1989, 54 F.R. 12571, provided:

By virtue of the authority vested in me as President by the Constitution and laws of the United States of America, including the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5121 *et seq*.), and in order to conform delegations of authority to recent legislation, it is hereby ordered as follows:

SECTION 1. Section 4–203 of Executive Order No. 12148 [set out above] is amended to read:

Section 4–203. The functions vested in the President by the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5121 *et seq*.), except those functions vested in the President by Section 401 (relating to the declaration of major disasters and emergencies), Section 501 (relating to the declaration of emergencies), Section 405 (relating to the repair, reconstruction, restoration, or replacement of Federal facilities), and Section 412 (relating to food coupons [benefits] and distribution), are hereby delegated to the Director of the Federal Emergency Management Agency.

SEC. 2. Section 3 of Executive Order No. 11795 [42 U.S.C. 5121 note] is amended by removing the words "Section 409" and inserting "Section 412" in place thereof.

SEC. 3. The functions vested in the President by Section 103(e)(2) of the Disaster Relief and Emergency Assistance Amendments of 1988, Public Law 100–707 [42 U.S.C. 5122 note] (relating to the transmission of a

report to the Committee on Public Works and Transportation of the House of Representatives and to the Committee on Environment and Public Works of the Senate), are hereby delegated to the Director of the Federal Emergency Management Agency.

SEC. 4. The functions vested in the President by Section 110 of the Disaster Relief and Emergency Assistance Amendments of 1988, Public Law 100–707 [42 U.S.C. 5121 note], are hereby delegated to the Director of the Federal Emergency Management Agency.

SEC. 5. The functions vested in the President by Section 113 of the Disaster Relief and Emergency Assistance Amendments of 1988, Public Law 100–707 [42 U.S.C. 5201 note], are hereby delegated to the Director of the Federal Emergency Management Agency.

SEC. 6. The amendments to Executive Order No. 12148 that are made by Section 1 of this Executive Order shall not affect the administration of any assistance for major disasters or emergencies declared by the President before the effective date of "The Disaster Relief and Emergency Assistance Amendments of 1988 [probably means date of enactment of Pub. L. 100–707, which was approved Nov. 23, 1988]."

GEORGE BUSH.

EX. ORD. NO. 13010. CRITICAL INFRASTRUCTURE PROTECTION

Ex. Ord. No. 13010, July 15, 1996, 61 F.R. 37347, as amended by Ex. Ord. No. 13025, Nov. 13, 1996, 61 F.R. 58623; Ex. Ord. No. 13041, Apr. 3, 1997, 62 F.R. 17039; Ex. Ord. No. 13064, Oct. 11, 1997, 62 F.R. 53711; Ex. Ord. No. 13077, Mar. 10, 1998, 63 F.R. 12381; Ex. Ord. No. 13138, §3(c), Sept. 30, 1999, 64 F.R. 53880, provided:

Certain national infrastructures are so vital that their incapacity or destruction would have a debilitating impact on the defense or economic security of the United States. These critical infrastructures include telecommunications, electrical power systems, gas and oil storage and transportation, banking and finance, transportation, water supply systems, emergency services (including medical, police, fire, and rescue), and continuity of government. Threats to these critical infrastructures fall into two categories: physical threats to tangible property ("physical threats"), and threats of electronic, radio-frequency, or computer-based attacks on the information or communications components that control critical infrastructures ("cyber threats"). Because many of these critical infrastructures are owned and operated by the private sector, it is essential that the government and private sector work together to develop a strategy for protecting them and assuring their continued operation.

NOW, THEREFORE, by the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Establishment.* There is hereby established the President's Commission on Critical Infrastructure Protection ("Commission").

(a) *Chair*. A qualified individual from outside the Federal Government shall be designated by the President from among the members to serve as Chair of the Commission. The Commission Chair shall be employed on a full-time basis.

(b) *Members*. The head of each of the following executive branch departments and agencies shall nominate not more than two full-time members of the Commission:

(i) Department of the Treasury;
(ii) Department of Justice;
(iii) Department of Defense;
(iv) Department of Commerce;
(v) Department of Transportation;
(vi) Department of Energy;
(vii) Central Intelligence Agency;
(viii) Federal Emergency Management Agency;
(ix) Federal Bureau of Investigation;
(x) National Security Agency.

One of the nominees of each agency may be an individual from outside the Federal Government who shall be employed by the agency on a full-time basis. Each nominee must be approved by the Steering Committee.

SEC. 2. *The Principals Committee*. The Commission shall report to the President through a Principals Committee ("Principals Committee"), which shall review any reports or recommendations before submission to the President. The Principals Committee shall comprise the:

(i) Secretary of the Treasury;
(ii) Secretary of Defense;
(iii) Attorney General;
(iv) Secretary of Commerce;

(v) Secretary of Transportation;
(vi) Secretary of Energy;
(vii) Director of Central Intelligence;
(viii) Director of the Office of Management and Budget;
(ix) Director of the Federal Emergency Management Agency;
(x) Assistant to the President for National Security Affairs;
(xi) Assistant to the Vice President for National Security Affairs.[;]
(xii) Assistant to the President for Economic Policy and Director of the National Economic Council; and
(xiii) Assistant to the President and Director of the Office of Science and Technology Policy.

SEC. 3. *The Steering Committee of the President's Commission on Critical Infrastructure Protection*. A Steering Committee ("Steering Committee") shall oversee the work of the Commission on behalf of the Principals Committee. The Steering Committee shall comprise [sic] five members. Four of the members shall be appointed by the President, and the fifth member shall be the Chair of the Commission. Two of the members of the Committee shall be employees of the Executive Office of the President. The Steering Committee will receive regular reports on the progress of the Commission's work and approve the submission of reports to the Principals Committee.

SEC. 4. *Mission*. The Commission shall: (a) within 30 days of this order, produce a statement of its mission objectives, which will elaborate the general objectives set forth in this order, and a detailed schedule for addressing each mission objective, for approval by the Steering Committee;

(b) identify and consult with: (i) elements of the public and private sectors that conduct, support, or contribute to infrastructure assurance; (ii) owners and operators of the critical infrastructures; and (iii) other elements of the public and private sectors, including the Congress, that have an interest in critical infrastructure assurance issues and that may have differing perspectives on these issues;

(c) assess the scope and nature of the vulnerabilities of, and threats to, critical infrastructures;

(d) determine what legal and policy issues are raised by efforts to protect critical infrastructures and assess how these issues should be addressed;

(e) recommend a comprehensive national policy and implementation strategy for protecting critical infrastructures from physical and cyber threats and assuring their continued operation;

(f) propose any statutory or regulatory changes necessary to effect its recommendations; and

(g) produce reports and recommendations to the Steering Committee as they become available; it shall not limit itself to producing one final report.

SEC. 5. [Revoked by Ex. Ord. No. 13138, §3(c), Sept. 30, 1999, 64 F.R. 53880.]

SEC. 6. *Administration*. (a) All executive departments and agencies shall cooperate with the Commission and provide such assistance, information, and advice to the Commission as it may request, to the extent permitted by law.

(b) The Commission and the Advisory Committee may hold open and closed hearings, conduct inquiries, and establish subcommittees, as necessary.

(c) Members of the Advisory Committee shall serve without compensation for their work on the Advisory Committee. While engaged in the work of the Advisory Committee, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the government service.

(d) To the extent permitted by law, and subject to the availability of appropriations, the Department of Defense shall provide the Commission and the Advisory Committee with administrative services, staff, other support services, and such funds as may be necessary for the performance of its functions and shall reimburse the executive branch components that provide representatives to the Commission for the compensation of those representatives.

(e) In order to augment the expertise of the Commission, the Department of Defense may, at the Commission's request, contract for the services of nongovernmental consultants who may prepare analyses, reports, background papers, and other materials for consideration by the Commission. In addition, at the Commission's request, executive departments and agencies shall request that existing Federal advisory committees consider and provide advice on issues of critical infrastructure protection, to the extent permitted by law.

(f) The Commission shall terminate 1 year and 90 days from the date of this order, unless extended by the President prior to that date. The Principals Committee, the Steering Committee, and the Advisory Committee shall terminate no later than September 30, 1998, and, upon submission of the Commission's report, shall review the report and prepare appropriate recommendations to the President.

(g) The person who served as Chair of the Commission may continue to be a member of the Steering Committee after termination of the Commission.

SEC. 7. *Review of Commission's Report*. (a) Upon the termination of the Commission as set out in section 6(f) of this order, certain of the Commission's staff may be retained no later than September 30, 1998, solely to assist the Principals, Steering, and Advisory Committees in reviewing the Commission's report and preparing recommendations to the President. They shall act under the direction of the Steering Committee or its designated agent. The Department of Defense shall continue to provide funding and administrative support for the retained Commission staff.

(b) Pursuant to [former] Executive Order 12958, I hereby designate the Executive Secretary of the National Security Council to exercise the authority to classify information originally as "Top Secret" with respect to the work of the Commission staff, the Principals Committee, the Steering Committee, the Advisory Committee, and the Infrastructure Protection Task Force.

SEC. 8. *Interim Coordinating Mission*. (a) While the Commission is conducting its analysis and until the President has an opportunity to consider and act on its recommendations, there is a need to increase coordination of existing infrastructure protection efforts in order to better address, and prevent, crises that would have a debilitating regional or national impact. There is hereby established an Infrastructure Protection Task Force ("IPTF") within the Department of Justice, chaired by the Federal Bureau of Investigation, to undertake this interim coordinating mission.

(b) The IPTF will not supplant any existing programs or organizations.

(c) The Steering Committee shall oversee the work of the IPTF.

(d) The IPTF shall include at least one full-time member each from the Federal Bureau of Investigation, the Department of Defense, and the National Security Agency. It shall also receive part-time assistance from other executive branch departments and agencies. Members shall be designated by their departments or agencies on the basis of their expertise in the protection of critical infrastructures. IPTF members' compensation shall be paid by their parent agency or department.

(e) The IPTF's function is to identify and coordinate existing expertise, inside and outside of the Federal Government, to:

(i) provide, or facilitate and coordinate the provision of, expert guidance to critical infrastructures to detect, prevent, halt, or confine an attack and to recover and restore service;

(ii) issue threat and warning notices in the event advance information is obtained about a threat;

(iii) provide training and education on methods of reducing vulnerabilities and responding to attacks on critical infrastructures;

(iv) conduct after-action analysis to determine possible future threats, targets, or methods of attack; and

(v) coordinate with the pertinent law enforcement authorities during or after an attack to facilitate any resulting criminal investigation.

(f) All executive departments and agencies shall cooperate with the IPTF and provide such assistance, information, and advice as the IPTF may request, to the extent permitted by law.

(g) All executive departments and agencies shall share with the IPTF information about threats and warning of attacks, and about actual attacks on critical infrastructures, to the extent permitted by law.

(h) The IPTF shall terminate no later than 180 days after the termination of the Commission, unless extended by the President prior to that date.

SEC. 9. *General*. (a) This order is not intended to change any existing statutes or Executive orders.

(b) This order is not intended to create any right, benefit, trust, or responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person.

WILLIAM J. CLINTON.

[Ex. Ord. No. 13138, §3(c), Sept. 30, 1999, 64 F.R. 53880, formerly set out as a note under section 1013 of Title 5, Government Organization and Employees, revoked "Section 5 and that part of section 6(f) of Executive Order 13010, as amended by section 3 of Executive Order 13025, Executive Order 13041, sections 1, 2, and that part of section 3 of Executive Order 13064, and Executive Order 13077, establishing the Advisory Committee to the President's Commission on Critical Infrastructure Protection".]

EXECUTIVE ORDER NO. 13130

Ex. Ord. No. 13130, July 14, 1999, 64 F.R. 38535, which established the National Infrastructure Assurance Council, was revoked by Ex. Ord. No. 13231, §10(e)(iii), Oct. 16, 2001, 66 F.R. 53070, set out as a note under section 121 of Title 6, Domestic Security.

EX. ORD. NO. 13151. GLOBAL DISASTER INFORMATION NETWORK

Ex. Ord. No. 13151, Apr. 27, 2000, 65 F.R. 25619, as amended by Ex. Ord. No. 13284, §5, Jan. 23, 2003, 68 F.R. 4075, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to establish a Global Disaster Information Network to use information technology more effectively to reduce loss of life and property from natural and man-made disasters, it is hereby ordered as follows:

SECTION 1. *Policy*. (a) It is the policy of this Administration to use information technology more effectively to coordinate the Federal Government's collection and dissemination of information to appropriate response agencies and State governments to prepare for and respond to natural and man-made disasters (disasters). As a result of changing population demographics in our coastal, rural, and urban areas over the past decades, the loss of life and property (losses) from disasters has nearly doubled. One of the ways the Federal Government can reduce these losses is to use technology more effectively to coordinate its collection and dissemination (hereafter referred to collectively as "provision") of information which can be used in both planning for and recovering from disasters. While many agencies provide disaster-related information, they may not always provide it in a coordinated manner. To improve the provision of disaster-related information, the agencies shall, as set out in this order, use information technology to coordinate the Federal Government's provision of information to prepare for, respond to, and recover from domestic disasters.

(b) It is also the policy of this Administration to use information technology and existing channels of disaster assistance to improve the Federal Government's provision of information that could be helpful to foreign governments preparing for or responding to foreign disasters. Currently, the United States Government provides disaster-related information to foreign governments and relief organizations on humanitarian grounds at the request of foreign governments and where appropriate. This information is supplied by Federal agencies on an ad hoc basis. To increase the effectiveness of our response to foreign disasters, agencies shall, where appropriate, use information technology to coordinate the Federal Government's provision of disaster-related information to foreign governments.

(c) To carry out the policies in this order, there is established the Global Disaster Information Network (Network). The Network is defined as the coordinated effort by Federal agencies to develop a strategy and to use existing technical infrastructure, to the extent permitted by law and subject to the availability of appropriations and under the guidance of the Interagency Coordinating Committee and the Committee Support Office, to make more effective use of information technology to assist our Government, and foreign governments where appropriate, by providing disaster-related information to prepare for and respond to disasters.

SEC. 2. *Establishment*. (a) There is established an Interagency Coordinating Committee (Committee) to provide leadership and oversight for the development of the Network. The Office of the Vice President, the Department of Commerce through the National Oceanic and Atmospheric Administration, and the Department of State, respectively, shall designate a representative to serve as Co-chairpersons of the Committee. The Committee membership shall comprise representatives from the following departments and agencies:

(1) Department of State;
(2) Department of Defense;
(3) Department of the Interior;
(4) Department of Agriculture;
(5) Department of Commerce;
(6) Department of Transportation;
(7) Department of Energy;
(8) Department of Homeland Security;
(9) Office of Management and Budget;
(10) Environmental Protection Agency;
(11) National Aeronautics and Space Administration;
(12) United States Agency for International Development;
(13) Federal Emergency Management Agency; and
(14) Central Intelligence Agency.

At the discretion of the Co-chairpersons of the Committee, other agencies may be added to the Committee membership. The Committee shall include an Executive Secretary to effect coordination between the Co-chairpersons of the Committee and the Committee Support Office.

(b) There is established a Committee Support Office (Support Office) to assist the Committee by developing plans and projects that would further the creation of the Network. The Support Office shall, at the request of the Co-chairpersons of the Committee, carry out tasks taken on by the Committee.

(c) The National Oceanic and Atmospheric Administration shall provide funding and administrative support for the Committee and the Support Office. To the extent permitted by law, agencies may provide support to the Committee and the Support Office to assist them in their work.

SEC. 3. *Responsibilities*. (a) The Committee shall:

(1) serve as the United States Government's single entity for all matters, both national and international, pertaining to the development and establishment of the Network;

(2) provide leadership and high-level coordination of Network activities;

(3) provide guidance for the development of Network strategies, goals, objectives, policies, and legislation;

(4) represent and advocate Network goals, objectives, and processes to their respective agencies and departments;

(5) provide manpower and material support for Network development activities;

(6) develop, delegate, and monitor interagency opportunities and ideas supporting the development of the Network; and

(7) provide reports, through the Co-chairpersons of the Committee, to the President as requested or at least annually.

(b) The Support Office shall:

(1) provide management and administrative support for the Committee;

(2) develop Network strategies, goals, objectives, policies, plans, and legislation in accordance with guidance provided by the Committee;

(3) consult with agencies, States, nongovernment organizations, and international counterparts in developing Network development tasks;

(4) develop and make recommendations concerning Network activities to the agencies as approved by the Committee; and

(5) participate in projects that promote the goals and objectives of the Network.

SEC. 4. *Implementation*. (a) The Committee, with the assistance of the Support Office, shall address national and international issues associated with the development of the Network within the context of:

(1) promoting the United States as an example and leader in the development and dissemination of disaster information, both domestically and abroad, and, to this end, seeking cooperation with foreign governments and international organizations;

(2) striving to include all appropriate stakeholders in the development of the Network; and

(3) facilitating the creation of a framework that involves public and private stakeholders in a partnership for sustained operations of the Network.

(b) Intelligence activities, as determined by the Director of the Central Intelligence Agency, as well as national security-related activities of the Department of Defense and of the Department of Energy, are exempt from compliance with this order.

SEC. 5. *Tribal Governments*. This order does not impose any requirements on tribal governments.

SEC. 6. *Judicial Review*. This order does not create any right or benefit, substantive or procedural, enforceable by law, by a party against the United States, its officers, its employees, or any other person.

EX. ORD. NO. 13407. PUBLIC ALERT AND WARNING SYSTEM

Ex. Ord. No. 13407, June 26, 2006, 71 F.R. 36975, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5121 *et seq*.), and the Homeland Security Act of 2002, as amended (6 U.S.C. 101 *et seq*.), it is hereby ordered as follows:

SECTION 1. *Policy*. It is the policy of the United States to have an effective, reliable, integrated, flexible, and comprehensive system to alert and warn the American people in situations of war, terrorist attack, natural disaster, or other hazards to public safety and well-being (public alert and warning system), taking appropriate account of the functions, capabilities, and needs of the private sector and of all levels of government in our Federal system, and to ensure that under all conditions the President can communicate with the American people.

SEC. 2. *Functions of the Secretary of Homeland Security.*

(a) To implement the policy set forth in section 1 of this order, the Secretary of Homeland Security shall:

(i) inventory, evaluate, and assess the capabilities and integration with the public alert and warning system of Federal, State, territorial, tribal, and local public alert and warning resources;

(ii) establish or adopt, as appropriate, common alerting and warning protocols, standards, terminology, and operating procedures for the public alert and warning system to enable interoperability and the secure delivery of coordinated messages to the American people through as many communication pathways as practicable, taking account of Federal Communications Commission rules as provided by law;

(iii) ensure the capability to adapt the distribution and content of communications on the basis of

geographic location, risks, or personal user preferences, as appropriate;

(iv) include in the public alert and warning system the capability to alert and warn all Americans, including those with disabilities and those without an understanding of the English language;

(v) through cooperation with the owners and operators of communication facilities, maintain, protect, and, if necessary, restore communications facilities and capabilities necessary for the public alert and warning system;

(vi) ensure the conduct of training, tests, and exercises for the public alert and warning system;

(vii) ensure the conduct of public education efforts so that State, territorial, tribal, and local governments, the private sector, and the American people understand the functions of the public alert and warning system and how to access, use, and respond to information from the public alert and warning system;

(viii) consult, coordinate, and cooperate with the private sector, including communications media organizations, and Federal, State, territorial, tribal, and local governmental authorities, including emergency response providers, as appropriate;

(ix) administer the Emergency Alert System (EAS) as a critical component of the public alert and warning system; and

(x) ensure that under all conditions the President of the United States can alert and warn the American people.

(b) In performing the functions set forth in subsection (a) of this section, the Secretary of Homeland Security shall coordinate with the Secretary of Commerce, the heads of other departments and agencies of the executive branch (agencies), and other officers of the United States, as appropriate, and the Federal Communications Commission.

(c) The Secretary of Homeland Security may issue guidance to implement this order.

SEC. 3. *Duties of Heads of Departments and Agencies.*

(a) The heads of agencies shall provide such assistance and information as the Secretary of Homeland Security may request to implement this order.

(b) In addition to performing the duties specified under subsection (a) of this section:

(i) the Secretary of Commerce shall make available to the Secretary of Homeland Security, to assist in implementing this order, the capabilities and expertise of the Department of Commerce relating to standards, technology, telecommunications, dissemination systems, and weather;

(ii) the Secretary of Defense shall provide to the Secretary of Homeland Security requirements for the public alert and warning system necessary to ensure proper coordination of the functions of the Department of Defense with the use of such system;

(iii) the Federal Communications Commission shall, as provided by law, adopt rules to ensure that communications systems have the capacity to transmit alerts and warnings to the public as part of the public alert and warning system; and

(iv) the heads of agencies with capabilities for public alert and warning shall comply with guidance issued by the Secretary of Homeland Security under subsection 2(c) of this order, and shall develop and maintain such capabilities in a manner consistent and interoperable with the public alert and warning system.

SEC. 4. *Reports on Implementation*. Not later than 90 days after the date of this order, the Secretary of Homeland Security shall submit to the President, through the Assistant to the President for Homeland Security and Counterterrorism, a plan for the implementation of this order, and shall thereafter submit reports from time to time, and not less often than once each year, on such implementation, together with any recommendations the Secretary finds appropriate.

SEC. 5. *Amendment, Revocation, and Transition.*

(a) [Amended Ex. Ord. No. 12472, formerly set out above.]

(b) Not later than 120 days after the date of this order, the Secretary of Homeland Security, after consultation with the Assistant to the President for Homeland Security and Counterterrorism, shall issue guidance under section 2(c) of this order that shall address the subject matter of the presidential memorandum of September 15, 1995, for the Director, Federal Emergency Management Agency, on Presidential Communications with the General Public During Periods of National Emergency, and upon issuance of such guidance such memorandum is revoked.

(c) The Secretary of Homeland Security shall ensure an orderly and effective transition, without loss of capability, from alert and warning systems available as of the date of this order to the public alert and warning system for which this order provides.

SEC. 6. *General Provisions*. (a) This order shall be implemented in a manner consistent with:

(i) applicable law and presidential guidance, including Executive Order 12472 of April 3, 1984, as amended, and subject to the availability of appropriations; and

(ii) the authorities of agencies, or heads of agencies, vested by law.

(b) This order shall not be construed to impair or otherwise affect the functions of the Director of the Office of Management and Budget relating to budget, administrative, and legislative proposals.

(c) This order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity by a party against the United States, its agencies, instrumentalities, or entities, its officers, employees, or agents, or any other person.

GEORGE W. BUSH.

EX. ORD. NO. 13618. ASSIGNMENT OF NATIONAL SECURITY AND EMERGENCY PREPAREDNESS COMMUNICATIONS FUNCTIONS

Ex. Ord. No. 13618, July 6, 2012, 77 F.R. 40779, as amended by Ex. Ord. No. 13961, §2, formerly §6, Dec. 7, 2020, 85 F.R. 79380, renumbered §2, Ex. Ord. No. 14146, §1, Jan. 19, 2025, 90 F.R. 8109, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Policy*. The Federal Government must have the ability to communicate at all times and under all circumstances to carry out its most critical and time sensitive missions. Survivable, resilient, enduring, and effective communications, both domestic and international, are essential to enable the executive branch to communicate within itself and with: the legislative and judicial branches; State, local, territorial, and tribal governments; private sector entities; and the public, allies, and other nations. Such communications must be possible under all circumstances to ensure national security, effectively manage emergencies, and improve national resilience. The views of all levels of government, the private and nonprofit sectors, and the public must inform the development of national security and emergency preparedness (NS/EP) communications policies, programs, and capabilities.

SEC. 2. *Executive Office Responsibilities.*

SEC. 2.1. Policy coordination, guidance, dispute resolution, and periodic in-progress reviews for the functions described and assigned herein shall be provided through the interagency process established in Presidential Policy Directive-1 of February 13, 2009 (Organization of the National Security Council System) (PPD–1).

SEC. 2.2. The Director of the Office of Science and Technology Policy (OSTP) shall: (a) issue an annual memorandum to the NS/EP Communications Executive Committee (established in section 3 of this order) highlighting national priorities for Executive Committee analyses, studies, research, and development regarding NS/EP communications;

(b) advise the President on the prioritization of radio spectrum and wired communications that support NS/EP functions; and

(c) have access to all appropriate information related to the test, exercise, evaluation, and readiness of the capabilities of all existing and planned NS/EP communications systems, networks, and facilities to meet all executive branch NS/EP requirements.

SEC. 2.3. The Director of OSTP is delegated the authority to exercise the authorities vested in the President by section 706(a), and (c) through (e) of the Communications Act of 1934, as amended (47 U.S.C. 606(a), and (c) through (e)), if the President takes the actions, including issuing any necessary proclamations and findings, required by that section to invoke those authorities. This delegation shall apply to any provisions of any future public law that are the same or substantially the same as the provisions referenced in this section.

SEC. 3. [Revoked by Ex. Ord. No. 13961, §6(b), Dec. 7, 2020, 85 F.R. 79380, set out below.]

SEC. 4. *Executive Committee Joint Program Office.*

SEC. 4.1. The Secretary of Homeland Security shall establish an Executive Committee Joint Program Office (JPO) to provide full-time, expert, and administrative support for the Executive Committee's performance of its responsibilities under section 3.3 of this order. Staff of the JPO shall include detailees, as needed and appropriate, from agencies represented on the Executive Committee. The Department of Homeland Security shall provide resources to support the JPO. The JPO shall be responsive to the guidance of the Executive Committee.

SEC. 4.2. The responsibilities of the JPO shall include: coordination of programs that support NS/EP missions, priorities, goals, and policy; and, when directed by the Executive Committee, the convening of governmental and nongovernmental groups (consistent with the Federal Advisory Committees [sic] Act, as amended ([former] 5 U.S.C. App.) [see 5 U.S.C. 1001 et seq.]), coordination of activities, and development of policies for senior official review and approval.

SEC. 5. *Specific Department and Agency Responsibilities.*

SEC. 5.1. The Secretary of Defense shall: (a) oversee the development, testing, implementation, and sustainment of NS/EP communications that are directly responsive to the national security needs of the President, Vice President, and senior national leadership, including: communications with or among the

President, Vice President, White House staff, heads of state and government, and Nuclear Command and Control leadership; Continuity of Government communications; and communications among the executive, judicial, and legislative branches to support Enduring Constitutional Government;

(b) incorporate, integrate, and ensure interoperability and the optimal combination of hardness, redundancy, mobility, connectivity, interoperability, restorability, and security to obtain, to the maximum extent practicable, the survivability of NS/EP communications defined in section 5.1(a) of this order under all circumstances, including conditions of crisis or emergency;

(c) provide to the Executive Committee the technical support necessary to develop and maintain plans adequate to provide for the security and protection of NS/EP communications; and

(d) provide, operate, and maintain communication services and facilities adequate to execute responsibilities consistent with Executive Order 12333 of December 4, 1981, as amended.

SEC. 5.2. The Secretary of Homeland Security shall: (a) oversee the development, testing, implementation, and sustainment of NS/EP communications, including: communications that support Continuity of Government; Federal, State, local, territorial, and tribal emergency preparedness and response communications; non-military executive branch communications systems; critical infrastructure protection networks; and non-military communications networks, particularly with respect to prioritization and restoration;

(b) incorporate, integrate, and ensure interoperability and the necessary combination of hardness, redundancy, mobility, connectivity, interoperability, restorability, and security to obtain, to the maximum extent practicable, the survivability of NS/EP communications defined in section 5.2(a) of this order under all circumstances, including conditions of crisis or emergency;

(c) provide to the Executive Committee the technical support necessary to develop and maintain plans adequate to provide for the security and protection of NS/EP communications;

(d) receive, integrate, and disseminate NS/EP communications information to the Federal Government and State, local, territorial, and tribal governments, as appropriate, to establish situational awareness, priority setting recommendations, and a common operating picture for NS/EP communications information;

(e) satisfy priority communications requirements through the use of commercial, Government, and privately owned communications resources, when appropriate;

(f) maintain a joint industry-Government center that is capable of assisting in the initiation, coordination, restoration, and reconstitution of NS/EP communications services or facilities under all conditions of emerging threats, crisis, or emergency;

(g) serve as the Federal lead for the prioritized restoration of communications infrastructure and coordinate the prioritization and restoration of communications, including resolution of any conflicts in or among priorities, in coordination with the Secretary of Defense when activities referenced in section 5.1(a) of this order are impacted, consistent with the National Response Framework. If conflicts in or among priorities cannot be resolved between the Departments of Defense and Homeland Security, they shall be referred for resolution in accordance with section 2.1 of this order; and

(h) within 60 days of the date of this order, in consultation with the Executive Committee where appropriate, develop and submit to the President, through the Assistant to the President for Homeland Security and Counterterrorism, a detailed plan that describes the Department of Homeland Security's organization and management structure for its NS/EP communications functions, including the Government Emergency Telecommunications Service, Wireless Priority Service, Telecommunications Service Priority program, Next Generation Network Priority program, the Executive Committee JPO, and relevant supporting entities.

SEC. 5.3. The Secretary of Commerce shall: (a) provide advice and guidance to the Executive Committee on the use of technical standards and metrics to support execution of NS/EP communications;

(b) identify for the Executive Committee requirements for additional technical standards and metrics to enhance NS/EP communications;

(c) engage with relevant standards development organizations to develop appropriate technical standards and metrics to enhance NS/EP communications;

(d) develop plans and procedures concerning radio spectrum allocations, assignments, and priorities for use by agencies and executive offices;

(e) develop, maintain, and publish policies, plans, and procedures for the management and use of radio frequency assignments, including the authority to amend, modify, or revoke such assignments, in those parts of the electromagnetic spectrum assigned to the Federal Government; and

(f) administer a system of radio spectrum priorities for those spectrum-dependent telecommunications resources belonging to and operated by the Federal Government and certify or approve such radio spectrum priorities, including the resolution of conflicts in or among such radio spectrum priorities during a crisis or emergency.

SEC. 5.4. The Administrator of General Services shall provide and maintain a common Federal acquisition approach that allows for the efficient centralized purchasing of equipment and services that meet NS/EP communications requirements. Nothing in this section shall be construed to impair or otherwise affect the procurement authorities granted by law to an agency or the head thereof.

SEC. 5.5. With respect to the Intelligence Community, the DNI, after consultation with the heads of affected agencies, may issue such policy directives and guidance as the DNI deems necessary to implement this order. Procedures or other guidance issued by the heads of elements of the Intelligence Community shall be in accordance with such policy directives or guidelines issued by the DNI.

SEC. 5.6. The Federal Communications Commission performs such functions as are required by law, including: (a) with respect to all entities licensed or regulated by the Federal Communications Commission: the extension, discontinuance, or reduction of common carrier facilities or services; the control of common carrier rates, charges, practices, and classifications; the construction, authorization, activation, deactivation, or closing of radio stations, services, and facilities; the assignment of radio frequencies to Federal Communications Commission licensees; the investigation of violations of pertinent law; and the assessment of communications service provider emergency needs and resources; and

(b) supporting the continuous operation and restoration of critical communications systems and services by assisting the Secretary of Homeland Security with infrastructure damage assessment and restoration, and by providing the Secretary of Homeland Security with information collected by the Federal Communications Commission on communications infrastructure, service outages, and restoration, as appropriate.

SEC. 6. *General Agency Responsibilities*. All agencies, to the extent consistent with law, shall: (a) determine the scope of their NS/EP communications requirements, and provide information regarding such requirements to the Executive Committee;

(b) prepare policies, plans, and procedures concerning communications facilities, services, or equipment under their management or operational control to maximize their capability to respond to the NS/EP needs of the Federal Government;

(c) propose initiatives, where possible, that may benefit multiple agencies or other Federal entities;

(d) administer programs that support broad NS/EP communications goals and policies;

(e) submit reports annually, or as otherwise requested, to the Executive Committee, regarding agency NS/EP communications activities;

(f) devise internal acquisition strategies in support of the centralized acquisition approach provided by the General Services Administration pursuant to section 5.4 of this order; and

(g) provide the Secretary of Homeland Security with timely reporting on NS/EP communications status to inform the common operating picture required under 6 U.S.C. 321(d).

SEC. 7. *General Provisions*. (a) For the purposes of this order, the word "agency" shall have the meaning set forth in section 6.1(b) of Executive Order 13526 of December 29, 2009.

(b) Executive Order 12472 of April 3, 1984, as amended, is hereby revoked.

(c) [Amended Ex. Ord. No. 12382, set out as a note under section 901 of Title 47, Telecommunications.]

(d) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an agency, or the head thereof; or

(ii) the functions of the Director of the OMB relating to budgetary, administrative, or legislative proposals.

(e) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(f) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

EX. ORD. NO. 13961. GOVERNANCE AND INTEGRATION OF FEDERAL MISSION RESILIENCE

Ex. Ord. No. 13961, Dec. 7, 2020, 85 F.R. 79379, as amended by Ex. Ord. No. 14146, §1, Jan. 19, 2025, 90 F.R. 8109, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Security Act of 1947, as amended, I hereby order the following:

SEC. 1. *Federal Mission Resilience Strategy*. In conjunction with this order, I am signing the Federal Mission Resilience Strategy (Strategy), which should be implemented to increase the resilience of the executive branch. Implementing the Strategy will reduce the current reliance on reactive relocation of personnel and enhance a proactive posture that minimizes disruption, distributes risk to the performance of NEFs, and maximizes the cost-effectiveness of actions that ensure continuity of operations, continuity of government, and enduring constitutional government.

SEC. 2. *Amendments to Executive Order 13618*. (a) [Amended Ex. Ord. 13618, set out above.]

(b) Section 3 of Executive Order 13618 is hereby revoked. The responsibilities of the national security and emergency preparedness Executive Committee set forth in section 3.3 of Executive Order 13618 shall be transferred to and exercised by the Restricted Principals Committee described in section 3 of the National Security Memorandum of January 19, 2025 (National Continuity Policy).

SEC. 3. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

EX. ORD. NO. 14239. ACHIEVING EFFICIENCY THROUGH STATE AND LOCAL PREPAREDNESS

Ex. Ord. No. 14239, Mar. 18, 2025, 90 F.R. 13267, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

SECTION 1. *Purpose*. Commonsense approaches and investments by State and local governments across American infrastructure will enhance national security and create a more resilient Nation. Federal policy must rightly recognize that preparedness is most effectively owned and managed at the State, local, and even individual levels, supported by a competent, accessible, and efficient Federal Government. Citizens are the immediate beneficiaries of sound local decisions and investments designed to address risks, including cyber attacks, wildfires, hurricanes, and space weather. When States are empowered to make smart infrastructure choices, taxpayers benefit.

This order empowers State, local, and individual preparedness and injects common sense into infrastructure prioritization and strategic investments through risk-informed decisions that make our infrastructure, communities, and economy resilient to global and dynamic threats and hazards.

SEC. 2. *Policy*. It is the policy of the United States that State and local governments and individuals play a more active and significant role in national resilience and preparedness, thereby saving American lives, securing American livelihoods, reducing taxpayer burdens through efficiency, and unleashing our collective prosperity. In addition, it is the policy of the United States that my Administration streamline its preparedness operations; update relevant Government policies to reduce complexity and better protect and serve Americans; and enable State and local governments to better understand, plan for, and ultimately address the needs of their citizens.

SEC. 3. *Updating Federal Policy to Save Lives and End the Subsidization of Mismanagement*. (a) National Resilience Strategy. Within 90 days of the date of this order [Mar. 18, 2025], the Assistant to the President for National Security Affairs (APNSA), in coordination with the Assistant to the President for Economic Policy and the heads of relevant executive departments and agencies (agencies), shall publish a National Resilience Strategy that articulates the priorities, means, and ways to advance the resilience of the Nation. The National Resilience Strategy shall be reviewed and revised at least every 4 years, or as appropriate.

(b) *National Critical Infrastructure Policy*. Within 180 days of the date of this order, the APNSA, in coordination with the Director of the Office of Science and Technology Policy and the heads of relevant agencies, shall review all critical infrastructure policies and recommend to the President the revisions, recissions, and replacements necessary to achieve a more resilient posture; shift from an all-hazards approach to a risk-informed approach; move beyond information sharing to action; and implement the National Resilience Strategy described in subsection (a) of this section. For purposes of this order, critical infrastructure policies do not include any policies related to purported "misinformation," "disinformation," or "malinformation," nor so-called "cognitive infrastructure," which should be reevaluated consistent with the policy set forth in Executive Order 14149 of January 20, 2025 (Restoring Freedom of Speech and Ending Federal Censorship) [5 U.S.C. 601 note], through a separate process. The policies to be reviewed and recommended for modification, as appropriate, include:

(i) National Security Memorandum 16 of November 10, 2022 (Strengthening the Security and Resilience of United States Food and Agriculture);

(ii) National Security Memorandum 22 of April 30, 2024 (Critical Infrastructure Security and Resilience);

(iii) Executive Order 14017 of February 24, 2021 (America's Supply Chains) [5 U.S.C. 601 note]; and

(iv) Executive Order 14123 of June 14, 2024 (White House Council on Supply Chain Resilience) [5 U.S.C. 601 note].

(c) *National Continuity Policy*. Within 180 days of the date of this order, the APNSA, in coordination with the heads of relevant agencies, shall review all national continuity policies and recommend to the President the revisions, recissions, and replacements necessary to modernize and streamline the approach to national continuity capabilities, reformulate the methodology and architecture necessary to achieve an enduring readiness posture, and implement the National Resilience Strategy described in subsection (a) of this section. The policies to be reviewed and recommended for modification, as appropriate, include:

(i) Executive Order 13618 of July 6, 2012 (Assignment of National Security and Emergency Preparedness Communications Functions) [set out above];

(ii) Executive Order 13961 of December 7, 2020 (Governance and Integration of Federal Mission Resilience) [set out above];

(iii) National Security Memorandum 32 of January 19, 2025 (National Continuity Policy); and

(iv) Executive Order 14146 of January 19, 2025 (Partial Revocation of Executive Order 13961) [set out above].

(d) *Preparedness and Response Policies*. Within 240 days of the date of this order, the APNSA, in coordination with the heads of relevant agencies and informed by the reports and findings of the Federal Emergency Management Agency Council established pursuant to Executive Order 14180 of January 24, 2025 (Council to Assess the Federal Emergency Management Agency) [90 F.R. 8743], shall review all national preparedness and response policies and recommend to the President the revisions, recissions, and replacements necessary to reformulate the process and metrics for Federal responsibility, move away from an all-hazards approach, and implement the National Resilience Strategy described in subsection (a) of this section. The policies to be reviewed and recommended for modification, as appropriate, include:

(i) Executive Order 12656 of November 18, 1988 (Assignment of Emergency Preparedness Responsibilities) [set out above];

(ii) Homeland Security Presidential Directive 5 of February 28, 2003 (Management of Domestic Incidents);

(iii) Presidential Policy Directive 8 of March 30, 2011 (National Preparedness);

(iv) Presidential Policy Directive 22 of March 28, 2013 (National Special Security Events); and

(v) Presidential Policy Directive 44 of November 7, 2016 (Enhancing Domestic Incident Response).

(e) *National Risk Register*. Within 240 days of the date of this order, the APNSA, in coordination with the Director of the Office of Management and Budget and the heads of relevant agencies, shall coordinate the development of a National Risk Register that identifies, articulates, and quantifies natural and malign risks to our national infrastructure, related systems, and their users.

(i) The quantification produced by the National Risk Register shall be used to inform the Intelligence Community, private sector investments, State investments, and Federal budget priorities.

(ii) The National Risk Register shall be reviewed and revised at least every 4 years, or as appropriate, to evolve with the dynamic risk landscape.

(f) *Federal National Functions Constructs*. The Federal Government organizes national preparedness and continuity through the bureaucratic and complicated lens of overlapping and overbroad "functions," which include: the National Essential Functions, Primary Mission Essential Functions, National Critical Functions, Emergency Support Functions, Recovery Support Functions, and Community Lifelines. Within 1 year of the date of this order, the Secretary of Homeland Security shall propose changes to the policies outlining this framework and any implementing documents to ensure State and local governments and individuals have improved communications with Federal officials and a better understanding of the Federal role. This proposal shall be coordinated through the process established by National Security Presidential Memorandum 1 of January 20, 2025 (Organization of the National Security Council and Subcommittees), or any successor processes, before being submitted to the President through the APNSA.

SEC. 4. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

§5195a. Definitions

(a) Definitions

For purposes of this subchapter only:

(1) Hazard

The term "hazard" means an emergency or disaster resulting from—

(A) a natural disaster; or

(B) an accidental or man-caused event.

(2) Natural disaster

The term "natural disaster" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, or other catastrophe in any part of the United States which causes, or which may cause, substantial damage or injury to civilian property or persons.

(3) Emergency preparedness

The term "emergency preparedness" means all those activities and measures designed or undertaken to prepare for or minimize the effects of a hazard upon the civilian population, to deal with the immediate emergency conditions which would be created by the hazard, and to effectuate emergency repairs to, or the emergency restoration of, vital utilities and facilities destroyed or damaged by the hazard. Such term includes the following:

(A) Measures to be undertaken in preparation for anticipated hazards (including the establishment of appropriate organizations, operational plans, and supporting agreements, the recruitment and training of personnel, the conduct of research, the procurement and stockpiling of necessary materials and supplies, the provision of suitable warning systems, the construction or preparation of shelters, shelter areas, and control centers, and, when appropriate, the non-military evacuation of the civilian population).

(B) Measures to be undertaken during a hazard (including the enforcement of passive defense regulations prescribed by duly established military or civil authorities, the evacuation of personnel to shelter areas, the control of traffic and panic, and the control and use of lighting and civil communications).

(C) Measures to be undertaken following a hazard (including activities for fire fighting, rescue, emergency medical, health and sanitation services, monitoring for specific dangers of special weapons, unexploded bomb reconnaissance, essential debris clearance, emergency welfare measures, and immediately essential emergency repair or restoration of damaged vital facilities).

(4) Organizational equipment

The term "organizational equipment" means equipment determined by the Administrator to be necessary to an emergency preparedness organization, as distinguished from personal equipment, and of such a type or nature as to require it to be financed in whole or in part by the Federal Government. Such term does not include those items which the local community normally uses in combating local disasters, except when required in unusual quantities dictated by the requirements of the emergency preparedness plans.

(5) Materials

The term "materials" includes raw materials, supplies, medicines, equipment, component parts and technical information and processes necessary for emergency preparedness.

(6) Facilities

The term "facilities", except as otherwise provided in this subchapter, includes buildings, shelters, utilities, and land.

(7) Administrator

The term "Administrator" means the Administrator of the Federal Emergency Management Agency.

(8) Neighboring countries

The term "neighboring countries" includes Canada and Mexico.

(9) United States and States

The terms "United States" and "States" includes [1] the several States, the District of Columbia, and territories and possessions of the United States.

(10) State

The term "State" includes interstate emergency preparedness authorities established under section 5196(h) of this title.

(b) Cross reference

The terms "national defense" and "defense," [2] as used in the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.),[3] includes [1] emergency preparedness activities conducted pursuant to this subchapter.

(Pub. L. 93–288, title VI, §602, as added Pub. L. 103–337, div. C, title XXXIV, §3411(a)(3), Oct. 5, 1994, 108 Stat. 3101; amended Pub. L. 111–351, §3(c), Jan. 4, 2011, 124 Stat. 3864.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Defense Production Act of 1950, referred to in subsec. (b), is act Sept. 8, 1950, ch. 932, 64 Stat. 798, which was classified to section 2061 et seq. of the former Appendix to Title 50, War and National Defense, prior to editorial reclassification and renumbering as chapter 55 (§4501 et seq.) of Title 50. For complete classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 2252 and 2282 of the former Appendix to Title 50, War and National Defense, prior to repeal by Pub. L. 103–337, §3412(a).

AMENDMENTS

2011—Subsec. (a)(4). Pub. L. 111–351, §3(c)(2), substituted "Administrator" for "Director".

Subsec. (a)(7). Pub. L. 111–351, §3(c)(1), added par. (7) and struck out former par. (7). Prior to amendment, text read as follows: "The term 'Director' means the Director of the Federal Emergency Management Agency."

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

[1] So in original. Probably should be "include".

[2] So in original. The comma probably should follow the closing quotation marks.

[3] *See References in Text note below.*

§5195b. Administration of subchapter

This subchapter shall be carried out by the Administrator of the Federal Emergency Management Agency.

(Pub. L. 93–288, title VI, §603, as added Pub. L. 103–337, div. C, title XXXIV, §3411(a)(3), Oct. 5, 1994, 108 Stat. 3102; amended Pub. L. 111–351, §3(c)(2), Jan. 4, 2011, 124 Stat. 3864.)

EDITORIAL NOTES

AMENDMENTS

2011—Pub. L. 111–351 substituted "Administrator" for "Director".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§5195c. Critical infrastructures protection

(a) Short title

This section may be cited as the "Critical Infrastructures Protection Act of 2001".

(b) Findings

Congress makes the following findings:

(1) The information revolution has transformed the conduct of business and the operations of government as well as the infrastructure relied upon for the defense and national security of the United States.

(2) Private business, government, and the national security apparatus increasingly depend on an interdependent network of critical physical and information infrastructures, including telecommunications, energy, financial services, water, and transportation sectors.

(3) A continuous national effort is required to ensure the reliable provision of cyber and physical infrastructure services critical to maintaining the national defense, continuity of government, economic prosperity, and quality of life in the United States.

(4) This national effort requires extensive modeling and analytic capabilities for purposes of evaluating appropriate mechanisms to ensure the stability of these complex and interdependent systems, and to underpin policy recommendations, so as to achieve the continuous viability and adequate protection of the critical infrastructure of the Nation.

(c) Policy of the United States

It is the policy of the United States—

(1) that any physical or virtual disruption of the operation of the critical infrastructures of the United States be rare, brief, geographically limited in effect, manageable, and minimally

detrimental to the economy, human and government services, and national security of the United States;

(2) that actions necessary to achieve the policy stated in paragraph (1) be carried out in a public-private partnership involving corporate and non-governmental organizations; and

(3) to have in place a comprehensive and effective program to ensure the continuity of essential Federal Government functions under all circumstances.

(d) Establishment of national competence for critical infrastructure protection

(1) Support of critical infrastructure protection and continuity by National Infrastructure Simulation and Analysis Center

There shall be established the National Infrastructure Simulation and Analysis Center (NISAC) to serve as a source of national competence to address critical infrastructure protection and continuity through support for activities related to counterterrorism, threat assessment, and risk mitigation.

(2) Particular support

The support provided under paragraph (1) shall include the following:

(A) Modeling, simulation, and analysis of the systems comprising critical infrastructures, including cyber infrastructure, telecommunications infrastructure, and physical infrastructure, in order to enhance understanding of the large-scale complexity of such systems and to facilitate modification of such systems to mitigate the threats to such systems and to critical infrastructures generally.

(B) Acquisition from State and local governments and the private sector of data necessary to create and maintain models of such systems and of critical infrastructures generally.

(C) Utilization of modeling, simulation, and analysis under subparagraph (A) to provide education and training to policymakers on matters relating to—

(i) the analysis conducted under that subparagraph;

(ii) the implications of unintended or unintentional disturbances to critical infrastructures; and

(iii) responses to incidents or crises involving critical infrastructures, including the continuity of government and private sector activities through and after such incidents or crises.

(D) Utilization of modeling, simulation, and analysis under subparagraph (A) to provide recommendations to policymakers, and to departments and agencies of the Federal Government and private sector persons and entities upon request, regarding means of enhancing the stability of, and preserving, critical infrastructures.

(3) Recipient of certain support

Modeling, simulation, and analysis provided under this subsection shall be provided, in particular, to relevant Federal, State, and local entities responsible for critical infrastructure protection and policy.

(e) Critical infrastructure defined

In this section, the term "critical infrastructure" means systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters.

(f) Authorization of appropriations

There is hereby authorized for the Department of Defense for fiscal year 2002, $20,000,000 for the Defense Threat Reduction Agency for activities of the National Infrastructure Simulation and Analysis Center under this section in that fiscal year.

(Pub. L. 107–56, title X, §1016, Oct. 26, 2001, 115 Stat. 400.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as the Critical Infrastructures Protection Act of 2001 and also as part of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 or USA PATRIOT Act, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the National Infrastructure Simulation and Analysis Center of the Department of Energy, including the functions of the Secretary of Energy relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 121(g)(4), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

PART A—POWERS AND DUTIES

§5196. Detailed functions of administration

(a) In general

In order to carry out the policy described in section 5195 of this title, the Administrator shall have the authorities provided in this section.

(b) Federal emergency response plans and programs

The Administrator may prepare Federal response plans and programs for the emergency preparedness of the United States and sponsor and direct such plans and programs. To prepare such plans and programs and coordinate such plans and programs with State efforts, the Administrator may request such reports on State plans and operations for emergency preparedness as may be necessary to keep the President, Congress, and the States advised of the status of emergency preparedness in the United States.

(c) Delegation of emergency preparedness responsibilities

With the approval of the President, the Administrator may delegate to other departments and agencies of the Federal Government appropriate emergency preparedness responsibilities and review and coordinate the emergency preparedness activities of the departments and agencies with each other and with the activities of the States and neighboring countries.

(d) Communications and warnings

The Administrator may make appropriate provision for necessary emergency preparedness communications and for dissemination of warnings to the civilian population of a hazard.

(e) Emergency preparedness measures

The Administrator may study and develop emergency preparedness measures designed to afford adequate protection of life and property, including—

(1) research and studies as to the best methods of treating the effects of hazards;

(2) developing shelter designs and materials for protective covering or construction;

(3) developing equipment or facilities and effecting the standardization thereof to meet emergency preparedness requirements; and

(4) plans that take into account the needs of individuals with pets and service animals prior to, during, and following a major disaster or emergency.

(f) Training programs

(1) The Administrator may—

(A) conduct or arrange, by contract or otherwise, for training programs for the instruction of emergency preparedness officials and other persons in the organization, operation, and techniques of emergency preparedness;

(B) conduct or operate schools or including the payment of travel expenses, in accordance with subchapter I of chapter 57 of title 5 and the Standardized Government Travel Regulations, and per diem allowances, in lieu of subsistence for trainees in attendance or the furnishing of subsistence and quarters for trainees and instructors on terms prescribed by the Administrator; and

(C) provide instructors and training aids as necessary.

(2) The terms prescribed by the Administrator for the payment of travel expenses and per diem allowances authorized by this subsection shall include a provision that such payment shall not exceed one-half of the total cost of such expenses.

(3) The Administrator may lease real property required for the purpose of carrying out this subsection, but may not acquire fee title to property unless specifically authorized by law.

(g) Public dissemination of emergency preparedness information

The Administrator may publicly disseminate appropriate emergency preparedness information by all appropriate means.

(h) Emergency preparedness compacts

(1) The Administrator shall establish a program supporting the development of emergency preparedness compacts for acts of terrorism, disasters, and emergencies throughout the Nation, by—

(A) identifying and cataloging existing emergency preparedness compacts for acts of terrorism, disasters, and emergencies at the State and local levels of government;

(B) disseminating to State and local governments examples of best practices in the development of emergency preparedness compacts and models of existing emergency preparedness compacts, including agreements involving interstate jurisdictions; and

(C) completing an inventory of Federal response capabilities for acts of terrorism, disasters, and emergencies, making such inventory available to appropriate Federal, State, and local government officials, and ensuring that such inventory is as current and accurate as practicable.

(2) The Administrator may—

(A) assist and encourage the States to negotiate and enter into interstate emergency preparedness compacts;

(B) review the terms and conditions of such proposed compacts in order to assist, to the extent feasible, in obtaining uniformity between such compacts and consistency with Federal emergency response plans and programs;

(C) assist and coordinate the activities under such compacts; and

(D) aid and assist in encouraging reciprocal emergency preparedness legislation by the States which will permit the furnishing of mutual aid for emergency preparedness purposes in the event of a hazard which cannot be adequately met or controlled by a State or political subdivision thereof threatened with or experiencing a hazard.

(3) A copy of each interstate emergency preparedness compact shall be transmitted promptly to the Senate and the House of Representatives. The consent of Congress is deemed to be granted to each such compact upon the expiration of the 60-day period beginning on the date on which the compact is transmitted to Congress.

(4) Nothing in this subsection shall be construed as preventing Congress from disapproving, or withdrawing at any time its consent to, any interstate emergency preparedness compact.

(i) Materials and facilities

(1) The Administrator may procure by condemnation or otherwise, construct, lease, transport,

store, maintain, renovate or distribute materials and facilities for emergency preparedness, with the right to take immediate possession thereof.

(2) Facilities acquired by purchase, donation, or other means of transfer may be occupied, used, and improved for the purposes of this subchapter before the approval of title by the Attorney General as required by sections 3111 and 3112 of title 40.

(3) The Administrator may lease real property required for the purpose of carrying out the provisions of this subsection, but shall not acquire fee title to property unless specifically authorized by law.

(4) The Administrator may procure and maintain under this subsection radiological, chemical, bacteriological, and biological agent monitoring and decontamination devices and distribute such devices by loan or grant to the States for emergency preparedness purposes, under such terms and conditions as the Administrator shall prescribe.

(j) Financial contributions

(1) The Administrator may make financial contributions, on the basis of programs or projects approved by the Administrator, to the States for emergency preparedness purposes, including the procurement, construction, leasing, or renovating of materials and facilities. Such contributions shall be made on such terms or conditions as the Administrator shall prescribe, including the method of purchase, the quantity, quality, or specifications of the materials or facilities, and such other factors or care or treatment to assure the uniformity, availability, and good condition of such materials or facilities.

(2) The Administrator may make financial contributions, on the basis of programs or projects approved by the Administrator, to the States and local authorities for animal emergency preparedness purposes, including the procurement, construction, leasing, or renovating of emergency shelter facilities and materials that will accommodate people with pets and service animals.

(3) No contribution may be made under this subsection for the procurement of land or for the purchase of personal equipment for State or local emergency preparedness workers.

(4) The amounts authorized to be contributed by the Administrator to each State for organizational equipment shall be equally matched by such State from any source it determines is consistent with its laws.

(5) Financial contributions to the States for shelters and other protective facilities shall be determined by taking the amount of funds appropriated or available to the Administrator for such facilities in each fiscal year and apportioning such funds among the States in the ratio which the urban population of the critical target areas (as determined by the Administrator) in each State, at the time of the determination, bears to the total urban population of the critical target areas of all of the States.

(6) The amounts authorized to be contributed by the Administrator to each State for such shelters and protective facilities shall be equally matched by such State from any source it determines is consistent with its laws and, if not matched within a reasonable time, the Administrator may reallocate such amounts to other States under the formula described in paragraph (4).[1] The value of any land contributed by any State or political subdivision thereof shall be excluded from the computation of the State share under this subsection.

(7) The amounts paid to any State under this subsection shall be expended solely in carrying out the purposes set forth herein and in accordance with State emergency preparedness programs or projects approved by the Administrator. The Administrator shall make no contribution toward the cost of any program or project for the procurement, construction, or leasing of any facility which (A) is intended for use, in whole or in part, for any purpose other than emergency preparedness, and (B) is of such kind that upon completion it will, in the judgment of the Administrator, be capable of producing sufficient revenue to provide reasonable assurance of the retirement or repayment of such cost; except that (subject to the preceding provisions of this subsection) the Administrator may make a contribution to any State toward that portion of the cost of the construction, reconstruction, or enlargement of any facility which the Administrator determines to be directly attributable to the incorporation in such facility of any feature of construction or design not necessary for the principal

intended purpose thereof but which is, in the judgment of the Administrator necessary for the use of such facility for emergency preparedness purposes.

(8) The Administrator shall submit to Congress a report, at least annually, regarding all contributions made pursuant to this subsection.

(9) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of any contribution of Federal funds made by the Administrator under this subsection shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40, and every such employee shall receive compensation at a rate not less than one and ½ times the basic rate of pay of the employee for all hours worked in any workweek in excess of eight hours in any workday or 40 hours in the workweek, as the case may be. The Administrator shall make no contribution of Federal funds without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 3145 of title 40.

(k) Sale or disposal of certain materials and facilities

The Administrator may arrange for the sale or disposal of materials and facilities found by the Administrator to be unnecessary or unsuitable for emergency preparedness purposes in the same manner as provided for excess property under chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41. Any funds received as proceeds from the sale or other disposition of such materials and facilities shall be deposited into the Treasury as miscellaneous receipts.

(Pub. L. 93–288, title VI, §611, as added Pub. L. 103–337, div. C, title XXXIV, §3411(a)(3), Oct. 5, 1994, 108 Stat. 3102; amended Pub. L. 104–66, title II, §2071, Dec. 21, 1995, 109 Stat. 729; Pub. L. 108–458, title VII, §7406, Dec. 17, 2004, 118 Stat. 3851; Pub. L. 109–308, §3, Oct. 6, 2006, 120 Stat. 1725; Pub. L. 111–351, §3(c)(2), Jan. 4, 2011, 124 Stat. 3864.)

EDITORIAL NOTES

REFERENCES IN TEXT

Paragraph (4), referred to in subsec. (j)(6), was redesignated paragraph (5) by Pub. L. 109–308, §3(2), Oct. 6, 2006, 120 Stat. 1725.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (j)(9), is Reorg. Plan No. 14 of 1950, eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1267, which is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

In subsec. (i)(2), "sections 3111 and 3112 of title 40" substituted for "section 355 of the Revised Statutes (40 U.S.C. 255)" and, in subsec. (j)(9), "sections 3141–3144, 3146, and 3147 of title 40" substituted for "the Act of March 3, 1931 (commonly known as the Davis-Bacon Act (40 U.S.C. 276a–276a–5))" and "section 3145 of title 40" substituted for "section 2 of the Act of June 13, 1934 (40 U.S.C. 276(c))", meaning 276c, on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

In subsec. (k), "chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41" substituted for "the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.)" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2281 of the former Appendix to Title 50, War and National Defense, prior to repeal by Pub. L. 103–337, §3412(a).

AMENDMENTS

2011—Pub. L. 111–351 substituted "Administrator" for "Director" wherever appearing.

2006—Subsec. (e)(4). Pub. L. 109–308, §3(1), added par. (4).

Subsec. (j)(2) to (9). Pub. L. 109–308, §3(2), added par. (2) and redesignated former pars. (2) to (8) as (3) to (9), respectively.

2004—Subsec. (h). Pub. L. 108–458 substituted "Emergency preparedness compacts" for "Interstate emergency preparedness compacts" in subsec. heading, added par. (1), redesignated former pars. (1) to (3) as (2) to (4), respectively, and realigned margins of par. (2), as redesignated.

1995—Subsec. (i)(3) to (5). Pub. L. 104–66 redesignated pars. (4) and (5) as (3) and (4), respectively, and struck out former par. (3) which read as follows: "The Director shall submit to Congress a report, at least quarterly, describing all property acquisitions made pursuant to this subsection."

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

PLANNING FOR ANIMAL WELLNESS

Pub. L. 117–212, Oct. 17, 2022, 136 Stat. 2249, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Planning for Animal Wellness Act' or the 'PAW Act'.

"SEC. 2. WORKING GROUP GUIDELINES.

"(a) DEFINITIONS.—In this section:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Emergency Management Agency.

"(2) WORKING GROUP.—The term 'working group' means the advisory working group established under subsection (b).

"(b) WORKING GROUP.—Not later than 180 days after the date of enactment of this Act [Oct. 17, 2022], the Administrator shall establish an advisory working group.

"(c) MEMBERSHIP.—The working group shall consist of—

"(1) not less than 2 representatives of State governments with experience in animal emergency management;

"(2) not less than 2 representatives of local governments with experience in animal emergency management;

"(3) not less than 2 representatives from academia;

"(4) not less than 2 veterinary experts;

"(5) not less than 2 representatives from nonprofit organizations working to address the needs of households [sic] pets and service animals in emergencies or disasters;

"(6) representatives from the Federal Animal Emergency Management Working Group; and

"(7) any other members determined necessary by the Administrator.

"(d) DUTIES.—The working group shall—

"(1) encourage and foster collaborative efforts among individuals and entities working to address the needs of household pets, service and assistance animals, and captive animals, as appropriate, in emergency and disaster preparedness, response, and recovery; and

"(2) review best practices and Federal guidance, as of the date of enactment of this Act, on congregate and noncongregate sheltering and evacuation planning relating to the needs of household pets, service and assistance animals, and captive animals, as appropriate, in emergency and disaster preparedness, response, and recovery.

"(e) NO COMPENSATION.—The members of the working group shall serve on the working group on a

voluntary basis.

"(f) GUIDANCE DETERMINATION.—Not later than 1 year after the date of enactment of this Act, the working group shall determine whether the best practices and Federal guidance described in subsection (d)(2) are sufficient.

"(g) NEW GUIDANCE.—Not later than 540 days after the date of enactment of this Act, if the Administrator, in consultation with the working group, determines that the best practices and Federal guidance described in subsection (d)(2) are insufficient, the Administrator, in consultation with the working group, shall publish updated Federal guidance.

"(h) SUNSET.—

"(1) IN GENERAL.—Subject to paragraph (2), the working group shall terminate on the date that is 4 years after the date of enactment of this Act.

"(2) EXTENSION.—The Administrator may extend the date described in paragraph (1) if the Administrator determines an extension is appropriate."

NATIONAL CAPITAL REGION MUTUAL AID

Pub. L. 108–458, title VII, §7302, Dec. 17, 2004, 118 Stat. 3840, as amended by Pub. L. 110–250, §1, June 26, 2008, 122 Stat. 2318, provided that:

"(a) DEFINITIONS.—In this section:

"(1) AUTHORIZED REPRESENTATIVE OF THE FEDERAL GOVERNMENT.—The term 'authorized representative of the Federal Government' means any individual or individuals designated by the President with respect to the executive branch, the Chief Justice with respect to the Federal judiciary, or the President of the Senate and Speaker of the House of Representatives with respect to Congress, or their designees, to request assistance under a mutual aid agreement for an emergency or public service event.

"(2) CHIEF OPERATING OFFICER.—The term 'chief operating officer' means the official designated by law to declare an emergency in and for the locality of that chief operating officer.

"(3) EMERGENCY.—The term 'emergency' means a major disaster or emergency declared by the President, or a state of emergency declared by the mayor of the District of Columbia, the Governor of the State of Maryland or the Commonwealth of Virginia, or the declaration of a local emergency by the chief operating officer of a locality, or their designees, that triggers mutual aid under the terms of a mutual aid agreement.

"(4) EMPLOYEE.—The term 'employee' means the employees of the party who are committed in a mutual aid agreement to prepare for or who respond to an emergency or public service event.

"(5) LOCALITY.—The term 'locality' means a county, city, town, or other governmental agency, governmental authority, or governmental institution with the power to sue or be sued in its own name, within the National Capital Region.

"(6) MUTUAL AID AGREEMENT.—The term 'mutual aid agreement' means an agreement, authorized under subsection (b), for the provision of police, fire, rescue and other public safety and health or medical services to any party to the agreement during a public service event, an emergency, or pre-planned training event.

"(7) NATIONAL CAPITAL REGION OR REGION.—The term 'National Capital Region' or 'Region' means the area defined under section 2674(f)(2) of title 10, United States Code, and those counties with a border abutting that area and any municipalities therein.

"(8) PARTY.—The term 'party' means the State of Maryland, the Commonwealth of Virginia, the District of Columbia, and any of the localities duly executing a Mutual Aid Agreement under this section.

"(9) PUBLIC SERVICE EVENT.—The term 'public service event'—

"(A) means any undeclared emergency, incident or situation in preparation for or response to which the mayor of the District of Columbia, an authorized representative of the Federal Government, the Governor of the State of Maryland, the Governor of the Commonwealth of Virginia, or the chief operating officer of a locality in the National Capital Region, or their designees, requests or provides assistance under a Mutual Aid Agreement within the National Capital Region; and

"(B) includes Presidential inaugurations, public gatherings, demonstrations and protests, and law enforcement, fire, rescue, emergency health and medical services, transportation, communications, public works and engineering, mass care, and other support that require human resources, equipment, facilities or services supplemental to or greater than the requesting jurisdiction can provide.

"(10) STATE.—The term 'State' means the State of Maryland, the Commonwealth of Virginia, and the District of Columbia.

"(11) TRAINING.—The term 'training' means emergency and public service event-related exercises, testing, or other activities using equipment and personnel to simulate performance of any aspect of the

giving or receiving of aid by National Capital Region jurisdictions during emergencies or public service events, such actions occurring outside actual emergency or public service event periods.

"(b) MUTUAL AID AUTHORIZED.—

"(1) IN GENERAL.—The mayor of the District of Columbia, any authorized representative of the Federal Government, the Governor of the State of Maryland, the Governor of the Commonwealth of Virginia, or the chief operating officer of a locality, or their designees, acting within his or her jurisdictional purview, may, in accordance with State law, enter into, request or provide assistance under mutual aid agreements with localities for—

"(A) law enforcement, fire, rescue, emergency health and medical services, transportation, communications, public works and engineering, mass care, and resource support in an emergency or public service event;

"(B) preparing for, mitigating, managing, responding to or recovering from any emergency or public service event; and

"(C) training for any of the activities described under subparagraphs (A) and (B).

"(2) FACILITATING LOCALITIES.—The State of Maryland and the Commonwealth of Virginia are encouraged to facilitate the ability of localities to enter into interstate mutual aid agreements in the National Capital Region under this section.

"(3) APPLICATION AND EFFECT.—This section—

"(A) does not apply to law enforcement security operations at special events of national significance under section 3056(e) of title 18, United States Code, or other law enforcement functions of the United States Secret Service;

"(B) does not diminish any authorities, express or implied, of Federal agencies to enter into mutual aid agreements in furtherance of their Federal missions; and

"(C) does not—

"(i) preclude any party from entering into supplementary Mutual Aid Agreements with fewer than all the parties, or with another party; or

"(ii) affect any other agreement in effect before the date of enactment of this Act [Dec. 17, 2004] among the States and localities, including the Emergency Management Assistance Compact.

"(4) RIGHTS DESCRIBED.—Other than as described in this section, the rights and responsibilities of the parties to a mutual aid agreement entered into under this section shall be as described in the mutual aid agreement.

"(c) DISTRICT OF COLUMBIA.—

"(1) IN GENERAL.—The District of Columbia may purchase liability and indemnification insurance or become self insured against claims arising under a mutual aid agreement authorized under this section.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out paragraph (1).

"(d) LIABILITY AND ACTIONS AT LAW.—

"(1) IN GENERAL.—Any responding party or its officers, employees, or agents rendering aid or failing to render aid to the District of Columbia, the Federal Government, the State of Maryland, the Commonwealth of Virginia, or a locality, under a mutual aid agreement authorized under this section, and any party or its officers, employees, or agents engaged in training activities with another party under such a mutual aid agreement, shall be liable on account of any act or omission of its officers, employees, or agents while so engaged or on account of the maintenance or use of any related equipment, facilities, or supplies, but only to the extent permitted under the laws and procedures of the State of the party rendering aid.

"(2) ACTIONS.—Any action brought against a party or its officers, employees, or agents on account of an act or omission in the rendering of aid to the District of Columbia, the Federal Government, the State of Maryland, the Commonwealth of Virginia, or a locality, or failure to render such aid or on account of the maintenance or use of any related equipment, facilities, or supplies may be brought only under the laws and procedures of the State of the party rendering aid and only in the Federal or State courts located therein. Actions against the United States under this section may be brought only in Federal courts.

"(3) IMMUNITIES.—This section shall not abrogate any other immunities from liability that any party has under any other Federal or State law.

"(e) WORKERS COMPENSATION.—

"(1) COMPENSATION.—Each party shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that party and representatives of deceased members of such forces if such members sustain injuries or are killed while rendering aid to the District of Columbia,

the Federal Government, the State of Maryland, the Commonwealth of Virginia, or a locality, under a mutual aid agreement, or engaged in training activities under a mutual aid agreement, in the same manner and on the same terms as if the injury or death were sustained within their own jurisdiction.

"(2) OTHER STATE LAW.—No party shall be liable under the law of any State other than its own for providing for the payment of compensation and death benefits to injured members of the emergency forces of that party and representatives of deceased members of such forces if such members sustain injuries or are killed while rendering aid to the District of Columbia, the Federal Government, the State of Maryland, the Commonwealth of Virginia, or a locality, under a mutual aid agreement or engaged in training activities under a mutual aid agreement.

"(f) LICENSES AND PERMITS.—If any person holds a license, certificate, or other permit issued by any responding party evidencing the meeting of qualifications for professional, mechanical, or other skills and assistance is requested by a receiving jurisdiction, such person will be deemed licensed, certified, or permitted by the receiving jurisdiction to render aid involving such skill to meet a public service event, emergency or training for any such events."

PILOT PROGRAM TO STUDY DESIGN AND CONSTRUCTION OF BUILDINGS TO MINIMIZE EFFECTS OF NUCLEAR EXPLOSIONS

Pub. L. 96–342, title VII, §704, Sept. 8, 1980, 94 Stat. 1090, required the Director of the Federal Emergency Management Agency to establish a pilot program of designing and constructing buildings able to withstand nuclear explosions and to submit a report to Congress on the establishment of the pilot program no later than Apr. 1, 1981.

[1] *See References in Text note below.*

§5196a. Mutual aid pacts between States and neighboring countries

The Administrator shall give all practicable assistance to States in arranging, through the Department of State, mutual emergency preparedness aid between the States and neighboring countries.

(Pub. L. 93–288, title VI, §612, as added Pub. L. 103–337, div. C, title XXXIV, §3411(a)(3), Oct. 5, 1994, 108 Stat. 3105; amended Pub. L. 111–351, §3(c)(2), Jan. 4, 2011, 124 Stat. 3864.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2283 of the former Appendix to Title 50, War and National Defense, prior to repeal by Pub. L. 103–337, §3412(a).

AMENDMENTS

2011—Pub. L. 111–351 substituted "Administrator" for "Director".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§5196b. Contributions for personnel and administrative expenses

(a) General authority

To further assist in carrying out the purposes of this subchapter, the Administrator may make financial contributions to the States (including interstate emergency preparedness authorities established pursuant to section 5196(h) of this title) for necessary and essential State and local emergency preparedness personnel and administrative expenses, on the basis of approved plans (which shall be consistent with the Federal emergency response plans for emergency preparedness) for the emergency preparedness of the States. The financial contributions to the States under this section may not exceed one-half of the total cost of such necessary and essential State and local emergency preparedness personnel and administrative expenses.

(b) Plan requirements

A plan submitted under this section shall—

(1) provide, pursuant to State law, that the plan shall be in effect in all political subdivisions of the State and be mandatory on them and be administered or supervised by a single State agency;

(2) provide that the State shall share the financial assistance with that provided by the Federal Government under this section from any source determined by it to be consistent with State law;

(3) provide for the development of State and local emergency preparedness operational plans, including a catastrophic incident annex, pursuant to standards approved by the Administrator;

(4) provide for the employment of a full-time emergency preparedness director, or deputy director, by the State;

(5) provide that the State shall make such reports in such form and content as the Administrator may require;

(6) make available to duly authorized representatives of the Administrator and the Comptroller General, books, records, and papers necessary to conduct audits for the purposes of this section; and

(7) include a plan for providing information to the public in a coordinated manner.

(c) Catastrophic incident annex

(1) Consistency

A catastrophic incident annex submitted under subsection (b)(3) shall be—

(A) modeled after the catastrophic incident annex of the National Response Plan; and

(B) consistent with the national preparedness goal established under section 743 of title 6, the National Incident Management System, the National Response Plan, and other related plans and strategies.

(2) Consultation

In developing a catastrophic incident annex submitted under subsection (b)(3), a State shall consult with and seek appropriate comments from local governments, emergency response providers, locally governed multijurisdictional councils of government, and regional planning commissions.

(d) Terms and conditions

The Administrator shall establish such other terms and conditions as the Administrator considers necessary and proper to carry out this section.

(e) Application of other provisions

In carrying out this section, the provisions of section [1] 5196(h) and 5197(h) of this title shall apply.

(f) Allocation of funds

For each fiscal year concerned, the Administrator shall allocate to each State, in accordance with regulations and the total sum appropriated under this subchapter, amounts to be made available to the States for the purposes of this section. Regulations governing allocations to the States under this

subsection shall give due regard to (1) the criticality of the areas which may be affected by hazards with respect to the development of the total emergency preparedness readiness of the United States, (2) the relative state of development of emergency preparedness readiness of the State, (3) population, and (4) such other factors as the Administrator shall prescribe. The Administrator may reallocate the excess of any allocation not used by a State in a plan submitted under this section. Amounts paid to any State or political subdivision under this section shall be expended solely for the purposes set forth in this section.

(g) Standards for State and local emergency preparedness operational plans

In approving standards for State and local emergency preparedness operational plans pursuant to subsection (b)(3), the Administrator shall ensure that such plans take into account the needs of individuals with household pets and service animals prior to, during, and following a major disaster or emergency.

(h) [2] Submission of plan

If a State fails to submit a plan for approval as required by this section within 60 days after the Administrator notifies the States of the allocations under this section, the Administrator may reallocate such funds, or portions thereof, among the other States in such amounts as, in the judgment of the Administrator, will best assure the adequate development of the emergency preparedness capability of the United States.

(h) [2] Annual reports

The Administrator shall report annually to the Congress all contributions made pursuant to this section.

(Pub. L. 93–288, title VI, §613, as added Pub. L. 103–337, div. C, title XXXIV, §3411(a)(3), Oct. 5, 1994, 108 Stat. 3106; amended Pub. L. 107–188, title I, §151, June 12, 2002, 116 Stat. 630; Pub. L. 109–295, title VI, §631, Oct. 4, 2006, 120 Stat. 1420; Pub. L. 109–308, §2, Oct. 6, 2006, 120 Stat. 1725; Pub. L. 111–351, §3(c)(2), Jan. 4, 2011, 124 Stat. 3864.)

EDITORIAL NOTES

CODIFICATION

Section 631(2) of Pub. L. 109–295, which directed amendment of this section "by redesignating subsections (c) through (g) and subsections (d) through (h), respectively", was executed by redesignating subsecs. (c) to (g) as (d) to (h), respectively, to reflect the probable intent of Congress.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2286 of the former Appendix to Title 50, War and National Defense, prior to repeal by Pub. L. 103–337, §3412(a).

AMENDMENTS

2011—Pub. L. 111–351 substituted "Administrator" for "Director" wherever appearing.

2006—Subsec. (b)(3). Pub. L. 109–295, §631(1), inserted "including a catastrophic incident annex," after "plans,".

Subsecs. (c) to (f). Pub. L. 109–295, §631(2), (3), added subsec. (c) and redesignated former subsecs. (c) to (e) as (d) to (f), respectively. Former subsec. (f) redesignated (g). See Codification note above.

Subsec. (g). Pub. L. 109–308, §2(2), added subsec. (g). Former subsec. (g) relating to submission of plan redesignated (h).

Pub. L. 109–295, §631(2), redesignated subsec. (f) as (g). Former subsec. (g) relating to annual reports redesignated (h). See Codification note above.

Subsec. (h). Pub. L. 109–308, §2(1), redesignated subsec. (g) relating to submission of plan as (h).

Pub. L. 109–295, §631(2), redesignated subsec. (g) relating to annual reports as (h). See Codification note above.

2002—Subsec. (b)(7). Pub. L. 107–188 added par. (7).

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

[1] *So in original. Probably should be "sections".*

[2] *So in original. Two subsecs. (h) have been enacted.*

§5196c. Grants for construction of emergency operations centers

(a) Grants

The Administrator of the Federal Emergency Management Agency may make grants to States and Indian tribal governments under this subchapter for equipping, upgrading, and constructing State, local, and Tribal emergency operations centers.

(b) Federal share

Notwithstanding any other provision of this subchapter, the Federal share of the cost of an activity carried out using amounts from grants made under this section shall not exceed 75 percent.

(Pub. L. 93–288, title VI, §614, as added Pub. L. 103–337, div. C, title XXXIV, §3411(a)(3), Oct. 5, 1994, 108 Stat. 3107; amended Pub. L. 110–53, title II, §202, Aug. 3, 2007, 121 Stat. 295; Pub. L. 117–251, §11(a), Dec. 20, 2022, 136 Stat. 2358.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2288 of the former Appendix to Title 50, War and National Defense, prior to repeal by Pub. L. 103–337, §3412(a).

AMENDMENTS

2022—Subsec. (a). Pub. L. 117–251 inserted "and Indian tribal governments" after "grants to States" and substituted "State, local, and Tribal" for "State and local".

2007—Pub. L. 110–53 amended section generally. Prior to amendment, text read as follows: "Notwithstanding any other provision of this subchapter, funds appropriated to carry out this subchapter may not be used for the purpose of constructing emergency operating centers (or similar facilities) in any State unless such State matches in an equal amount the amount made available to such State under this subchapter for such purpose."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117–251, §11(b), Dec. 20, 2022, 136 Stat. 2358, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to amounts appropriated on or after the date of enactment of this Act [Dec. 20, 2022]."

NON-FEDERAL COST SHARE

Pub. L. 108–7, div. K, title IV, §419, Feb. 20, 2003, 117 Stat. 526, provided that: "Notwithstanding 42 U.S.C. 5196c, amounts provided in Public Law 107–117 [see Tables for classification] and subsequent appropriations Acts for the construction of emergency operations centers (or similar facilities) shall only require a 25 percent non-Federal cost share."

§5196d. Use of funds to prepare for and respond to hazards

Funds made available to the States under this subchapter may be used by the States for the purposes of preparing for hazards and providing emergency assistance in response to hazards. Regulations prescribed to carry out this section shall authorize the use of emergency preparedness personnel, materials, and facilities supported in whole or in part through contributions under this subchapter for emergency preparedness activities and measures related to hazards.

(Pub. L. 93–288, title VI, §615, as added Pub. L. 103–337, div. C, title XXXIV, §3411(a)(3), Oct. 5, 1994, 108 Stat. 3107.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2289 of the former Appendix to Title 50, War and National Defense, prior to repeal by Pub. L. 103–337, §3412(a).

§5196e. Radiological Emergency Preparedness Fund

There is hereby established in the Treasury a Radiological Emergency Preparedness Fund, which shall be available under the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.], as amended, and Executive Order 12657, for offsite radiological emergency planning, preparedness, and response. Beginning in fiscal year 1999 and thereafter, the Administrator of the Federal Emergency Management Agency (FEMA) shall promulgate through rulemaking fees to be assessed and collected, applicable to persons subject to FEMA's radiological emergency preparedness regulations. The aggregate charges assessed pursuant to this section during fiscal year 1999 shall not be less than 100 percent of the amounts anticipated by FEMA necessary for its radiological emergency preparedness program for such fiscal year. The methodology for assessment and collection of fees shall be fair and equitable; and shall reflect costs of providing such services, including administrative costs of collecting such fees. Fees received pursuant to this section shall be deposited in the Fund as offsetting collections and will become available for authorized purposes on October 1, 1999, and remain available until expended.

(Pub. L. 105–276, title III, Oct. 21, 1998, 112 Stat. 2502; Pub. L. 109–295, title VI, §612(c), Oct. 4, 2006, 120 Stat. 1410.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in text, is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

Executive Order 12657, referred to in text, is Ex. Ord. No. 12657, Nov. 18, 1988, 53 F.R. 47513, which is set out as a note under section 5195 of this title.

CODIFICATION

Section was enacted as part of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Administrator of the Federal Emergency Management Agency" substituted for "Director of the Federal Emergency Management Agency" on authority of section 612(c) of Pub. L. 109–295, set out as a note under section 313 of Title 6, Domestic Security. Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109–295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109–295, set out as a note under section 313 of Title 6.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§5196f. Disaster related information services

(a) In general

Consistent with section 5151(a) of this title, the Administrator of Federal [1] Emergency Management Agency shall—

(1) identify, in coordination with State and local governments, population groups with limited English proficiency and take into account such groups in planning for an emergency or major disaster;

(2) ensure that information made available to individuals affected by a major disaster or emergency is made available in formats that can be understood by—

(A) population groups identified under paragraph (1); and

(B) individuals with disabilities or other special needs; and

(3) develop and maintain an informational clearinghouse of model language assistance programs and best practices for State and local governments in providing services related to a major disaster or emergency.

(b) Group size

For purposes of subsection (a), the Administrator of Federal [1] Emergency Management Agency shall define the size of a population group.

(Pub. L. 93–288, title VI, §616, as added Pub. L. 109–295, title VI, §689e, Oct. 4, 2006, 120 Stat. 1452; amended Pub. L. 111–351, §3(c)(2), Jan. 4, 2011, 124 Stat. 3864.)

EDITORIAL NOTES

AMENDMENTS

2011—Pub. L. 111–351 substituted "Administrator" for "Director" in subsecs. (a) and (b).

[1] So in original. The word "the" probably should appear before "Federal".

§5196g. Guidance and training by FEMA on coordination of emergency response plans

(a) Training requirement

The Administrator, in coordination with other relevant agencies, shall provide guidance and training on an annual basis to State, local, and Indian tribal governments, first responders, and facilities that store hazardous materials on coordination of emergency response plans in the event of a major disaster or emergency, including severe weather events. The guidance and training shall include the following:

(1) Providing a list of equipment required in the event a hazardous substance is released into the environment.

(2) Outlining the health risks associated with exposure to hazardous substances to improve treatment response.

(3) Publishing best practices for mitigating further danger to communities from hazardous substances.

(b) Implementation

The requirement of subsection (a) shall be implemented not later than 180 days after October 5, 2018.

(Pub. L. 115–254, div. D, §1236, Oct. 5, 2018, 132 Stat. 3464.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Disaster Recovery Reform Act of 2018 and as part of the FAA Reauthorization Act of 2018, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definition of "Administrator" and "State" as used in this section, see section 1203 of Pub. L. 115–254, set out as a note under section 5122 of this title.

PART B—GENERAL PROVISIONS

§5197. Administrative authority

(a) In general

For the purpose of carrying out the powers and duties assigned to the Administrator under this subchapter, the Administrator may exercise the administrative authorities provided under this section.

(b) Advisory personnel

(1) The Administrator may employ not more than 100 part-time or temporary advisory personnel (including not to exceed 25 subjects of the United Kingdom or citizens of Canada) as the Administrator considers to be necessary in carrying out the provisions of this subchapter.

(2) Persons holding other offices or positions under the United States for which they receive compensation, while serving as advisory personnel, shall receive no additional compensation for

such service. Other part-time or temporary advisory personnel so employed may serve without compensation or may receive compensation at a rate not to exceed $180 for each day of service, plus authorized subsistence and travel, as determined by the Administrator.

(c) Services of other agency personnel and volunteers

The Administrator may—

(1) use the services of Federal agencies and, with the consent of any State or local government, accept and use the services of State and local agencies;

(2) establish and use such regional and other offices as may be necessary; and

(3) use such voluntary and uncompensated services by individuals or organizations as may from time to time be needed.

(d) Gifts

Notwithstanding any other provision of law, the Administrator may accept gifts of supplies, equipment, and facilities and may use or distribute such gifts for emergency preparedness purposes in accordance with the provisions of this subchapter.

(e) Reimbursement

The Administrator may reimburse any Federal agency for any of its expenditures or for compensation of its personnel and use or consumption of its materials and facilities under this subchapter to the extent funds are available.

(f) Printing

The Administrator may purchase such printing, binding, and blank-book work from public, commercial, or private printing establishments or binderies as the Administrator considers necessary upon orders placed by the Director of the Government Publishing Office or upon waivers issued in accordance with section 504 of title 44.

(g) Rules and regulations

The Administrator may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this subchapter and perform any of the powers and duties provided by this subchapter. The Administrator may perform any of the powers and duties provided by this subchapter through or with the aid of such officials of the Federal Emergency Management Agency as the Administrator may designate.

(h) Failure to expend contributions correctly

(1) When, after reasonable notice and opportunity for hearing to the State or other person involved, the Administrator finds that there is a failure to expend funds in accordance with the regulations, terms, and conditions established under this subchapter for approved emergency preparedness plans, programs, or projects, the Administrator may notify such State or person that further payments will not be made to the State or person from appropriations under this subchapter (or from funds otherwise available for the purposes of this subchapter for any approved plan, program, or project with respect to which there is such failure to comply) until the Administrator is satisfied that there will no longer be any such failure.

(2) Until so satisfied, the Administrator shall either withhold the payment of any financial contribution to such State or person or limit payments to those programs or projects with respect to which there is substantial compliance with the regulations, terms, and conditions governing plans, programs, or projects hereunder.

(3) As used in this subsection, the term "person" means the political subdivision of any State or combination or group thereof or any person, corporation, association, or other entity of any nature whatsoever, including instrumentalities of States and political subdivisions.

(Pub. L. 93–288, title VI, §621, as added Pub. L. 103–337, div. C, title XXXIV, §3411(a)(3), Oct. 5, 1994, 108 Stat. 3107; amended Pub. L. 111–351, §3(c)(2), Jan. 4, 2011, 124 Stat. 3864; Pub. L. 113–235, div. H, title I, §1301(d), Dec. 16, 2014, 128 Stat. 2537.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2253 of the former Appendix to Title 50, War and National Defense, prior to repeal by Pub. L. 103–337, §3412(a).

AMENDMENTS

2011—Pub. L. 111–351 substituted "Administrator" for "Director" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Director of the Government Publishing Office" substituted for "Public Printer" in subsec. (f) on authority of section 1301(d) of Pub. L. 113–235, set out as a note under section 301 of Title 44, Public Printing and Documents.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§5197a. Security regulations

(a) Establishment

The Administrator shall establish such security requirements and safeguards, including restrictions with respect to access to information and property as the Administrator considers necessary.

(b) Limitations on employee access to information

No employee of the Federal Emergency Management Agency shall be permitted to have access to information or property with respect to which access restrictions have been established under this section, until it shall have been determined that no information is contained in the files of the Federal Bureau of Investigation or any other investigative agency of the Government indicating that such employee is of questionable loyalty or reliability for security purposes, or if any such information is so disclosed, until the Federal Bureau of Investigation shall have conducted a full field investigation concerning such person and a report thereon shall have been evaluated in writing by the Administrator.

(c) National security positions

No employee of the Federal Emergency Management Agency shall occupy any position determined by the Administrator to be of critical importance from the standpoint of national security until a full field investigation concerning such employee shall have been conducted by the Director of the Office of Personnel Management and a report thereon shall have been evaluated in writing by the Administrator of the Federal Emergency Management Agency. In the event such full field investigation by the Director of the Office of Personnel Management develops any data reflecting that such applicant for a position of critical importance is of questionable loyalty or reliability for security purposes, or if the Administrator of the Federal Emergency Management Agency for any other reason considers it to be advisable, such investigation shall be discontinued and a report thereon shall be referred to the Administrator of the Federal Emergency Management Agency for evaluation in writing. Thereafter, the Administrator of the Federal Emergency Management Agency

may refer the matter to the Federal Bureau of Investigation for the conduct of a full field investigation by such Bureau. The result of such latter investigation by such Bureau shall be furnished to the Administrator of the Federal Emergency Management Agency for action.

(d) Employee oaths

Each Federal employee of the Federal Emergency Management Agency acting under the authority of this subchapter, except the subjects of the United Kingdom and citizens of Canada specified in section 5197(b) of this title, shall execute the loyalty oath or appointment affidavits prescribed by the Director of the Office of Personnel Management. Each person other than a Federal employee who is appointed to serve in a State or local organization for emergency preparedness shall before entering upon duties, take an oath in writing before a person authorized to administer oaths, which oath shall be substantially as follows:

> "I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.
>
> "And I do further swear (or affirm) that I do not advocate, nor am I a member or an affiliate of any organization, group, or combination of persons that advocates the overthrow of the Government of the United States by force or violence; and that during such time as I am a member of _____ (name of emergency preparedness organization), I will not advocate nor become a member or an affiliate of any organization, group, or combination of persons that advocates the overthrow of the Government of the United States by force or violence."

After appointment and qualification for office, the director of emergency preparedness of any State, and any subordinate emergency preparedness officer within such State designated by the director in writing, shall be qualified to administer any such oath within such State under such regulations as the director shall prescribe. Any person who shall be found guilty of having falsely taken such oath shall be punished as provided in section 1621 of title 18.

(Pub. L. 93–288, title VI, §622, as added Pub. L. 103–337, div. C, title XXXIV, §3411(a)(3), Oct. 5, 1994, 108 Stat. 3108; amended Pub. L. 111–351, §3(c)(2), Jan. 4, 2011, 124 Stat. 3864.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2255 of the former Appendix to Title 50, War and National Defense, prior to repeal by Pub. L. 103–337, §3412(a).

AMENDMENTS

2011—Subsec. (a). Pub. L. 111–351 substituted "Administrator" for "Director" in two places.

Subsec. (b). Pub. L. 111–351 substituted "Administrator" for "Director".

Subsec. (c). Pub. L. 111–351 substituted "determined by the Administrator" for "determined by the Director", "writing by the Administrator" for "writing by the Director", "or if the Administrator" for "or if the Director", "referred to the Administrator" for "referred to the Director", "Thereafter, the Administrator" for "Thereafter, the Director", and "furnished to the Administrator" for "furnished to the Director".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and

sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§5197b. Use of existing facilities

In performing duties under this subchapter, the Administrator—

(1) shall cooperate with the various departments and agencies of the Federal Government;

(2) shall use, to the maximum extent, the existing facilities and resources of the Federal Government and, with their consent, the facilities and resources of the States and political subdivisions thereof, and of other organizations and agencies; and

(3) shall refrain from engaging in any form of activity which would duplicate or parallel activity of any other Federal department or agency unless the Administrator, with the written approval of the President, shall determine that such duplication is necessary to accomplish the purposes of this subchapter.

(Pub. L. 93–288, title VI, §623, as added Pub. L. 103–337, div. C, title XXXIV, §3411(a)(3), Oct. 5, 1994, 108 Stat. 3110; amended Pub. L. 111–351, §3(c)(2), Jan. 4, 2011, 124 Stat. 3864.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2257 of the former Appendix to Title 50, War and National Defense, prior to repeal by Pub. L. 103–337, §3412(a).

AMENDMENTS

2011—Pub. L. 111–351 substituted "Administrator" for "Director" in introductory provisions and in par. (3).

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§5197c. Annual report to Congress

The Administrator shall annually submit a written report to the President and Congress covering expenditures, contributions, work, and accomplishments of the Federal Emergency Management Agency pursuant to this subchapter, accompanied by such recommendations as the Administrator considers appropriate.

(Pub. L. 93–288, title VI, §624, as added Pub. L. 103–337, div. C, title XXXIV, §3411(a)(3), Oct. 5, 1994, 108 Stat. 3110; amended Pub. L. 111–351, §3(c)(2), Jan. 4, 2011, 124 Stat. 3864.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2258 of the former Appendix to Title

50, War and National Defense, prior to repeal by Pub. L. 103–337, §3412(a).

AMENDMENTS

2011—Pub. L. 111–351 substituted "Administrator" for "Director" in two places.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§5197d. Applicability of subchapter

The provisions of this subchapter shall be applicable to the United States, its States, Territories and possessions, and the District of Columbia, and their political subdivisions.

(Pub. L. 93–288, title VI, §625, as added Pub. L. 103–337, div. C, title XXXIV, §3411(a)(3), Oct. 5, 1994, 108 Stat. 3110.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2259 of the former Appendix to Title 50, War and National Defense, prior to repeal by Pub. L. 103–337, §3412(a).

§5197e. Authorization of appropriations and transfers of funds

(a) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subchapter.

(b) Transfer authority

Funds made available for the purposes of this subchapter may be allocated or transferred for any of the purposes of this subchapter, with the approval of the Director of the Office of Management and Budget, to any agency or government corporation designated to assist in carrying out this subchapter. Each such allocation or transfer shall be reported in full detail to the Congress within 30 days after such allocation or transfer.

(Pub. L. 93–288, title VI, §626, as added Pub. L. 103–337, div. C, title XXXIV, §3411(a)(3), Oct. 5, 1994, 108 Stat. 3110.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2260 of the former Appendix to Title 50, War and National Defense, prior to repeal by Pub. L. 103–337, §3412(a).

§5197f. Relation to Atomic Energy Act of 1954

Nothing in this subchapter shall be construed to alter or modify the provisions of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

(Pub. L. 93–288, title VI, §627, as added Pub. L. 103–337, div. C, title XXXIV, §3411(a)(3), Oct. 5, 1994, 108 Stat. 3110.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in text, is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2262 of the former Appendix to Title 50, War and National Defense, prior to repeal by Pub. L. 103–337, §3412(a).

§5197g. Federal Bureau of Investigation

Nothing in this subchapter shall be construed to authorize investigations of espionage, sabotage, or subversive acts by any persons other than personnel of the Federal Bureau of Investigation.

(Pub. L. 93–288, title VI, §628, as added Pub. L. 103–337, div. C, title XXXIV, §3411(a)(3), Oct. 5, 1994, 108 Stat. 3110.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2263 of the former Appendix to Title 50, War and National Defense, prior to repeal by Pub. L. 103–337, §3412(a).

§5197h. Minority emergency preparedness demonstration program

(a) In general

The Administrator shall establish a minority emergency preparedness demonstration program to research and promote the capacity of minority communities to provide data, information, and awareness education by providing grants to or executing contracts or cooperative agreements with eligible nonprofit organizations to establish and conduct such programs.

(b) Activities supported

An eligible nonprofit organization may use a grant, contract, or cooperative agreement awarded under this section—

(1) to conduct research into the status of emergency preparedness and disaster response awareness in African American and Hispanic households located in urban, suburban, and rural communities, particularly in those States and regions most impacted by natural and manmade disasters and emergencies; and

(2) to develop and promote awareness of emergency preparedness education programs within minority communities, including development and preparation of culturally competent educational and awareness materials that can be used to disseminate information to minority organizations and institutions.

(c) Eligible organizations

A nonprofit organization is eligible to be awarded a grant, contract, or cooperative agreement under this section with respect to a program if the organization is a nonprofit organization that is described in section 501(c)(3) of title 26 and exempt from tax under section 501(a) of such title, whose primary mission is to provide services to communities predominately populated by minority citizens, and that can demonstrate a partnership with a minority-owned business enterprise or minority business located in a HUBZone (as defined in section 632(p) [1] of title 15) with respect to the program.

(d) Use of funds

A recipient of a grant, contract, or cooperative agreement awarded under this section may only use the proceeds of the grant, contract, or agreement to—

(1) acquire expert professional services necessary to conduct research in communities predominately populated by minority citizens, with a primary emphasis on African American and Hispanic communities;

(2) develop and prepare informational materials to promote awareness among minority communities about emergency preparedness and how to protect their households and communities in advance of disasters;

(3) establish consortia with minority national organizations, minority institutions of higher education, and faith-based institutions to disseminate information about emergency preparedness to minority communities; and

(4) implement a joint project with a minority serving institution, including a part B institution (as defined in section 1061(2) of title 20), an institution described in subparagraph (A), (B), or (C) of section 1063b(e)(1) [1] of title 20, and a Hispanic-serving institution (as defined in section 1101a(a)(5) of title 20).

(e) Application and review procedure

To be eligible to receive a grant, contract, or cooperative agreement under this section, an organization must submit an application to the Administrator at such time, in such manner, and accompanied by such information as the Administrator may reasonably require. The Administrator shall establish a procedure by which to accept such applications.

(f) Authorization of appropriation

There is authorized to be appropriated to carry out this section $1,500,000 for fiscal year 2002 and such funds as may be necessary for fiscal years 2003 through 2007. Such sums shall remain available until expended.

(Pub. L. 93–288, title VI, §629, as added Pub. L. 107–73, title IV, §431, Nov. 26, 2001, 115 Stat. 697; amended Pub. L. 111–351, §3(c)(2), Jan. 4, 2011, 124 Stat. 3864.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 632(p) of title 15, referred to in subsec. (c), was redesignated section 657a(b) of Title 15, Commerce and Trade, by Pub. L. 115–91, div. A, title XVII, §1701(a)(2), Dec. 12, 2017, 131 Stat. 1795.

Subparagraph (A), (B), or (C) of section 1063b(e)(1) of title 20, referred to in subsec. (d)(4), was in the original "subparagraph (A), (B), or (C) of section 326 of that Act (20 U.S.C. 1063b(e)(1)(A), (B), or (C))", which was translated as reading "subparagraph (A), (B), or (C) of section 326(e)(1) of that Act (20 U.S.C. 1063b(e)(1)(A), (B), or (C))" to reflect the probable intent of Congress.

AMENDMENTS

2011—Pub. L. 111–351 substituted "Administrator" for "Director" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

[1] *See References in Text note below.*

SUBCHAPTER V—MISCELLANEOUS

§5201. Rules and regulations

(a)(1) The President may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this chapter, and he may exercise any power or authority conferred on him by any section of this chapter either directly or through such Federal agency or agencies as he may designate.

(2) DEADLINE FOR PAYMENT OF ASSISTANCE.—Rules and regulations authorized by paragraph (1) shall provide that payment of any assistance under this chapter to a State shall be completed within 60 days after the date of approval of such assistance.

(b) In furtherance of the purposes of this chapter, the President or his delegate may accept and use bequests, gifts, or donations of service, money, or property, real, personal, or mixed, tangible, or intangible. All sums received under this subsection shall be deposited in a separate fund on the books of the Treasury and shall be available for expenditure upon the certification of the President or his delegate. At the request of the President or his delegate, the Secretary of the Treasury may invest and reinvest excess monies in the fund. Such investments shall be in public debt securities with maturities suitable for the needs of the fund and shall bear interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The interest on such investments shall be credited to, and form a part of, the fund.

(Pub. L. 93–288, title VII, §701, formerly title VI, §601, May 22, 1974, 88 Stat. 163; Pub. L. 96–446, Oct. 13, 1980, 94 Stat. 1893; Pub. L. 100–707, title I, §108(a), Nov. 23, 1988, 102 Stat. 4707; renumbered title VII, §701, Pub. L. 103–337, div. C, title XXXIV, §3411(a)(1), (2), Oct. 5, 1994, 108 Stat. 3100.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–707 designated existing provision as par. (1) and added par. (2).

1980—Pub. L. 96–446 designated existing provisions as subsec. (a) and added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEADLINE FOR ISSUANCE OF REGULATIONS

Pub. L. 100–707, title I, §113, Nov. 23, 1988, 102 Stat. 4711, provided that: "Regulations necessary to carry out this title and the amendments made by this title [see Short Title of 1988 Amendment note set out under section 5121 of this title] shall be issued no later than the 180th day following the date of the enactment of this Act [Nov. 23, 1988]."

[Functions of President under section 113 of Pub. L. 100–707 delegated to Director of Federal Emergency Management Agency by section 5 of Ex. Ord. No. 12673, Mar. 23, 1989, 54 F.R. 12571, set out as a note under section 5195 of this title.]

§5202. Repealed. Pub. L. 100–707, title I, §108(c), Nov. 23, 1988, 102 Stat. 4708

Section, Pub. L. 93–288, title VI, §606, May 22, 1974, 88 Stat. 164; Pub. L. 95–51, §1, June 20, 1977, 91 Stat. 233; Pub. L. 96–568, §2, Dec. 22, 1980, 94 Stat. 3334, authorized appropriations of such sums as necessary to carry out this chapter through the close of Sept. 30, 1981.

§5203. Excess disaster assistance payments as budgetary emergency requirements

Beginning in fiscal year 1993, and in each year thereafter, notwithstanding any other provision of law, all amounts appropriated for disaster assistance payments under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) that are in excess of either the historical annual average obligation of $320,000,000, or the amount submitted in the President's initial budget request, whichever is lower, shall be considered as "emergency requirements" pursuant to section 901(b)(2)(D) [1] of title 2, and such amounts shall on and after December 12, 1991, be so designated.

(Pub. L. 102–229, title I, Dec. 12, 1991, 105 Stat. 1711.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in text, is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

Section 901 of title 2, referred to in text, was amended by Pub. L. 105–33, title X, §10203(a)(4), Aug. 5, 1997, 111 Stat. 699, and Pub. L. 112–25, title I, §101, Aug. 2, 2011, 125 Stat. 241. As so amended, section 901(b)(2)(D) of title 2 no longer refers to "emergency requirements".

CODIFICATION

Section was enacted as part of the Dire Emergency Supplemental Appropriations and Transfers for Relief From the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Cost of "Operation Desert Shield/Desert Storm" Act of 1992, and not as a part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act which comprises this chapter.

[1] *See References in Text note below.*

§5204. Insular areas disaster survival and recovery; definitions

As used in sections 5204 to 5204c of this title—

(1) the term "insular area" means any of the following: American Samoa, the Federated States of Micronesia, Guam, the Marshall Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands;

(2) the term "disaster" means a declaration of a major disaster by the President after September 1, 1989, pursuant to section 5170 of this title; and

(3) the term "Secretary" means the Secretary of the Interior.

(Pub. L. 102–247, title II, §201, Feb. 24, 1992, 106 Stat. 37.)

EDITORIAL NOTES

REFERENCES IN TEXT

Sections 5204 to 5204c of this title, referred to in text, was in the original "this title", meaning title II of Pub. L. 102–247, Feb. 24, 1992, 106 Stat. 37, which enacted sections 5204 to 5204c of this title and amended section 5122 of this title.

CODIFICATION

Section was enacted as part of the Omnibus Insular Areas Act of 1992, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act which comprises this chapter.

EXECUTIVE DOCUMENTS

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§5204a. Authorization of appropriations for insular areas

There are hereby authorized to be appropriated to the Secretary such sums as may be necessary to—

(1) reconstruct essential public facilities damaged by disasters in the insular areas that occurred prior to February 24, 1992; and

(2) enhance the survivability of essential public facilities in the event of disasters in the insular areas,

except that with respect to the disaster declared by the President in the case of Hurricane Hugo, September 1989, amounts for any fiscal year shall not exceed 25 percent of the estimated aggregate amount of grants to be made under sections 5170b and 5172 of this title for such disaster. Such sums shall remain available until expended.

(Pub. L. 102–247, title II, §202, Feb. 24, 1992, 106 Stat. 37.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Omnibus Insular Areas Act of 1992, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act which comprises this chapter.

§5204b. Technical assistance for insular areas

(a) Upon the declaration by the President of a disaster in an insular area, the President, acting through the Administrator of the Federal Emergency Management Agency, shall assess, in cooperation with the Secretary and chief executive of such insular area, the capability of the insular government to respond to the disaster, including the capability to assess damage; coordinate activities with Federal agencies, particularly the Federal Emergency Management Agency; develop recovery plans, including recommendations for enhancing the survivability of essential infrastructure; negotiate and manage reconstruction contracts; and prevent the misuse of funds. If the

President finds that the insular government lacks any of these or other capabilities essential to the recovery effort, then the President shall provide technical assistance to the insular area which the President deems necessary for the recovery effort.

(b) One year following the declaration by the President of a disaster in an insular area, the Secretary, in consultation with the Administrator of the Federal Emergency Management Agency, shall submit to the Senate Committee on Energy and Natural Resources and the House Committee on Natural Resources a report on the status of the recovery effort, including an audit of Federal funds expended in the recovery effort and recommendations on how to improve public health and safety, survivability of infrastructure, recovery efforts, and effective use of funds in the event of future disasters.

(Pub. L. 102–247, title II, §203, Feb. 24, 1992, 106 Stat. 37; Pub. L. 103–437, §15(p), Nov. 2, 1994, 108 Stat. 4594; Pub. L. 109–295, title VI, §612(c), Oct. 4, 2006, 120 Stat. 1410.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Omnibus Insular Areas Act of 1992, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act which comprises this chapter.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–437 substituted "House Committee on Natural Resources" for "House Committee on Interior and Insular Affairs".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Administrator of the Federal Emergency Management Agency" substituted for "Director of the Federal Emergency Management Agency" in subsecs. (a) and (b) on authority of section 612(c) of Pub. L. 109–295, set out as a note under section 313 of Title 6, Domestic Security. Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109–295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109–295, set out as a note under section 313 of Title 6.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§5204c. Hazard mitigation for insular areas

The total of contributions under the last sentence of section 5170c of this title for the insular areas shall not exceed 10 percent of the estimated aggregate amounts of grants to be made under sections 5170b, 5172, 5173, 5174, and 5178 [1] of this title for any disaster: *Provided*, That the President shall require a 50 percent local match for assistance in excess of 10 percent of the estimated aggregate amount of grants to be made under section 5172 of this title for any disaster.

(Pub. L. 102–247, title II, §204, Feb. 24, 1992, 106 Stat. 38.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 5178 of this title, referred to in text, was repealed by Pub. L. 106–390, title II, §206(c), Oct. 30, 2000, 114 Stat. 1571, effective 18 months after Oct. 30, 2000.

CODIFICATION

Section was enacted as part of the Omnibus Insular Areas Act of 1992, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act which comprises this chapter.

[1] *See References in Text note below.*

§5205. Disaster grant closeout procedures

(a) Statute of limitations

(1) In general

Notwithstanding section 3716(e) of title 31 and except as provided in paragraph (2), no administrative action to recover any payment made to a State or local government for disaster or emergency assistance under this chapter shall be initiated in any forum after the date that is 3 years after the date of transmission of the final expenditure report for project completion as certified by the grantee.

(2) Fraud exception

The limitation under paragraph (1) shall apply unless there is evidence of civil or criminal fraud.

(b) Rebuttal of presumption of record maintenance

(1) In general

In any dispute arising under this section after the date that is 3 years after the date of transmission of the final expenditure report for project completion as certified by the grantee, there shall be a presumption that accounting records were maintained that adequately identify the source and application of funds provided for financially assisted activities.

(2) Affirmative evidence

The presumption described in paragraph (1) may be rebutted only on production of affirmative evidence that the State or local government did not maintain documentation described in that paragraph.

(3) Inability to produce documentation

The inability of the Federal, State, or local government to produce source documentation supporting expenditure reports later than 3 years after the date of transmission of the final expenditure report for project completion as certified by the grantee shall not constitute evidence to rebut the presumption described in paragraph (1).

(4) Right of access

The period during which the Federal, State, or local government has the right to access source documentation shall not be limited to the required 3-year retention period referred to in paragraph (3), but shall last as long as the records are maintained.

(c) Binding nature of grant requirements

A State or local government shall not be liable for reimbursement or any other penalty for any payment made under this chapter if—

(1) the payment was authorized by an approved agreement specifying the costs;

(2) the costs were reasonable; and

(3) the purpose of the grant was accomplished.

(d) Facilitating closeout

(1) Incentives

The Administrator of the Federal Emergency Management Agency may develop incentives and penalties that encourage State, local, or Indian tribal governments to close out expenditures and activities on a timely basis related to disaster or emergency assistance.

(2) Agency requirements

The Federal Emergency Management Agency shall, consistent with applicable regulations and required procedures, meet its responsibilities to improve closeout practices and reduce the time to close disaster program awards.

(Pub. L. 93–288, title VII, §705, as added Pub. L. 106–390, title III, §304, Oct. 30, 2000, 114 Stat. 1573; amended Pub. L. 115–254, div. D, §§1216(c)(1), 1221(a), Oct. 5, 2018, 132 Stat. 3451, 3453.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1) and (c), was in the original "this Act", meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

AMENDMENTS

2018—Subsec. (a)(1). Pub. L. 115–254, §1216(c)(1)(A), substituted "Notwithstanding section 3716(e) of title 31 and except" for "Except" and "report for project completion as certified by the grantee" for "report for the disaster or emergency".

Subsec. (b)(1). Pub. L. 115–254, §1216(c)(1)(B)(i), substituted "report for project completion as certified by the grantee" for "report for the disaster or emergency".

Subsec. (b)(3). Pub. L. 115–254, §1216(c)(1)(B)(ii), inserted "for project completion as certified by the grantee" after "final expenditure report".

Subsec. (d). Pub. L. 115–254, §1221(a), added subsec. (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–254 applicable to each major disaster and emergency declared by the President on or after Aug. 1, 2017, and authorities provided under div. D of Pub. L. 115–254 applicable to each major disaster and emergency declared by the President on or after Jan. 1, 2016, except as otherwise provided, see section 1202 of Pub. L. 115–254, set out as a note under section 5121 of this title.

REGULATIONS

Pub. L. 115–254, div. D, §1221(b), Oct. 5, 2018, 132 Stat. 3454, provided that: "The Administrator [of the Federal Emergency Management Agency] shall issue regulations to implement the amendment made by this section [amending this section]."

§5205a. Certain recoupment prohibited

(a) In general

Notwithstanding any other provision of law, the Agency shall deem any covered disaster assistance to have been properly procured, provided, and utilized, and shall restore any funding of covered disaster assistance previously provided but subsequently withdrawn or deobligated.

(b) Covered disaster assistance defined

In this section, the term "covered disaster assistance" means assistance—

(1) provided to a local government pursuant to section 5170b, 5172, or 5173 of this title; and

(2) with respect to which the inspector general of the Department of Homeland Security has

determined, after an audit, that—

(A) the Agency deployed to the local government a Technical Assistance Contractor to review field operations, provide eligibility advice, and assist with day-to-day decisions;

(B) the Technical Assistance Contractor provided inaccurate information to the local government; and

(C) the local government relied on the inaccurate information to determine that relevant contracts were eligible, reasonable, and reimbursable.

(c) Effective date

This section shall be effective on October 5, 2018.

(Pub. L. 115–254, div. D, §1237, Oct. 5, 2018, 132 Stat. 3464.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Disaster Recovery Reform Act of 2018 and as part of the FAA Reauthorization Act of 2018, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definition of "Agency" as used in this section, see section 1203 of Pub. L. 115–254, set out as a note under section 5122 of this title.

§5206. Buy American

(a) Compliance with chapter 83 of title 41

No funds authorized to be appropriated under this Act or any amendment made by this Act may be expended by an entity unless the entity, in expending the funds, complies with chapter 83 of title 41.

(b) Debarment of persons convicted of fraudulent use of "Made in America" labels

(1) In general

If the Administrator of the Federal Emergency Management Agency determines that a person has been convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Administrator shall determine, not later than 90 days after determining that the person has been so convicted, whether the person should be debarred from contracting under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) Definition of debar

In this subsection, the term "debar" has the meaning given the term in section 4654(c) of title 10.

(Pub. L. 106–390, title III, §306, Oct. 30, 2000, 114 Stat. 1574; Pub. L. 109–295, title VI, §612(c), Oct. 4, 2006, 120 Stat. 1410; Pub. L. 117–81, div. A, title XVII, §1702(j)(4), Dec. 27, 2021, 135 Stat. 2159.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 106–390, Oct. 30, 2000, 114 Stat. 1552, known as the Disaster Mitigation Act of 2000. For complete classification of this Act to the Code, see Short Title of 2000 Amendment note set out under section 5121 of this title and Tables.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (b)(1), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

CODIFICATION

In subsec. (a), "chapter 83 of title 41" substituted for references to the Buy American Act on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

Section was enacted as part of the Disaster Mitigation Act of 2000, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act which comprises this chapter.

AMENDMENTS

2021—Subsec. (b)(2). Pub. L. 117–81 substituted "section 4654(c)" for "section 2393(c)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Administrator of the Federal Emergency Management Agency" and "Administrator" substituted for "Director of the Federal Emergency Management Agency" and "Director", respectively, in subsec. (b)(1) on authority of section 612(c) of Pub. L. 109–295, set out as a note under section 313 of Title 6, Domestic Security. Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109–295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109–295, set out as a note under section 313 of Title 6.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§5207. Firearms policies

(a) Prohibition on confiscation of firearms

No officer or employee of the United States (including any member of the uniformed services), or person operating pursuant to or under color of Federal law, or receiving Federal funds, or under control of any Federal official, or providing services to such an officer, employee, or other person, while acting in support of relief from a major disaster or emergency, may—

(1) temporarily or permanently seize, or authorize seizure of, any firearm the possession of which is not prohibited under Federal, State, or local law, other than for forfeiture in compliance with Federal law or as evidence in a criminal investigation;

(2) require registration of any firearm for which registration is not required by Federal, State, or local law;

(3) prohibit possession of any firearm, or promulgate any rule, regulation, or order prohibiting possession of any firearm, in any place or by any person where such possession is not otherwise prohibited by Federal, State, or local law; or

(4) prohibit the carrying of firearms by any person otherwise authorized to carry firearms under Federal, State, or local law, solely because such person is operating under the direction, control, or supervision of a Federal agency in support of relief from the major disaster or emergency.

(b) Limitation

Nothing in this section shall be construed to prohibit any person in subsection (a) from requiring

the temporary surrender of a firearm as a condition for entry into any mode of transportation used for rescue or evacuation during a major disaster or emergency, provided that such temporarily surrendered firearm is returned at the completion of such rescue or evacuation.

(c) Private rights of action

(1) In general

Any individual aggrieved by a violation of this section may seek relief in an action at law, suit in equity, or other proper proceeding for redress against any person who subjects such individual, or causes such individual to be subjected, to the deprivation of any of the rights, privileges, or immunities secured by this section.

(2) Remedies

In addition to any existing remedy in law or equity, under any law, an individual aggrieved by the seizure or confiscation of a firearm in violation of this section may bring an action for return of such firearm in the United States district court in the district in which that individual resides or in which such firearm may be found.

(3) Attorney fees

In any action or proceeding to enforce this section, the court shall award the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

(Pub. L. 93–288, title VII, §706, as added Pub. L. 109–295, title V, §557, Oct. 4, 2006, 120 Stat. 1391.)

§5208. Repealed. Pub. L. 112–74, div. D, title III, Dec. 23, 2011, 125 Stat. 963

Section, Pub. L. 110–161, div. E, title III, Dec. 26, 2007, 121 Stat. 2064, related to Federal Emergency Management Agency monthly Disaster Relief reports.

CHAPTER 69—COMMUNITY DEVELOPMENT

Sec.

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§5301. Congressional findings and declaration of purpose

(a) Critical social, economic, and environmental problems facing Nation's urban communities

The Congress finds and declares that the Nation's cities, towns, and smaller urban communities face critical social, economic, and environmental problems arising in significant measure from—

(1) the growth of population in metropolitan and other urban areas, and the concentration of persons of lower income in central cities;

(2) inadequate public and private investment and reinvestment in housing and other physical facilities, and related public and social services, resulting in the growth and persistence of urban slums and blight and the marked deterioration of the quality of the urban environment; and

(3) increasing energy costs which have seriously undermined the quality and overall effectiveness of local community and housing development activities.

(b) Establishment and maintenance of viable urban communities; systematic and sustained action by Federal, State, and local governments; expansion of and continuity in Federal assistance; increased private investment; streamlining programs and improvement of functioning of agencies; action to address consequences of scarce fuel supplies

The Congress further finds and declares that the future welfare of the Nation and the well-being of its citizens depend on the establishment and maintenance of viable urban communities as social, economic, and political entities, and require—

(1) systematic and sustained action by Federal, State, and local governments to eliminate blight, to conserve and renew older urban areas, to improve the living environment of low- and moderate-income families, and to develop new centers of population growth and economic activity;

(2) substantial expansion of and greater continuity in the scope and level of Federal assistance, together with increased private investment in support of community development activities;

(3) continuing effort at all levels of government to streamline programs and improve the functioning of agencies responsible for planning, implementing, and evaluating community development efforts; and

(4) concerted action by Federal, State, and local governments to address the economic and social hardships borne by communities as a consequence of scarce fuel supplies.

(c) Decent housing, suitable living environment, and economic opportunities for persons of low and moderate income; community development activities which may be supported by Federal assistance

The primary objective of this chapter and of the community development program of each grantee under this chapter is the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income. Consistent with this primary objective, not less than 70 percent of the aggregate of the Federal assistance provided to States and units of general local government under section 5306 of this title and, if applicable, the funds received as a result of a guarantee or a grant under section 5308 of this title, shall be used for the support of activities that benefit persons of low and moderate income, and the Federal assistance provided in this chapter is for the support of community development activities which are directed toward the following specific objectives—

(1) the elimination of slums and blight and the prevention of blighting influences and the deterioration of property and neighborhood and community facilities of importance to the welfare of the community, principally persons of low and moderate income;

(2) the elimination of conditions which are detrimental to health, safety, and public welfare,

through code enforcement, demolition, interim rehabilitation assistance, and related activities;

(3) the conservation and expansion of the Nation's housing stock in order to provide a decent home and a suitable living environment for all persons, but principally those of low and moderate income;

(4) the expansion and improvement of the quantity and quality of community services, principally for persons of low and moderate income, which are essential for sound community development and for the development of viable urban communities;

(5) a more rational utilization of land and other natural resources and the better arrangement of residential, commercial, industrial, recreational, and other needed activity centers;

(6) the reduction of the isolation of income groups within communities and geographical areas and the promotion of an increase in the diversity and vitality of neighborhoods through the spatial deconcentration of housing opportunities for persons of lower income and the revitalization of deteriorating or deteriorated neighborhoods;

(7) the restoration and preservation of properties of special value for historic, architectural, or esthetic reasons;

(8) the alleviation of physical and economic distress through the stimulation of private investment and community revitalization in areas with population outmigration or a stagnating or declining tax base; and

(9) the conservation of the Nation's scarce energy resources, improvement of energy efficiency, and the provision of alternative and renewable energy sources of supply.

It is the intent of Congress that the Federal assistance made available under this chapter not be utilized to reduce substantially the amount of local financial support for community development activities below the level of such support prior to the availability of such assistance.

(d) Consolidation of complex and overlapping Federal assistance programs into consistent system of Federal aid

It is also the purpose of this chapter to further the development of a national urban growth policy by consolidating a number of complex and overlapping programs of financial assistance to communities of varying sizes and needs into a consistent system of Federal aid which—

(1) provides assistance on an annual basis, with maximum certainty and minimum delay, upon which communities can rely in their planning;

(2) encourages community development activities which are consistent with comprehensive local and areawide development planning;

(3) furthers achievement of the national housing goal of a decent home and a suitable living environment for every American family; and

(4) fosters the undertaking of housing and community development activities in a coordinated and mutually supportive manner by Federal agencies and programs, as well as by communities.

(Pub. L. 93–383, title I, §101, Aug. 22, 1974, 88 Stat. 633; Pub. L. 95–128, title I, §101, Oct. 12, 1977, 91 Stat. 1111; Pub. L. 96–399, title I, §104(a), Oct. 8, 1980, 94 Stat. 1616; Pub. L. 98–181, title I [title I, §101(a)], Nov. 30, 1983, 97 Stat. 1159; Pub. L. 100–242, title V, §502(a), (b), Feb. 5, 1988, 101 Stat. 1923; Pub. L. 101–625, title IX, §§902(a), 913(a), Nov. 28, 1990, 104 Stat. 4385, 4392; Pub. L. 103–233, title II, §232(a)(2)(A), Apr. 11, 1994, 108 Stat. 367.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (c) and (d), was in the original "this title", meaning title I of Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, which is classified principally to this chapter. For complete classification of title I to the Code, see Tables.

AMENDMENTS

1994—Subsec. (c). Pub. L. 103–233 inserted "or a grant" after "guarantee" in second sentence.

1990—Subsec. (c). Pub. L. 101–625, §913(a), inserted "to States and units of general local government"

after first reference to "Federal assistance provided" in second sentence.

Pub. L. 101–625, §902(a), substituted "70 percent" for "60 percent" in second sentence.

1988—Subsec. (c). Pub. L. 100–242, §502(a), substituted "60" for "51".

Subsec. (c)(6). Pub. L. 100–242, §502(b), struck out "to attract persons of higher income" before semicolon at end.

1983—Subsec. (c). Pub. L. 98–181, §101(a)(1), inserted "and of the community development program of each grantee under this chapter" in provisions preceding par. (1).

Pub. L. 98–181, §101(a)(2), inserted "not less than 51 percent of the aggregate of the Federal assistance provided under section 5306 of this title and, if applicable, the funds received as a result of a guarantee under section 5308 of this title, shall be used for the support of activities that benefit persons of low and moderate income, and" in provisions preceding par. (1).

1980—Subsec. (a)(3). Pub. L. 96–399, §104(a)(1)–(3), added par. (3).

Subsec. (b)(4). Pub. L. 96–399, §104(a)(4)–(6), added par. (4).

Subsec. (c)(9). Pub. L. 96–399, §104(a)(7)–(9), added par. (9).

1977—Subsec. (c)(8). Pub. L. 95–128, §101(a), added par. (8).

Subsec. (d)(4). Pub. L. 95–128, §101(b), provided that the development activities be undertaken by Federal agencies and programs as well as by communities.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–233, title II, §209, Apr. 11, 1994, 108 Stat. 366, provided that: "The amendments made by this title [enacting sections 5321 and 12840 of this title and amending this section and sections 5304, 5305, 5308, 5318, 12704, 12744, 12745, 12750, 12833, 12838, and 12893 of this title] shall apply with respect to any amounts made available to carry out title II of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12721 et seq.] after the date of the enactment of this Act [Apr. 11, 1994] and any amounts made available to carry out such title before such date of enactment that remain uncommitted on such date. The Secretary shall issue any regulations necessary to carry out the amendments made by this title not later than the expiration of the 45-day period beginning on the date of the enactment of this Act."

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–550, §2, Oct. 28, 1992, 106 Stat. 3681, provided that: "The provisions of this Act [see Tables for classification] and the amendments made by this Act shall take effect and shall apply upon the date of the enactment of this Act [Oct. 28, 1992], unless such provisions or amendments specifically provide for effectiveness or applicability upon another date certain."

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 913(a) of Pub. L. 101–625 applicable to amounts approved in any appropriation Act under section 5303 of this title for fiscal year 1990 and each fiscal year thereafter, see section 913(f) of Pub. L. 101–625, set out as a note under section 5306 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–181 applicable only to funds available for fiscal year 1984 and thereafter, see section 110(b) of Pub. L. 98–181, as amended, set out as a note under section 5316 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95–128, title I, §114, Oct. 12, 1977, 91 Stat. 1128, provided that: "The amendments made by this title [enacting section 5318 of this title, amending this section, sections 1452b, 5302 to 5308, and 5313 of this title, and section 461 of former Title 40, Public Buildings, Property, and Works, and enacting provisions set out as a note under section 5313 of this title] shall become effective October 1, 1977."

SHORT TITLE OF 2026 AMENDMENT

Pub. L. 119–70, §1, Jan. 20, 2026, 140 Stat. 3, provided that: "This Act [amending section 5302 of this title] may be cited as the 'Disabled Veterans Housing Support Act'."

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108–146, §1, Dec. 3, 2003, 117 Stat. 1883, provided that: "This Act [amending section 5305 of this title] may be cited as the 'Tornado Shelters Act'."

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–550, §1(a), Oct. 28, 1992, 106 Stat. 3672, provided that: "This Act [see Tables for classification] may be cited as the 'Housing and Community Development Act of 1992'."

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–242, §1(a), Feb. 5, 1988, 101 Stat. 1815, provided that: "This Act [see Tables for classification] may be cited as the 'Housing and Community Development Act of 1987'."

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99–272, title III, §3001(a), Apr. 7, 1986, 100 Stat. 101, provided that: "This title [amending sections 1437b, 1437g, 1452b, 1483, 1485, 1487, 1490, 1490c, 4026, 4056, 4101, 5302, and 5308 of this title, and sections 1703, 1715h, 1715l, 1715z, 1715z–9, 1715z–10, 1715z–14, 1748h–1, 1748h–2, 1749bb, 1749aaa, 1749bbb, and 2811 of Title 12, Banks and Banking, enacting provisions set out as notes under section 5308 of this title, and amending provisions set out as a note under section 1701q of Title 12] may be cited as the 'Housing and Community Development Reconciliation Amendments of 1985'."

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–479, §1, Oct. 17, 1984, 98 Stat. 2218, provided: "That this Act [amending sections 1437a, 1437b, 1437d, 1437f, 1437h, 1437l, 1437o, 1438 to 1440, 1452, 1455, 1456, 1471, 1472, 1480, 1481, 1483, 1485, 1487, 1490, 1490a to 1490c, 1493, 2414, 3337, 3535, 3541, 3936, 3938, 4016, 4017, 4101, 4105, 4124, 4502, 5302, 5304 to 5306, 5308, 5312, 5317, 5318, 5403, 6863, 8004, 8010, and 8107 of this title, sections 1425a, 1457, 1701c, 1701h, 1701q, 1701s, 1701x, 1701z–2, 1701z–13, 1702, 1705, 1706e, 1709, 1713, 1715d, 1715h, 1715l, 1715n, 1715y, 1715z, 1715z–1, 1715z–1a, 1715z–5 to 1715z–9, 1717, 1719, 1721, 1723a, 1723g, 1723h, 1732, 1735f–5, 1735f–9, 1749, 1749a, 1749c, 1749aaa, 1749aaa–3, 1749bbb–8, 1749bbb–13, 1749bbb–17, 1750c, 1757, 2706, 2709, 3612, and 3618 of Title 12, Banks and Banking, and sections 1635 and 1715 of Title 15, Commerce and Trade, enacting provisions set out as notes under sections 1472 and 5305 of this title and sections 1715b, 1732 and 3618 of Title 12, and amending provisions set out as notes under sections 602, 5316, and 5318 of this title and section 1701z–6 of Title 12] may be cited as the 'Housing and Community Development Technical Amendments Act of 1984'."

SHORT TITLE OF 1981 AMENDMENT

Pub. L. 97–35, title III, §300, Aug. 13, 1981, 95 Stat. 384, provided that: "This subtitle [subtitle A (§§300–371) of title III of Pub. L. 97–35, enacting sections 1437j–1, 1437n, and 4028 of this title and sections 1701z–14, 1735f–9, 1735f–10, 2294a, and 3701 to 3717 of Title 12, Banks and Banking, amending sections 1436a, 1437 to 1437d, 1437f, 1437g, 1437i, 1437j, 1437l, 1439, 1452b, 1483, 1485, 1487, 1490a, 1490c, 4017, 4026, 4056, 4081, 4127, 4518, 5302 to 5313, 5316, 5318, 5320, and 8107 of this title and sections 1701s, 1701j–2, 1701q, 1701x, 1701z–1, 1701z–14, 1703, 1706e, 1709–1, 1713, 1715e, 1715h, 1715k, 1715l, 1715n, 1715v, 1715y, 1715z, 1715z–1, 1715z–1a, 1715z–1b, 1715z–7, 1715z–9, 1715z–10, 1720, 1721, 1735c, 1748h–1, 1748h–2, 1749bb, 1749aaa, 1749bbb, and 1749bbb–3 of Title 12, repealing sections 8121 to 8124 of this title and section 461 of former Title 40, Public Buildings, Property, and Works, enacting provisions set out as notes under 1436a, 1437a, 1437f, 4028, 5304, 5305, 5306, 5318 of this title and sections 1703, 1720, and 3701 of Title 12, and repealing provisions set out as notes under section 8121 of this title and section 1701s of Title 12] may be cited as the 'Housing and Community Development Amendments of 1981'."

SHORT TITLE OF 1980 AMENDMENT

Pub. L. 96–399, §1, Oct. 8, 1980, 94 Stat. 1614, provided: "That this Act [enacting sections 1436a, 1436b, 1437l, 1437m, 1490j and 5320 of this title, sections 1735f–8 and 2809 to 2811 of Title 12, Banks and Banking, and sections 3601 to 3616 of Title 15, Commerce and Trade, amending this section, sections 1437c, 1437d, 1437f, 1437g, 1437k, 1439, 1441c, 1452b, 1471, 1472, 1480, 1483 to 1487, 1490a, 1490c to 1490e, 3535, 4127, 5302 to 5308, 5316 to 5318, 5401 to 5404, 5406 to 5416, 5419, 5421 to 5423, 5425, 6833, 6835, 8004, 8102, 8105, 8107, and 8124 of this title, sections 86a, 1425a, 1454, 1701q, 1701s, 1701u, 1701z–1, 1701z–11, 1703, 1706e, 1707, 1709, 1709–1, 1713, 1715d, 1715e, 1715h, 1715k, 1715l to 1715n, 1715u to 1715w, 1715y to 1715z–1, 1715z–1a, 1715z–5 to 1715z–7, 1715z–9, 1715z–10, 1717, 1720, 1721, 1723e, 1735c, 1735f–7a, 1748h–1, 1748h–2, 1749bb, 1749aaa and 2803 of Title 12 and sections 461 and 484b of former Title 40, Public Buildings, Property and Works, repealing section 2809 of Title 12, enacting provisions set out as notes under sections 1472, 3535, 5302, 5313, 5401, 5424 and 8106 of this title, sections 86a, 1701z–6, 1703, 1715d, 1715z, 1717, 1723a, 1723e and 3305 of Title 12, section 3601 of Title 15, and section

461 of former Title 40, and amending provisions set out as notes under section 5401 of this title and sections 86a, 1701z–6, 1723e, and 1735f–4 of Title 12] may be cited as the 'Housing and Community Development Act of 1980'."

SHORT TITLE OF 1979 AMENDMENT

Pub. L. 96–153, §1, Dec. 21, 1979, 93 Stat. 1101, provided: "That this Act [enacting section 1735f–7 of Title 12, Banks and Banking, section 1719a of Title 15, Commerce and Trade, and section 1437k of this title, amending section 5315 of Title 5, Government Organization and Employees, sections 90, 1426, 1431, 1451, 1452, 1455, 1464, 1701q, 1701s, 1701z–1, 1701z–11, 1703, 1706e, 1709, 1709–1, 1713, 1715e, 1715h, 1715k, 1715l, 1715m, 1715v, 1715y, 1715z, 1715z–1, 1715z–1a, 1715z–6, 1715z–7, 1715z–9, 1715z–10, 1717, 1728, 1735c, 1748h–1, 1748h–2, 1749bb, 1749aaa, 1749bbb, 1757, 1787, and 1821 of Title 12, sections 1701, 1702, 1703, 1708, 1709, 1711, 1715, and 1717 of Title 15, section 461 of former Title 40, Public Buildings, Property, and Works, and sections 1437a, 1437c, 1437d, 1437f, 1437g, 1439, 1452b, 1471, 1472, 1474, 1479, 1480, 1483, 1484, 1485, 1486, 1487, 1490a, 1490c, 3533a, 3541, 4026, 4056, 4127, 5302, 5303, 5304, 5306, 5318, 5419, 8107, 8123, 8124, and 8146 of this title, and enacting provisions set out as notes under sections 1701, 1701q, 1701s, 1703, 1709, 1723e, and 1728 of Title 12, section 1701 of Title 15, and sections 1437a, 1437f, and 5304 of this title] may be cited as the 'Housing and Community Development Amendments of 1979'."

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–557, §1, Oct. 31, 1978, 92 Stat. 2080, provided that: "This Act [enacting sections 3541, 5319, 8001 to 8010, 8101 to 8107, 8121 to 8124, and 8141 to 8146 of this title and sections 1701z–9 to 1701z–13, 1715z–1a, 1715z–1b, 1735f–6, of Title 12, Banks and Banking, amending sections 1437a, 1437c, 1437e, 1437f, 1437g, 1441c, 1452b, 1476, 1480, 1483 to 1487, 1490a, 1490c, 1490e, 3371, 3535, 4026, 4056, 4127, 4521, 5304, 5305, 5307, 5318 and 5425, of this title, sections 1454, 1701j–2, 1701q, 1701z–1, 1703, 1706e, 1709, 1709–1, 1713, 1715h, 1715l, 1715n, 1715y, 1715z, 1715z–1, 1715z–5, 1715z–6, 1715z–9, 1715z–10, 1715z–11, 1715w, 1717, 1720, 1735c, 1748h–1, 1748h–2, 1749bb, 1749aaa, 1749bbb, and 1749bbb–3 of Title 12, section 1702 of Title 15, Commerce and Trade, and sections 461 and 484b of former Title 40, Public Buildings, Property, and Works, and enacting provisions set out as notes under sections 1437c, 1437f, 1441, 1476, 1480, 5313, 8001, 8101, 8121, and 8141 of this title and sections 1454, 1701z–6, 1701z–9, 1709, 1715z–1, and 1723e of Title 12] may be cited as the 'Housing and Community Development Amendments of 1978'."

SHORT TITLE OF 1977 AMENDMENT

Section 1 of Pub. L. 95–128 provided that: "This Act [enacting sections 3540 and 5318 of this title and sections 2901 to 2905 of Title 12, Banks and Banking, amending this section, sections 1437c, 1437f, 1437g, 1439, 1452b, 1471, 1472, 1476, 1479, 1483 to 1485, 1487, 1490a, 1490c, 1490h, 3533, 4003, 4013, 4026, 4056, 4103 to 4106, 4127, 4501 to 4503, 4521, 5302 to 5308, 5313, 5403, and 5409 of this title, sections 355, 1430, 1454, 1464, 1701q, 1701x, 1701z–1, 1703, 1706e, 1709, 1709–1, 1715h, 1715k to 1715m, 1715w, 1715y, 1715z, 1715z–1, 1715z–3, 1715z–7, 1715z–9, 1715z–10, 1717, 1723a, 1723e, 1748h–1, 1748h–2, 1749bb, and 1749aaa of Title 12, and section 461 of former Title 40, Public Buildings, Property, and Works, and enacting provisions set out as notes under this section, sections 1421b, 1437d, 1490h, 4501, and 5313 of this title, and sections 1715z–1, 1723e of Title 12] may be cited as the 'Housing and Community Development Act of 1977'."

SHORT TITLE

Pub. L. 93–383, §1, Aug. 22, 1974, 88 Stat. 633, provided: "That this Act [enacting this chapter, sections 1701j–2, 1701l–1, 1701z–5, 1701z–6, 1706e, 1715z–9 to 1715z–11, and 1735f–3 to 1735f–5 of Title 12, Banks and Banking, section 803a of Title 20, Education, and sections 1437 to 1437j, 1438 to 1440, 1490e to 1490g, 4104a, and 5401 to 5426 of this title, amending sections 5315 and 5316 of Title 5, Government Organization and Employees, sections 24, 371, 1431, 1436, 1454, 1464, 1701q, 1701u, 1701x, 1701z–3, 1703, 1709, 1709–1, 1713, 1715e, 1715h, 1715k to 1715n, 1715v, 1715w, 1715y, 1715z, 1715z–1, 1715z–3, 1715z–6, 1715z–7, 1717, 1718, 1719, 1723a, 1735b, 1748h–1, 1748h–2, 1749bb, 1749aaa, 1749aaa–4, 1749aaa–5, 1757, 1759, 1761b, 1761d, 1763, 1772, 1782, 1786, and 1788 of Title 12, sections 1701 to 1703 of Title 15, Commerce and Trade, sections 801, 802, and 806 of Title 20, section 711 of former Title 31, Money and Finance, sections 460 and 461 of former Title 40, Public Buildings, Property, and Works, sections 1441a, 1441c, 1452b, 1453, 1471, 1472, 1474, 1476 to 1478, 1483, 1485, 1487, 1490, 1490a, 1490c, 1490d, 1586, 3311, 3533, 3604 to 3606, 3631, 4014, 4512, 4514 to 4516, 4519, and 4532 of this title, and sections 1602 and 1602a of former Title 49, Transportation, repealing sections 1411d and 1455a of this title, and enacting

provisions set out as notes under this section, sections 1464, 1701q, 1715l, 1715z–1, 1716b, and 1723a of Title 12, section 1703 of Title 15, sections 1410, 1421b, 1437, 1437a, 1437f, 3532, and 5401 of this title, and section 1602a of former Title 49] may be cited as the 'Housing and Community Development Act of 1974'."

USE OF FUNDS FOR UNMET RECOVERY NEEDS IN OVERLAPPING IMPACTED AND DISTRESSED AREAS AFFECTED BY DISASTERS

Pub. L. 117–43, div. B, title VIII, Sept. 30, 2021, 135 Stat. 371, provided in part: "That the Secretary is authorized to approve the use of amounts made available under this heading [Department of Housing and Urban Development—Community Planning and Development—Community Development Fund] in this Act [div. B of Pub. L. 117–43, see Tables for classification] or a prior or future Act for activities authorized under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) related to unmet recovery needs in the most impacted and distressed areas resulting from a major disaster in this Act or in a prior or future Act to be used interchangeably and without limitation for the same activities in the most impacted and distressed areas resulting from other major disasters assisted under this Act or a prior or future Act when such areas overlap and when the use of the funds will address unmet recovery needs of both disasters".

CAREER ACT; RECOVERY HOUSING PILOT PROGRAM

Pub. L. 115–271, title VIII, §8071, Oct. 24, 2018, 132 Stat. 4095, as amended by Pub. L. 119–44, title III, §305(b)(1), Dec. 1, 2025, 139 Stat. 688, provided that:

"(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated under this section such sums as may be necessary for each of fiscal years 2019 through 2030 for assistance to States to provide individuals in recovery from a substance use disorder stable, temporary housing for a period of not more than 2 years or until the individual secures permanent housing, whichever is earlier.

"(b) ALLOCATION OF APPROPRIATED AMOUNTS.—

"(1) IN GENERAL.—The amounts appropriated or otherwise made available to States under this section shall be allocated based on a funding formula established by the Secretary of Housing and Urban Development (referred to in this section as the 'Secretary') not later than 60 days after the date of enactment of the SUPPORT for Patients and Communities Reauthorization Act of 2025 [Dec. 1, 2025].

"(2) CRITERIA.—

"(A) IN GENERAL.—The funding formula required under paragraph (1) shall ensure that any amounts appropriated or otherwise made available under this section are allocated to States with an age-adjusted rate of drug overdose deaths that is above the national overdose mortality rate, according to the Centers for Disease Control and Prevention.

"(B) PRIORITY.—

"(i) IN GENERAL.—Among such States, priority shall be given to States with the greatest need, as such need is determined by the Secretary based on the following factors, and weighting such factors as described in clause (ii):

"(I) The highest average rates of unemployment for calendar years 2018 through 2022 based on data provided by the Bureau of Labor Statistics.

"(II) The lowest average labor force participation rates for calendar years 2018 through 2022 based on data provided by the Bureau of Labor Statistics.

"(III) The highest age-adjusted average rates of drug overdose deaths for calendar years 2018 through 2022 based on data from the Centers for Disease Control and Prevention, including, if necessary, provisional data for calendar year 2022.

"(ii) WEIGHTING.—The factors described in clause (i) shall be weighted as follows:

"(I) The rate described in clause (i)(I) shall be weighted at 15 percent.

"(II) The rate described in clause (i)(II) shall be weighted at 15 percent.

"(III) The rate described in clause (i)(III) shall be weighted at 70 percent.

"(3) DISTRIBUTION.—Amounts appropriated or otherwise made available under this section shall be distributed according to the funding formula established by the Secretary under paragraph (1) not later than 30 days after the establishment of such formula.

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—Any State that receives amounts pursuant to this section shall expend at least 30 percent of such funds within one year of the date funds become available to the grantee for obligation.

"(2) PRIORITY.—Any State that receives amounts pursuant to this section shall distribute such amounts giving priority to entities with the greatest need and ability to deliver effective assistance in a timely manner.

"(3) ADMINISTRATIVE COSTS.—Any State that receives amounts pursuant to this section may use

up to 5 percent of any grant for administrative costs.

"(d) RULES OF CONSTRUCTION.—

"(1) IN GENERAL.—Except as otherwise provided by this section, amounts appropriated, or amounts otherwise made available to States under this section shall be treated as though such funds were community development block grant funds under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

"(2) NO MATCH.—No matching funds shall be required in order for a State to receive any amounts under this section.

"(e) AUTHORITY TO WAIVE OR SPECIFY ALTERNATIVE REQUIREMENTS.—

"(1) IN GENERAL.—In administering any amounts appropriated or otherwise made available under this section, the Secretary may waive or specify alternative requirements to any provision under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) except for requirements related to fair housing, nondiscrimination, labor standards, the environment, and requirements that activities benefit persons of low- and moderate-income, upon a finding that such a waiver is necessary to expedite or facilitate the use of such funds.

"(2) NOTICE OF INTENT.—The Secretary shall provide written notice of its intent to exercise the authority to specify alternative requirements under paragraph (1) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives not later than 15 business days before such exercise of authority occurs.

"(3) NOTICE TO THE PUBLIC.—The Secretary shall provide written notice of its intent to exercise the authority to specify alternative requirements under paragraph (1) to the public via notice, on the internet website of the Department of Housing and Urban Development, and by other appropriate means, not later than 15 business days before such exercise of authority occurs.

"(f) TECHNICAL ASSISTANCE.—The Secretary may use not more than 2 percent of the funds made available under this section for technical assistance to grantees.

"(g) STATE.—For purposes of this section the term 'State' includes any State as defined in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302) and the District of Columbia."

ADDITIONAL ASSISTANCE FOR NEIGHBORHOOD STABILIZATION PROGRAM

Pub. L. 111–203, title XIV, §1497, July 21, 2010, 124 Stat. 2209, provided that:

"(a) IN GENERAL.—Effective October 1, 2010, out of funds in the Treasury not otherwise appropriated, there is hereby made available to the Secretary of Housing and Urban Development $1,000,000,000, and the Secretary of Housing and Urban Development shall use such amounts for assistance to States and units of general local government for the redevelopment of abandoned and foreclosed homes, in accordance with the same provisions applicable under the second undesignated paragraph under the heading 'Community Planning and Development—Community Development Fund' in title XII of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 217) to amounts made available under such second undesignated paragraph, except as follows:

"(1) Notwithstanding the matter of such second undesignated paragraph that precedes the first proviso, amounts made available by this section shall remain available until expended.

"(2) The 3rd, 4th, 5th, 6th, 7th, and 15th provisos of such second undesignated paragraph shall not apply to amounts made available by this section.

"(3) Amounts made available by this section shall be allocated based on a funding formula for such amounts established by the Secretary in accordance with section 2301(b) of the Housing and Economic Recovery Act of 2008 [Pub. L. 110–289] (42 U.S.C. 5301 note), except that—

"(A) notwithstanding paragraph (2) of such section 2301(b), the formula shall be established not later than 30 days after the date of the enactment of this Act [July 21, 2010];

"(B) notwithstanding such section 2301(b), each State shall receive, at a minimum, not less than 0.5 percent of funds made available under this section;

"(C) the Secretary may establish a minimum grant amount for direct allocations to units of general local government located within a State, which shall not exceed $1,000,000;

"(D) each State and local government receiving grant amounts shall establish procedures to create preferences for the development of affordable rental housing for properties assisted with amounts made available by this section; and

"(E) the Secretary may use not more than 2 percent of the funds made available under this section for technical assistance to grantees.

"(4) Paragraph (1) of section 2301(c) of the Housing and Economic Recovery Act of 2008 shall not apply to amounts made available by this section.

"(5) The fourth proviso from the end of such second undesignated paragraph shall be applied to amounts made available by this section by substituting '2013' for '2012'.

"(6) Notwithstanding section 2301(a) of the Housing and Economic Recovery Act of 2008, the term 'State' means any State, as defined in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302), and the District of Columbia, for purposes of this section and this title [title XIV of Pub. L. 111–203, see Short Title of 2010 Amendment note set out under section 1601 of Title 15, Commerce and Trade], as applied to amounts made available by this section.

"(7)(A) None of the amounts made available by this section shall be distributed to—

"(i) any organization which has been convicted for a violation under Federal law relating to an election for Federal office; or

"(ii) any organization which employs applicable individuals.

"(B) In this paragraph, the term 'applicable individual' means an individual who—

"(i) is—

"(I) employed by the organization in a permanent or temporary capacity;

"(II) contracted or retained by the organization; or

"(III) acting on behalf of, or with the express or apparent authority of, the organization; and

"(ii) has been convicted for a violation under Federal law relating to an election for Federal office.

"(8) An eligible entity receiving a grant under this section shall, to the maximum extent feasible, provide for the hiring of employees who reside in the vicinity, as such term is defined by the Secretary, of projects funded under this section or contract with small businesses that are owned and operated by persons residing in the vicinity of such projects.

"(b) ADDITIONAL AMENDMENTS.—

"(1) SECTION 2301.—Section 2301(f)(3)(A)(ii) of the Housing and Economic Recovery Act of 2008 [Pub. L. 110–289] (42 U.S.C. 5301(f)(3)(A)(ii)) [set out below]—

"(A) [Amended section 2301(f)(3)(A)(ii) of Pub. L. 110–289, set out below]

"(B) shall apply with respect to any unexpended or unobligated balances, including recaptured and reallocated funds made available under this Act [see Tables for classification], section 2301 of the Housing and Economic Recovery Act of 2008 (42 U.S.C. 5301 [note]), and the heading 'Community Planning and Development—Community Development Fund' in title XII of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 217).

"(2) NOTICE OF FORECLOSURE.—For any amounts made available under this section, under division B, title III of the Housing and Economic Recovery Act of 2008 (42 U.S.C. 5301 [note]), or under the heading 'Community Planning and Development—Community Development Fund' in title XII of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 217), the date of a notice of foreclosure shall be deemed to be the date on which complete title to a property is transferred to a successor entity or person as a result of an order of a court or pursuant to provisions in a mortgage, deed of trust, or security deed."

ACQUISITION OF TENANT-OCCUPIED FORECLOSED DWELLING OR RESIDENTIAL REAL PROPERTY

Pub. L. 111–5, div. A, title XII, Feb. 17, 2009, 123 Stat. 218, provided in part: "That in the case of any acquisition of a foreclosed upon dwelling or residential real property acquired after the date of enactment [probably means the date of enactment of Pub. L. 111–5, Feb. 17, 2009] with any amounts made available under this heading [Community Development Fund] or under division B, title III of the Housing and Economic Recovery Act of 2008 (Public Law 110–289) [set out below], the initial successor in interest in such property pursuant to the foreclosure shall assume such interest subject to: (1) the provision by such successor in interest of a notice to vacate to any bona fide tenant at least 90 days before the effective date of such notice; and (2) the rights of any bona fide tenant, as of the date of such notice of foreclosure: (A) under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the receipt by the tenant of the 90-day notice under this paragraph; or (B) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90-day notice under this paragraph, except that nothing in this paragraph shall affect the requirements for termination of any Federal- or State-subsidized tenancy or of any State or local law that provides longer time periods or other additional protections for tenants: *Provided further*, That, for purposes of this paragraph, a lease or tenancy shall be considered bona fide only if: (1) the mortgagor under the contract is not the tenant; (2) the lease or tenancy was the result of an arms-length transaction; and (3) the lease or tenancy requires the receipt of rent that is not substantially less than fair

market rent for the property: *Provided further*, That the recipient of any grant or loan from amounts made available under this heading or, after the date of enactment, under division B, title III of the Housing and Economic Recovery Act of 2008 (Public Law 110–289) may not refuse to lease a dwelling unit in housing assisted with such loan or grant to a holder of a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) because of the status of the prospective tenant as such a holder: *Provided further*, That in the case of any qualified foreclosed housing for which funds made available under this heading or, after the date of enactment, under division B, title III of the Housing and Economic Recovery Act of 2008 (Public Law 110–289) are used and in which a recipient of assistance under section 8(o) of the U.S. Housing Act of 1937 resides at the time of foreclosure, the initial successor in interest shall be subject to the lease and to the housing assistance payments contract for the occupied unit: *Provided further*, That vacating the property prior to sale shall not constitute good cause for termination of the tenancy unless the property is unmarketable while occupied or unless the owner or subsequent purchaser desires the unit for personal or family use: *Provided further*, That if a public housing agency is unable to make payments under the contract to the immediate successor in interest after foreclosures, due to (1) an action or inaction by the successor in interest, including the rejection of payments or the failure of the successor to maintain the unit in compliance with section 8(o)(8) of the United States Housing Act of 1937 (42 U.S.C.1437f) or (2) an inability to identify the successor, the agency may use funds that would have been used to pay the rental amount on behalf of the family—(i) to pay for utilities that are the responsibility of the owner under the lease or applicable law, after taking reasonable steps to notify the owner that it intends to make payments to a utility provider in lieu of payments to the owner, except prior notification shall not be required in any case in which the unit will be or has been rendered uninhabitable due to the termination or threat of termination of service, in which case the public housing agency shall notify the owner within a reasonable time after making such payment; or (ii) for the family's reasonable moving costs, including security deposit costs: *Provided further*, That this paragraph shall not preempt any Federal, State or local law that provides more protections for tenants".

EMERGENCY ASSISTANCE FOR THE REDEVELOPMENT OF ABANDONED AND FORECLOSED HOMES

Pub. L. 111–5, div. A, title XII, Feb. 17, 2009, 123 Stat. 218, provided in part: "That the recipient of any grant or loan from amounts made available under this heading [Community Development Fund] or, after the date of enactment under division B, title III of the Housing and Economic Recovery Act of 2008 [Pub. L. 110–289, set out below], may not refuse to lease a dwelling unit in housing with such loan or grant to a participant under section 8 of the United States Housing Act of 1937 (42 U.S.C 1437f) because of the status of the prospective tenant as such a participant".

Pub. L. 110–289, div. B, title III, July 30, 2008, 122 Stat. 2850, as amended by Pub. L. 111–5, div. A, title XII, Feb. 17, 2009, 123 Stat. 218; Pub. L. 111–22, div. A, title I, §105(a), May 20, 2009, 123 Stat. 1638; Pub. L. 111–203, title XIV, §1497(b)(1)(A), July 21, 2010, 124 Stat. 2210, provided that:

"SEC. 2301. EMERGENCY ASSISTANCE FOR THE REDEVELOPMENT OF ABANDONED AND FORECLOSED HOMES.

"(a) DIRECT APPROPRIATIONS.—There are appropriated out of any money in the Treasury not otherwise appropriated for the fiscal year 2008, $4,000,000,000, to remain available until expended, for assistance to States and units of general local government (as such terms are defined in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302)) for the redevelopment of abandoned and foreclosed upon homes and residential properties.

"(b) ALLOCATION OF APPROPRIATED AMOUNTS.—

"(1) IN GENERAL.—The amounts appropriated or otherwise made available to States and units of general local government under this section shall be allocated based on a funding formula established by the Secretary of Housing and Urban Development (in this title referred to as the 'Secretary').

"(2) FORMULA TO BE DEVISED SWIFTLY.—The funding formula required under paragraph (1) shall be established not later than 60 days after the date of enactment of this section [July 30, 2008].

"(3) CRITERIA.—The funding formula required under paragraph (1) shall ensure that any amounts appropriated or otherwise made available under this section are allocated to States and units of general local government with the greatest need, as such need is determined in the discretion of the Secretary based on—

"(A) the number and percentage of home foreclosures in each State or unit of general local government;

"(B) the number and percentage of homes financed by a subprime mortgage related loan in each State or unit of general local government; and

"(C) the number and percentage of homes in default or delinquency in each State or unit of

general local government.

"(4) DISTRIBUTION.—Amounts appropriated or otherwise made available under this section shall be distributed according to the funding formula established by the Secretary under paragraph (1) not later than 30 days after the establishment of such formula.

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—Any State or unit of general local government that receives amounts pursuant to this section shall, not later than 18 months after the receipt of such amounts, use such amounts to purchase and redevelop abandoned and foreclosed homes and residential properties.

"(2) PRIORITY.—Any State or unit of general local government that receives amounts pursuant to this section shall in distributing such amounts give priority emphasis and consideration to those metropolitan areas, metropolitan cities, urban areas, rural areas, low- and moderate-income areas, and other areas with the greatest need, including those—

"(A) with the greatest percentage of home foreclosures;

"(B) with the highest percentage of homes financed by a subprime mortgage related loan; and

"(C) identified by the State or unit of general local government as likely to face a significant rise in the rate of home foreclosures.

"(3) EXCEPTION FOR CERTAIN STATES.—Each State that has received the minimum allocation of amounts pursuant to the requirement under section 2302 may, to the extent such State has fulfilled the requirements of paragraph (2), distribute any remaining amounts to areas with homeowners at risk of foreclosure or in foreclosure without regard to the percentage of home foreclosures in such areas.

"(4) ELIGIBLE USES.—Amounts made available under this section may be used to—

"(A) establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties, including such mechanisms as soft-seconds, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers;

"(B) purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties;

"(C) establish and operate land banks for homes and residential properties that have been foreclosed upon[;]

"(D) demolish blighted structures; and

"(E) redevelop demolished or vacant properties.

"(d) LIMITATIONS.—

"(1) ON PURCHASES.—Any purchase of a foreclosed upon home or residential property under this section shall be at a discount from the current market appraised value of the home or property, taking into account its current condition, and such discount shall ensure that purchasers are paying below-market value for the home or property.

"(2) REHABILITATION.—Any rehabilitation of a foreclosed-upon home or residential property under this section shall be to the extent necessary to comply with applicable laws, codes, and other requirements relating to housing safety, quality, and habitability, in order to sell, rent, or redevelop such homes and properties. Rehabilitation may include improvements to increase the energy efficiency or conservation of such homes and properties or provide a renewable energy source or sources for such homes and properties.

"(3) SALE OF HOMES.—If an abandoned or foreclosed upon home or residential property is purchased, redeveloped, or otherwise sold to an individual as a primary residence, then such sale shall be in an amount equal to or less than the cost to acquire and redevelop or rehabilitate such home or property up to a decent, safe, and habitable condition.

"(e) RULES OF CONSTRUCTION.—

"(1) IN GENERAL.—Except as otherwise provided by this section, amounts appropriated, revenues generated, or amounts otherwise made available to States and units of general local government under this section shall be treated as though such funds were community development block grant funds under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

"(2) NO MATCH.—No matching funds shall be required in order for a State or unit of general local government to receive any amounts under this section.

"(f) AUTHORITY TO SPECIFY ALTERNATIVE REQUIREMENTS.—

"(1) IN GENERAL.—In administering any amounts appropriated or otherwise made available under this section, the Secretary may specify alternative requirements to any provision under title I of the Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.] (except for those related to fair housing, nondiscrimination, labor standards, and the environment) in accordance with the terms of this section and for the sole purpose of expediting the use of such funds.

"(2) NOTICE.—The Secretary shall provide written notice of its intent to exercise the authority to specify alternative requirements under paragraph (1) to the Committee on Banking, Housing and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives not later than 10 business days before such exercise of authority is to occur.

"(3) LOW AND MODERATE INCOME REQUIREMENT.—

"(A) IN GENERAL.—Notwithstanding the authority of the Secretary under paragraph (1)—

"(i) all of the funds appropriated or otherwise made available under this section shall be used with respect to individuals and families whose income does not exceed 120 percent of area median income; and

"(ii) not less than 25 percent of the funds appropriated or otherwise made available under this section shall be used to house individuals or families whose incomes do not exceed 50 percent of area median income.

"(B) RECURRENT REQUIREMENT.—The Secretary shall, by rule or order, ensure, to the maximum extent practicable and for the longest feasible term, that the sale, rental, or redevelopment of abandoned and foreclosed upon homes and residential properties under this section remain affordable to individuals or families described in subparagraph (A).

"(g) PERIODIC AUDITS.—In consultation with the Secretary of Housing and Urban Development, the Comptroller General of the United States shall conduct periodic audits to ensure that funds appropriated, made available, or otherwise distributed under this section are being used in a manner consistent with the criteria provided in this section.

"SEC. 2302. NATIONWIDE DISTRIBUTION OF RESOURCES.

"Notwithstanding any other provision of this Act [see Short Title of 2008 Amendment note set out under section 1701 of Title 12] or the amendments made by this Act, each State shall receive not less than 0.5 percent of funds made available under section 2301 (relating to emergency assistance for the redevelopment of abandoned and foreclosed homes).

"SEC. 2303. LIMITATION ON USE OF FUNDS WITH RESPECT TO EMINENT DOMAIN.

"No State or unit of general local government may use any amounts received pursuant to section 2301 to fund any project that seeks to use the power of eminent domain, unless eminent domain is employed only for a public use: *Provided*, That for purposes of this section, public use shall not be construed to include economic development that primarily benefits private entities.

"SEC. 2304. LIMITATION ON DISTRIBUTION OF FUNDS.

"(a) IN GENERAL.—None of the funds made available under this title or title IV [122 Stat. 2854] shall be distributed to—

"(1) an organization which has been indicted for a violation under Federal law relating to an election for Federal office; or

"(2) an organization which employs applicable individuals.

"(b) APPLICABLE INDIVIDUALS DEFINED.—In this section, the term 'applicable individual' means an individual who—

"(1) is—

"(A) employed by the organization in a permanent or temporary capacity;

"(B) contracted or retained by the organization; or

"(C) acting on behalf of, or with the express or apparent authority of, the organization; and

"(2) has been indicted for a violation under Federal law relating to an election for Federal office.

"SEC. 2305. COUNSELING INTERMEDIARIES.

"Notwithstanding any other provision of this Act [see Short Title of 2008 Amendment note set out under section 1701 of Title 12], the amount appropriated under section 2301(a) of this Act shall be $3,920,000,000 and the amount appropriated under section 2401 of this Act [122 Stat. 2854] shall be $180,000,000: *Provided*, That of the amount appropriated under section 2401 of this Act pursuant to this section, not less than 15 percent shall be provided to counseling organizations that target counseling services regarding loss mitigation to minority and low-income homeowners or provide such services in neighborhoods with high concentrations of minority and low-income homeowners: *Provided further*, That of amounts appropriated under such section 2401 $30,000,000 shall be used by the Neighborhood Reinvestment Corporation (referred to in this section as the 'NRC') to make grants to counseling intermediaries approved by the Department of Housing and Urban Development or the NRC to hire attorneys to assist homeowners who have legal issues directly related to the homeowner's foreclosure, delinquency or short sale. Such attorneys shall be capable of assisting homeowners of owner-occupied homes with mortgages in default, in danger of default, or subject to or at risk of foreclosure

and who have legal issues that cannot be handled by counselors already employed by such intermediaries: *Provided further*, That of the amounts provided for in the prior provisos the NRC shall give priority consideration to counseling intermediaries and legal organizations that (1) provide legal assistance in the 100 metropolitan statistical areas (as defined by the Director of the Office of Management and Budget) with the highest home foreclosure rates, and (2) have the capacity to begin using the financial assistance within 90 days after receipt of the assistance: *Provided further*, That no funds provided under this Act shall be used to provide, obtain, or arrange on behalf of a homeowner, legal representation involving or for the purposes of civil litigation: *Provided further*, That the NRC, in awarding counseling grants under section 2401 of this Act, may consider, where appropriate, whether the entity has implemented a written plan for providing in-person counseling and for making contact, including personal contact, with defaulted mortgagors, for the purpose of providing counseling or providing information about available counseling."

[Pub. L. 111–203, §1497(b)(1)(A), which directed amendment of section 2301(f)(3)(A)(ii) of Pub. L. 110–289, set out above, by striking out "for the purchase and redevelopment of abandoned and foreclosed upon homes or residential properties that will be used", was executed by striking out "for the purchase and redevelopment of abandoned or foreclosed upon homes or residential properties that will be used" before "to house", to reflect the probable intent of Congress.]

[Pub. L. 111–22, div. A, title I, §105(b), May 20, 2009, 123 Stat. 1638, provided that: "The amendment made by subsection (a) [amending section 2301 of Pub. L. 110–289, set out above] shall take effect as if enacted on the date of enactment of the Foreclosure Prevention Act of 2008 (Public Law 110–289) [July 30, 2008]."]

INCOME ELIGIBILITY FOR HOME AND CDBG PROGRAMS

Pub. L. 105–276, title V, §590, Oct. 21, 1998, 112 Stat. 2651, provided that:

"(a) IN GENERAL.—The Secretary of Housing and Urban Development shall, for not less than 10 jurisdictions that are metropolitan cities or urban counties for purposes of title I of the Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.], grant exceptions not later than 90 days after the date of the enactment of this Act [Oct. 21, 1998] for such jurisdictions that provide that—

"(1) for purposes of the HOME investment partnerships program under title II of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12721 et seq.], the limitation based on percentage of median income that is applicable under section 104(10), 214(1)(A), or 215(a)(1)(A) [42 U.S.C. 12704(10), 12744(1)(A), 12745(a)(1)(A)] for any area of the jurisdiction shall be the numerical percentage that is specified in such section; and

"(2) for purposes of the community development block grant program under title I of the Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.], the limitation based on percentage of median income that is applicable pursuant to section 102(a)(20) [42 U.S.C. 5302(a)(20)] for any area within the State or unit of general local government shall be the numerical percentage that is specified in subparagraph (A) of such section.

"(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act [Oct. 21, 1998]."

FINDINGS AND PURPOSE

Pub. L. 100–242, §2, Feb. 5, 1988, 101 Stat. 1819, provided that:

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

"(1) for the past 50 years, the Federal Government has taken the leading role in enabling the people of the Nation to be the best housed in the world, and recent reductions in Federal assistance have contributed to a deepening housing crisis for low- and moderate-income families;

"(2) the efforts of the Federal Government have included a system of specialized lending institutions, favorable tax policies, construction assistance, mortgage insurance, loan guarantees, secondary markets, and interest and rental subsidies, that have enabled people to rent or buy affordable, decent, safe, and sanitary housing; and

"(3) the tragedy of homelessness in urban and suburban communities across the Nation, involving a record number of people, dramatically demonstrates the lack of affordable residential shelter, and people living on the economic margins of our society (lower income families, the elderly, the working poor, and the deinstitutionalized) have few available alternatives for shelter.

"(b) PURPOSE.—The purpose of this Act [see Short Title of 1988 Amendment note above], therefore, is—

"(1) to reaffirm the principle that decent and affordable shelter is a basic necessity, and the general welfare of the Nation and the health and living standards of its people require the addition of new housing units to remedy a serious shortage of housing units for all Americans, particularly for persons of low and moderate income;

"(2) to make the distribution of direct and indirect housing assistance more equitable by providing Federal assistance for the less affluent people of the Nation;

"(3) to provide needed housing assistance for homeless people and for persons of low and moderate income who lack affordable, decent, safe, and sanitary housing; and

"(4) to reform existing programs to ensure that such assistance is delivered in the most efficient manner possible."

BUDGET COMPLIANCE

Pub. L. 100–242, §3, Feb. 5, 1988, 101 Stat. 1819, provided that:

"(a) IN GENERAL.—This Act and the amendments made by this Act [see Short Title of 1988 Amendment note above] may not be construed to provide for new budget authority, budget outlays, or new entitlement authority, for fiscal year 1988 in excess of the appropriate aggregate levels established by the concurrent resolution on the budget for such fiscal year for the programs authorized by this Act and the amendments made by this Act.

"(b) DEFINITIONS.—For purposes of this section, the terms 'budget authority', 'budget outlays', 'concurrent resolution on the budget', and 'entitlement authority' have the meanings given such terms in section 3 of the Congressional Budget Act of 1974 (2 U.S.C. 622)."

CREDIT LIMITATION

Pub. L. 100–242, §4, Feb. 5, 1988, 101 Stat. 1819, provided that: "Any new credit authority (as defined in section 3 of the Congressional Budget Act of 1974 [2 U.S.C. 622]) which is provided by this Act [see Short Title of 1988 Amendment note above], or by an amendment made by this Act, shall be effective only to such extent or in such amounts as are provided in appropriation Acts."

LIMITATION ON SPENDING AUTHORITY

Pub. L. 100–242, §5, Feb. 5, 1988, 101 Stat. 1820, provided that: "Any new spending authority (as defined in section 401(c) of the Congressional Budget Act of 1974 [2 U.S.C. 651(c)]) which is provided by this Act, or by an amendment made by this Act [see Short Title of 1988 Amendment note above], shall be effective only to such extent or in such amounts as are provided in appropriation Acts."

LIMITATION ON WITHHOLDING OR CONDITIONING OF ASSISTANCE

Pub. L. 93–383, title VIII, §817, Aug. 22, 1974, 88 Stat. 739, as amended by Pub. L. 98–181, title I [title III, §302(c)], Nov. 30, 1983, 97 Stat. 1206, provided that: "Assistance provided for in this Act [see Short Title note above] the National Housing Act, [12 U.S.C. 1701 et seq.], the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], the Housing Act of 1949 [42 U.S.C. 1441 et seq.], the Demonstration Cities and Metropolitan Development Act of 1966 [see Short Title note set out under section 3331 of this title], the Housing and Urban Development Acts of 1965, 1968, 1969, and 1970 [see Short Title notes set out under section 1701 of Title 12, Banks and Banking], and section 17 of the United States Housing Act of 1937 [42 U.S.C. 1437o] shall not be withheld or made subject to conditions or preference by reason of the tax-exempt status of bonds or other obligations issued or to be issued to provide financing for use in connection with such assistance, except where otherwise expressly provided or authorized by law."

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 13853

Ex. Ord. No. 13853, Dec. 12, 2018, 83 F.R. 65071, which established a White House Opportunity and Revitalization Council to encourage public and private investment in urban and economically distressed areas, was revoked by Ex. Ord. No. 14091, §6(c), Feb. 16, 2023, 88 F.R. 10830, set out in a note under section 601 of Title 5, Government Organization and Employees.

§5302. General provisions

(a) Definitions

As used in this chapter—

(1) The term "unit of general local government" means any city, county, town, township, parish, village, or other general purpose political subdivision of a State; Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa, or a general purpose political subdivision

thereof; a combination of such political subdivisions that, except as provided in section 5306(d)(4) of this title, is recognized by the Secretary; and the District of Columbia. Such term also includes a State or a local public body or agency (as defined in section 4512 [1] of this title), community association, or other entity, which is approved by the Secretary for the purpose of providing public facilities or services to a new community as part of a program meeting the eligibility standards of section 4513 [1] of this title or title IV of the Housing and Urban Development Act of 1968 [42 U.S.C. 3901 et seq.].

(2) The term "State" means any State of the United States, or any instrumentality thereof approved by the Governor; and the Commonwealth of Puerto Rico.

(3) The term "metropolitan area" means a standard metropolitan statistical area as established by the Office of Management and Budget.

(4) The term "metropolitan city" means (A) a city within a metropolitan area which is the central city of such area, as defined and used by the Office of Management and Budget, or (B) any other city, within a metropolitan area, which has a population of fifty thousand or more. Any city that was classified as a metropolitan city for at least 2 years pursuant to the first sentence of this paragraph shall remain classified as a metropolitan city. Any unit of general local government that becomes eligible to be classified as a metropolitan city, and was not classified as a metropolitan city in the immediately preceding fiscal year, may, upon submission of written notification to the Secretary, defer its classification as a metropolitan city for all purposes under this chapter, if it elects to have its population included in an urban county under subsection (d). Notwithstanding the second sentence of this paragraph, a city may elect not to retain its classification as a metropolitan city. Any city classified as a metropolitan city pursuant to this paragraph, and that no longer qualifies as a metropolitan city in a fiscal year beginning after fiscal year 1989, shall retain its classification as a metropolitan city for such fiscal year and the succeeding fiscal year, except that in such succeeding fiscal year (A) the amount of the grant to such city shall be 50 percent of the amount calculated under section 5306(b) of this title; and (B) the remaining 50 percent shall be added to the amount allocated under section 5306(d) of this title to the State in which the city is located and the city shall be eligible in such succeeding fiscal year to receive a distribution from the State allocation under section 5306(d) of this title as increased by this sentence. Any unit of general local government that was classified as a metropolitan city in any fiscal year, may, upon submission of written notification to the Secretary, relinquish such classification for all purposes under this chapter if it elects to have its population included with the population of a county for purposes of qualifying for assistance (for such following fiscal year) under section 5306 of this title as an urban county under paragraph (6)(D). Any metropolitan city that elects to relinquish its classification under the preceding sentence and whose port authority shipped at least 35,000,000 tons of cargo in 1988, of which iron ore made up at least half, shall not receive, in any fiscal year, a total amount of assistance under section 5306 of this title from the urban county recipient that is less than the city would have received if it had not relinquished the classification under the preceding sentence. Notwithstanding any other provision of this paragraph, with respect to any fiscal year beginning after September 30, 2007, the cities of Alton and Granite City, Illinois, shall be considered metropolitan cities for purposes of this chapter.

(5) The term "city" means (A) any unit of general local government which is classified as a municipality by the United States Bureau of the Census or (B) any other unit of general local government which is a town or township and which, in the determination of the Secretary, (i) possesses powers and performs functions comparable to these associated with municipalities, (ii) is closely settled, and (iii) contains within its boundaries no incorporated places as defined by the United States Bureau of the Census which have not entered into cooperation agreements with such town or township to undertake or to assist in the undertaking of essential community development and housing assistance activities.

(6)(A) The term "urban county" means any county within a metropolitan area which—

(i) is authorized under State law to undertake essential community development and housing assistance activities in its unincorporated areas, if any, which are not units of general local government; and

(ii) either—

(I) has a population of 200,000 or more (excluding the population of metropolitan cities therein) and has a combined population of 100,000 or more (excluding the population of metropolitan cities therein) in such unincorporated areas and in its included units of general local government (and in the case of counties having a combined population of less than 200,000, the areas and units of general local government must include the areas and units of general local government which in the aggregate have the preponderance of the persons of low and moderate income who reside in the county) (a) in which it has authority to undertake essential community development and housing assistance activities and which do not elect to have their population excluded, or (b) with which it has entered into cooperation agreements to undertake or to assist in the undertaking of essential community development and housing assistance activities; or

(II) has a population in excess of 100,000, a population density of at least 5,000 persons per square mile, and contains within its boundaries no incorporated places as defined by the United States Bureau of the Census.

(B) Any county that was classified as an urban county for at least 2 years pursuant to subparagraph (A), (C), or (D) shall remain classified as an urban county, unless it fails to qualify as an urban county pursuant to subparagraph (A) by reason of the election of any unit of general local government included in such county to have its population excluded under clause (ii)(I)(a) of subparagraph (A) or not to renew a cooperation agreement under clause (ii)(I)(b) of such subparagraph.

(C) Notwithstanding the combined population amount set forth in clause (ii) of subparagraph (A), a county shall also qualify as an urban county for purposes of assistance under section 5306 of this title if such county—

(i) complies with all other requirements set forth in the first sentence;

(ii) has, according to the most recent available decennial census data, a combined population between 190,000 and 199,999, inclusive (excluding the population of metropolitan cities therein) in all its unincorporated areas that are not units of general local government and in all units of general local government located within such county;

(iii) had a population growth rate of not less than 15 percent during the most recent 10-year period measured by applicable censuses; and

(iv) has submitted data satisfactory to the Secretary that it has a combined population of not less than 200,000 (excluding the population of metropolitan cities therein) in all its unincorporated areas that are not units of general local government and in all units of general local government located within such county.

(D) Such term also includes a county that—

(i) has a combined population in excess of 175,000, has more than 50 percent of the housing units of the area unsewered, and has an aquifer that was designated before March 1, 1987, a sole source aquifer by the Environmental Protection Agency;

(ii) has taken steps, which include at least one public referendum, to consolidate substantial public services with an adjoining metropolitan city, and in the opinion of the Secretary, has consolidated these services with the city in an effort that is expected to result in the unification of the two governments within 6 years of February 5, 1988;

(iii) had a population between 180,000 and 200,000 on October 1, 1987, was eligible for assistance under section 5318 of this title in fiscal year 1986, and does not contain any metropolitan cities;

(iv) has entered into a local cooperation agreement with a metropolitan city that received assistance under section 5306 of this title because of such classification, and has elected under paragraph (4) to have its population included with the population of the county for purposes of qualifying as an urban county; except that to qualify as an urban county under this clause (I) the county must have a combined population of not less than 195,000, (II) more than 15 percent of

the residents of the county shall be 60 years of age or older (according to the most recent decennial census data), (III) not less than 20 percent of the total personal income in the county shall be from pensions, social security, disability, and other transfer programs, and (IV) not less than 40 percent of the land within the county shall be publicly owned and not subject to property tax levies;

(v)(I) has a population of 175,000 or more (including the population of metropolitan cities therein), (II) before January 1, 1975, was designated by the Secretary of Defense pursuant to section 608 of the Military Construction Authorization Act, 1975 (Public Law 93–552; 88 Stat. 1763), as a Trident Defense Impact Area, and (III) has located therein not less than 1 unit of general local government that was classified as a metropolitan city and (a) for which county each such unit of general local government therein has relinquished its classification as a metropolitan city under the 6th sentence of paragraph (4), or (b) that has entered into cooperative agreements with each metropolitan city therein to undertake or to assist in the undertaking of essential community development and housing assistance activities;

(vi) has entered into a local cooperation agreement with a metropolitan city that received assistance under section 5306 of this title because of such classification, and has elected under paragraph (4) to have its population included with the population of the county for the purposes of qualifying as an urban county, except that to qualify as an urban county under this clause, the county must—

(I) have a combined population of not less than 210,000, excluding any metropolitan city located in the county that is not relinquishing its metropolitan city classification, according to the 1990 decennial census of the Bureau of the Census of the Department of Commerce;

(II) including any metropolitan cities located in the county, have had a decrease in population of 10,061 from 1992 to 1994, according to the estimates of the Bureau of the Census of the Department of Commerce; and

(III) have had a Federal naval installation that was more than 100 years old closed by action of the Base Closure and Realignment Commission appointed for 1993 under the Base Closure and Realignment Act of 1990, directly resulting in a loss of employment by more than 7,000 Federal Government civilian employees and more than 15,000 active duty military personnel, which naval installation was located within one mile of an enterprise community designated by the Secretary pursuant to section 1391 of title 26, which enterprise community has a population of not less than 20,000, according to the 1990 decennial census of the Bureau of the Census of the Department of Commerce [2]

(vii)(I) has consolidated its government with one or more municipal governments, such that within the county boundaries there are no unincorporated areas; (II) has a population of not less than 650,000; (III) for more than 10 years, has been classified as a metropolitan city for purposes of allocating and distributing funds under section 5306 of this title; and (IV) as of October 27, 2000, has over 90 percent of the county's population within the jurisdiction of the consolidated government; or

(viii) notwithstanding any other provision of this section, any county that was classified as an urban county pursuant to subparagraph (A) for fiscal year 1999, at the option of the county, may hereafter remain classified as an urban county for purposes of this Act.

(E) Any county classified as an urban county pursuant to subparagraph (A), (B), or (C) of this paragraph, and that no longer qualifies as an urban county under such subparagraph in a fiscal year beginning after fiscal year 1989, shall retain its classification as an urban county for such fiscal year and the succeeding fiscal year, except that in such succeeding fiscal year (i) the amount of the grant to such an urban county shall be 50 percent of the amount calculated under section 5306(b) of this title; and (ii) the remaining 50 percent shall be added to the amount allocated under section 5306(d) of this title to the State in which the urban county is located and the urban county shall be eligible in such succeeding fiscal year to receive a distribution from the State allocation under section 5306(d) of this title as increased by this sentence.

(7) The term "nonentitlement area" means an area which is not a metropolitan city or part of an urban county and does not include Indian tribes.

(8) The term "population" means total resident population based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.

(9) The term "extent of poverty" means the number of persons whose incomes are below the poverty level. Poverty levels shall be determined by the Secretary pursuant to criteria provided by the Office of Management and Budget, taking into account and making adjustments, if feasible and appropriate and in the sole discretion of the Secretary, for regional or area variations in income and cost of living, and shall be based on data referable to the same point or period in time.

(10) The term "extent of housing overcrowding" means the number of housing units with 1.01 or more persons per room based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.

(11) The term "age of housing" means the number of existing housing units constructed in 1939 or earlier based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.

(12) The term "extent of growth lag" means the number of persons who would have been residents in a metropolitan city or urban county, in excess of the current population of such metropolitan city or urban county, if such metropolitan city or urban county had had a population growth rate between 1960 and the date of the most recent population count referable to the same point or period in time equal to the population growth rate for such period of all metropolitan cities. Where the boundaries for a metropolitan city or urban county used for the 1980 census have changed as a result of annexation, the current population used to compute extent of growth lag shall be adjusted by multiplying the current population by the ratio of the population based on the 1980 census within the boundaries used for the 1980 census to the population based on the 1980 census within the current boundaries.

(13) The term "housing stock" means the number of existing housing units based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.

(14) The term "adjustment factor" means the ratio between the age of housing in the metropolitan city or urban county and the predicted age of housing in such city or county.

(15) The term "predicted age of housing" means the arithmetic product of the housing stock in the metropolitan city or urban county multiplied times the ratio between the age of housing in all metropolitan areas and the housing stock in all metropolitan areas.

(16) The term "adjusted age of housing" means the arithmetic product of the age of housing in the metropolitan city or urban county multiplied times the adjustment factor.

(17) The term "Indian tribe" means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93–638) [25 U.S.C. 5301 et seq.] or was considered an eligible recipient under chapter 67 of title 31 prior to the repeal of such chapter.

(18) The term "Federal grant-in-aid program" means a program of Federal financial assistance other than loans and other than the assistance provided by this chapter.

(19) The term "Secretary" means the Secretary of Housing and Urban Development.

(20)(A) The terms "persons of low and moderate income" and "low- and moderate-income persons" mean families and individuals whose incomes do not exceed 80 percent of the median income of the area involved, as determined by the Secretary with adjustments for smaller and larger families. The term "persons of low income" means families and individuals whose incomes do not exceed 50 percent of the median income of the area involved, as determined by the Secretary with adjustments for smaller and larger families. The term "persons of moderate income" means families and individuals whose incomes exceed 50 percent, but do not exceed 80 percent, of the median income of the area involved, as determined by the Secretary with

adjustments for smaller and larger families. For purposes of such terms, the area involved shall be determined in the same manner as such area is determined for purposes of assistance under section 1437f of this title.

(B) The Secretary may establish percentages of median income for any area that are higher or lower than the percentages set forth in subparagraph (A), if the Secretary finds such variations to be necessary because of unusually high or low family incomes in such area.

(C) SERVICE-CONNECTED DISABILITY COMPENSATION.—When determining whether a person is a person of low and moderate income, a person of low income, or a person of moderate income under this paragraph, a State, unit of general local government, or Indian tribe shall exclude any service-connected disability compensation received by such person from the Department of Veterans Affairs.

(21) The term "buildings for the general conduct of government" means city halls, county administrative buildings, State capitol or office buildings, or other facilities in which the legislative or general administrative affairs of the government are conducted. Such term does not include such facilities as neighborhood service centers or special purpose buildings located in low- and moderate-income areas that house various nonlegislative functions or services provided by government at decentralized locations.

(22) The term "microenterprise" means a commercial enterprise that has 5 or fewer employees, 1 or more of whom owns the enterprise.

(23) The term "small business" means a business that meets the criteria set forth in section 632(a) of title 15.

(24) The term "insular area" means each of Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa.

(b) Basis and modification of definitions

Where appropriate, the definitions in subsection (a) shall be based, with respect to any fiscal year, on the most recent data compiled by the United States Bureau of the Census and the latest published reports of the Office of Management and Budget available ninety days prior to the beginning of such fiscal year. The Secretary may by regulation change or otherwise modify the meaning of the terms defined in subsection (a) in order to reflect any technical change or modification thereof made subsequent to such date by the United States Bureau of the Census or the Office of Management and Budget.

(c) Designation of public agencies

One or more public agencies, including existing local public agencies, may be designated by the chief executive officer of a State or a unit of general local government to undertake activities assisted under this chapter.

(d) Local governments, inclusion in urban county population

With respect to program years beginning with the program year for which grants are made available from amounts appropriated for fiscal year 1982 under section 5303 of this title, the population of any unit of general local government which is included in that of an urban county as provided in subparagraph (A)(ii) or (D) of subsection (a)(6) shall be included in the population of such urban county for three program years beginning with the program year in which its population was first so included and shall not otherwise be eligible for a grant under section 5306 of this title as a separate entity, unless the urban county does not receive a grant for any year during such three-year period.

(e) Exclusion of local governments from urban county population; notification of election

Any county seeking qualification as an urban county, including any urban county seeking to continue such qualification, shall notify, as provided in this subsection, each unit of general local government, which is included therein and is eligible to elect to have its population excluded from that of an urban county under subsection (a)(6)(A)(ii)(I)(a), of its opportunity to make such an election. Such notification shall, at a time and in a manner prescribed by the Secretary, be provided so as to provide a reasonable period for response prior to the period for which such qualification is

sought. The population of any unit of general local government which is provided such notification and which does not inform, at a time and in a manner prescribed by the Secretary, the county of its election to exclude its population from that of the county shall, if the county qualifies as an urban county, be included in the population of such urban county as provided in subsection (d).

(Pub. L. 93–383, title I, §102, Aug. 22, 1974, 88 Stat. 635; Pub. L. 95–128, title I, §102, Oct. 12, 1977, 91 Stat. 1111; Pub. L. 96–153, title I, §103(f), Dec. 21, 1979, 93 Stat. 1102; Pub. L. 96–399, title I, §§101(a), (b)(1), (c), 111(a), Oct. 8, 1980, 94 Stat. 1614, 1620; Pub. L. 97–35, title III, §§309(a)–(c), 310, Aug. 13, 1981, 95 Stat. 396, 397; Pub. L. 97–289, §5, Oct. 6, 1982, 96 Stat. 1231; Pub. L. 98–181, title I [title I, §102], Nov. 30, 1983, 97 Stat. 1159; Pub. L. 98–479, title I, §101(a)(1)–(4), title II, §203(l)(1), Oct. 17, 1984, 98 Stat. 2218, 2219, 2231; Pub. L. 99–120, §5(a), Oct. 8, 1985, 99 Stat. 504; Pub. L. 99–156, §5(a), Nov. 15, 1985, 99 Stat. 816; Pub. L. 99–219, §5(a), Dec. 26, 1985, 99 Stat. 1731; Pub. L. 99–267, §5(a), Mar. 27, 1986, 100 Stat. 74; Pub. L. 99–272, title III, §3011(a), title XIV, §14001(b)(3), Apr. 7, 1986, 100 Stat. 106, 328; Pub. L. 99–289, §1(b), May 2, 1986, 100 Stat. 412; Pub. L. 99–345, §1, June 24, 1986, 100 Stat. 673; Pub. L. 99–430, Sept. 30, 1986, 100 Stat. 986; Pub. L. 100–77, title IV, §442, July 22, 1987, 101 Stat. 509; Pub. L. 100–122, §1, Sept. 30, 1987, 101 Stat. 793; Pub. L. 100–154, Nov. 5, 1987, 101 Stat. 890; Pub. L. 100–170, Nov. 17, 1987, 101 Stat. 914; Pub. L. 100–179, Dec. 3, 1987, 101 Stat. 1018; Pub. L. 100–200, Dec. 21, 1987, 101 Stat. 1327; Pub. L. 100–202, §101(f) [title I, §101], Dec. 22, 1987, 101 Stat. 1329–187, 1329–193; Pub. L. 100–242, title V, §503, Feb. 5, 1988, 101 Stat. 1923; Pub. L. 100–628, title X, §§1081, 1082(a), Nov. 7, 1988, 102 Stat. 3276, 3277; Pub. L. 101–235, title VII, §702(a), Dec. 15, 1989, 103 Stat. 2056; Pub. L. 101–507, title II, Nov. 5, 1990, 104 Stat. 1370; Pub. L. 101–625, title IX, §§903(a)–(c)(2), 904(a), Nov. 28, 1990, 104 Stat. 4385–4387; Pub. L. 102–550, title VIII, §§802(a), 803, 807(c)(2), Oct. 28, 1992, 106 Stat. 3845, 3849; Pub. L. 104–204, title II, §216, Sept. 26, 1996, 110 Stat. 2904; Pub. L. 106–377, §1(a)(1) [title II, §217], Oct. 27, 2000, 114 Stat. 1441, 1441A–28; Pub. L. 108–186, title V, §501(a), (b), Dec. 16, 2003, 117 Stat. 2696; Pub. L. 110–161, div. K, title II, §232, Dec. 26, 2007, 121 Stat. 2438; Pub. L. 119–70, §2, Jan. 20, 2026, 140 Stat. 3.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (c), was in the original "this title", meaning title I of Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, which is classified principally to this chapter. For complete classification of title I to the Code, see Tables.

Sections 4512 and 4513 of this title, referred to in subsec. (a)(1), were repealed by Pub. L. 98–181, title I [title IV, §474(e)], Nov. 30, 1983, 97 Stat. 1239.

The Housing and Urban Development Act of 1968, referred to in subsec. (a)(1), is Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 476. Title IV of the Housing and Urban Development Act of 1968, which was classified principally to chapter 48 (§3901 et seq.) of this title, was repealed, with certain exceptions which were omitted from the Code, by Pub. L. 98–181, title I [title IV, §474(e)], Nov. 30, 1983, 97 Stat. 1239. For complete classification of this Act to the Code, see Short Title of 1968 Amendment note set out under section 1701 of Title 12, Banks and Banking, and Tables.

Section 608 of the Military Construction Authorization Act, 1975, referred to in subsec. (a)(6)(D)(v)(II), is not classified to the Code.

The Base Closure and Realignment Act of 1990, referred to in subsec. (a)(6)(D)(vi)(III), probably means the Defense Base Closure and Realignment Act of 1990, which is part A of title XXIX of div. B of Pub. L. 101–510, Nov. 5, 1990, 104 Stat. 1808, and which is set out as a note under section 2687 of Title 10, Armed Forces. For complete classification of this Act to the Code, see Tables.

This Act, referred to in subsec. (a)(6)(D)(viii), is Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, known as the Housing and Community Development Act of 1974. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (a)(17), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, which is classified principally to chapter 46 (§5301 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of Title 25 and Tables.

Chapter 67 of title 31, referred to in subsec. (a)(17), was repealed by Pub. L. 99–272, title XIV, §14001(a)(1), Apr. 7, 1986, 100 Stat. 327.

AMENDMENTS

2026—Subsec. (a)(20)(C). Pub. L. 119–70 added subpar. (C).

2007—Subsec. (a)(4). Pub. L. 110–161 inserted at end "Notwithstanding any other provision of this paragraph, with respect to any fiscal year beginning after September 30, 2007, the cities of Alton and Granite City, Illinois, shall be considered metropolitan cities for purposes of this chapter."

2003—Subsec. (a)(1). Pub. L. 108–186, §501(b), in first sentence, inserted "and" after "Secretary;" and struck out "; and the Trust Territory of the Pacific Islands" after "the District of Columbia".

Subsec. (a)(24). Pub. L. 108–186, §501(a), added par. (24).

2000—Subsec. (a)(6)(D)(vii), (viii). Pub. L. 106–377 added cls. (vii) and (viii).

1996—Subsec. (a)(6)(D)(vi). Pub. L. 104–204 added cl. (vi).

1992—Subsec. (a)(1). Pub. L. 102–550, §802(a), substituted "that, except as provided in section 5306(d)(4) of this title, is recognized by the Secretary" for "recognized by the Secretary".

Subsec. (a)(6)(D)(v). Pub. L. 102–550, §803, added cl. (v).

Subsec. (a)(22), (23). Pub. L. 102–550, §807(c)(2), added pars. (22) and (23).

1990—Subsec. (a)(4). Pub. L. 101–625, §903(c)(1), inserted at end "Any unit of general local government that was classified as a metropolitan city in any fiscal year, may, upon submission of written notification to the Secretary, relinquish such classification for all purposes under this chapter if it elects to have its population included with the population of a county for purposes of qualifying for assistance (for such following fiscal year) under section 5306 of this title as an urban county under paragraph (6)(D). Any metropolitan city that elects to relinquish its classification under the preceding sentence and whose port authority shipped at least 35,000,000 tons of cargo in 1988, of which iron ore made up at least half, shall not receive, in any fiscal year, a total amount of assistance under section 5306 of this title from the urban county recipient that is less than the city would have received if it had not relinquished the classification under the preceding sentence."

Pub. L. 101–625, §903(a), substituted "Any city that was classified as a metropolitan city for at least 2 years pursuant to the first sentence of this paragraph shall remain classified as a metropolitan city." for "In order to permit an orderly transition of each city losing its classification as a metropolitan city by reason of a decrease in population or revisions in the designation of metropolitan areas or central cities, any city classified as or deemed by law to be a metropolitan city for purposes of assistance under any section of this chapter for fiscal year 1983 or any subsequent fiscal year shall retain such qualification for purposes of receiving such assistance through September 30, 1989.", struck out "for fiscal year 1988 or 1989" before period at end of fourth sentence, and in last sentence struck out "the first or second sentence of" before "this paragraph" and "under such first or second sentence" after "qualifies as a metropolitan city".

Subsec. (a)(6)(B). Pub. L. 101–625, §903(b), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "In order to permit an orderly transition of each county losing its classification as an urban county by reason of a decrease in population, any county classified as or deemed to be an urban county under this paragraph for purposes of receiving assistance under any section of this chapter for fiscal year 1983 or subsequent years shall retain such qualification for purposes of receiving such assistance through September 30, 1989, or for such longer period covered by a cooperation agreement entered into during fiscal year 1984, except that the provisions of this subparagraph shall not apply with respect to any county losing its classification as an urban county by reason of the election of any unit of general local government included in such county to have its population excluded under clause (ii)(I)(a) of subparagraph (A) or to not renew a cooperation agreement under clause (ii)(I)(b) of such subparagraph."

Subsec. (a)(6)(D)(iv). Pub. L. 101–625, §903(c)(2), added cl. (iv).

Subsec. (a)(12). Pub. L. 101–507 and Pub. L. 101–625, §904(a), amended par. (12) identically, inserting at end "Where the boundaries for a metropolitan city or urban county used for the 1980 census have changed as a result of annexation, the current population used to compute extent of growth lag shall be adjusted by multiplying the current population by the ratio of the population based on the 1980 census within the boundaries used for the 1980 census to the population based on the 1980 census within the current boundaries."

1989—Subsec. (a)(7). Pub. L. 101–235 inserted before period at end "and does not include Indian tribes".

1988—Subsec. (a)(4). Pub. L. 100–628, §1081(a)(1), substituted "a decrease in population" for "the population data of the 1980 decennial census" and inserted "or any subsequent fiscal year" after "1983" in second sentence.

Pub. L. 100–628, §1081(a)(2), directed that subsec. (a)(4) of this section as similarly amended first by Pub. L. 100–202 [see 1987 Amendment note below] and later by section 503(a)(2) of Pub. L. 100–242 [see below]

is amended to read as if the amendment by Pub. L. 100–242 had not been enacted.

Pub. L. 100–242, §503(a)(1), substituted "September 30, 1989" for "March 15, 1988".

Pub. L. 100–242, §503(a)(2), made amendment identical to amendment by Pub. L. 100–202. See 1987 Amendment note below.

Pub. L. 100–242, §503(a)(3), inserted at end "Any city classified as a metropolitan city pursuant to the first or second sentence of this paragraph, and that no longer qualifies as a metropolitan city under such first or second sentence in a fiscal year beginning after fiscal year 1989, shall retain its classification as a metropolitan city for such fiscal year and the succeeding fiscal year, except that in such succeeding fiscal year (A) the amount of the grant to such city shall be 50 percent of the amount calculated under section 5306(b) of this title; and (B) the remaining 50 percent shall be added to the amount allocated under section 5306(d) of this title to the State in which the city is located and the city shall be eligible in such succeeding fiscal year to receive a distribution from the State allocation under section 5306(d) of this title as increased by this sentence."

Subsec. (a)(6). Pub. L. 100–628, §1081(b), substituted a semicolon for last comma in cls. (i) and (ii)(I) of subpar. (A).

Pub. L. 100–242, §503(b), amended par. (6) generally. Prior to amendment, par. (6) read as follows: "The term 'urban county' means any county within a metropolitan area which (A) is authorized under State law to undertake essential community development and housing assistance activities in its unincorporated areas, if any, which are not units of general local government, and either (B) has a combined population of two hundred thousand or more (excluding the population of metropolitan cities therein) in such unincorporated areas and in its included units of general local government (i) in which it has authority to undertake essential community development and housing assistance activities and which do not elect to have their population excluded or (ii) with which it has entered into cooperation agreements to undertake or to assist in the undertaking of essential community development and housing assistance activities or (C) has a population in excess of one hundred thousand, a population density of at least five thousand persons per square mile, and contains within its boundaries no incorporated places as defined by the United States Bureau of Census. In order to permit an orderly transition of each county losing its classification as an urban county by reason of a decrease in population, any county classified as or deemed to be an urban county under this paragraph for purposes of receiving assistance under any section of this chapter for fiscal year 1983 or 1984 shall retain such qualification for purposes of receiving such assistance through March 15, 1988, or for such longer period covered by a cooperation agreement entered into during fiscal year 1984, except that the provisions of this sentence shall not apply with respect to any county losing its classification as an urban county by reason of the election of any unit of general local government included in such county to have its population excluded under clause (B)(i) of the first sentence or to not renew a cooperation agreement under clause (B)(ii) of such sentence. Notwithstanding the combined population amount set forth in clause (B) of the first sentence, a county shall also qualify as an urban county for purposes of assistance under section 5306 of this title if such county (A) complies with all other requirements set forth in the first sentence; (B) has, according to the most recent available decennial census data, a combined population between 190,000 and 199,999, inclusive, (excluding the population of metropolitan cities therein) in all its unincorporated areas that are not units of general local government and in all units of general local government located within such county; (C) had a population growth rate of not less than 15 percent during the most recent 10-year period measured by applicable censuses; and (D) has submitted data satisfactory to the Secretary that it has a combined population of not less than 200,000 (excluding the population of metropolitan cities therein) in all its unincorporated areas that are not units of general local government and in all units of general local government located within such county."

Subsec. (d). Pub. L. 100–628, §1082(a)(1), substituted "subparagraph (A)(ii) or (D) of subsection (a)(6)" for "subsection (a)(6)(B)".

Pub. L. 100–242, §503(c), struck out at end "During any such three-year period, the population of any unit of general local government which is not included in that of the urban county for the first year shall not be eligible for such inclusion in the second or third year, except where the unit of general local government loses the designation of metropolitan city."

Subsec. (e). Pub. L. 100–628, §1082(a)(2), substituted "subsection (a)(6)(A)(ii)(I)(a)" for "subsection (a)(6)(B)(i)".

1987—Subsec. (a)(4). Pub. L. 100–202 inserted third sentence and struck out former third sentence which read as follows: "Any unit of general local government that becomes eligible to be classified as a metropolitan city for fiscal year 1984 or 1985 may, upon submission of written notification to the Secretary, defer its

classification as a metropolitan city for all purposes under this chapter for fiscal years 1984, 1985, and 1986 if such unit of general local government elects to have its population included in an urban county under subsection (d) of this section."

Pub. L. 100–200 substituted "March 15, 1988" for "December 16, 1987".

Pub. L. 100–179 substituted "December 16, 1987" for "December 2, 1987".

Pub. L. 100–170 substituted "December 2, 1987" for "November 15, 1987".

Pub. L. 100–154 substituted "November 15, 1987" for "October 31, 1987".

Pub. L. 100–122 substituted "October 31, 1987" for "September 30, 1987".

Subsec. (a)(6). Pub. L. 100–200 substituted "March 15, 1988" for "December 16, 1987".

Pub. L. 100–179 substituted "December 16, 1987" for "December 2, 1987".

Pub. L. 100–170 substituted "December 2, 1987" for "November 15, 1987".

Pub. L. 100–154 substituted "November 15, 1987" for "October 31, 1987".

Pub. L. 100–122 substituted "October 31, 1987" for "September 30, 1987".

Pub. L. 100–77 inserted "or 1984".

1986—Subsec. (a)(4), (6). Pub. L. 99–430 substituted "September 30, 1987" for "September 30, 1986".

Pub. L. 99–345 substituted "September 30, 1986" for "June 6, 1986".

Pub. L. 99–289 substituted "June 6, 1986" for "April 30, 1986".

Pub. L. 99–272, §3011(a), directed amendment of pars. (4) and (6) identical to Pub. L. 99–216 substituting "March 17, 1986" for "December 15, 1985".

Pub. L. 99–267 substituted "April 30, 1986" for "March 17, 1986".

Subsec. (a)(17). Pub. L. 99–272, §14001(b)(3), substituted "or was considered an eligible recipient under chapter 67 of title 31 prior to the repeal of such chapter" for "or under chapter 67 of title 31".

1985—Subsec. (a)(4). Pub. L. 99–219, §5(a)(1), substituted "March 17, 1986" for "December 15, 1985".

Pub. L. 99–156, §5(a)(1), substituted "December 15, 1985" for "November 14, 1985".

Pub. L. 99–120, §5(a)(1), substituted "through November 14, 1985" for "for fiscal years 1984 and 1985".

Subsec. (a)(6). Pub. L. 99–219, §5(a)(2), substituted "March 17, 1986" for "December 15, 1985".

Pub. L. 99–156, §5(a)(2), substituted "December 15, 1985" for "November 14, 1985".

Pub. L. 99–120, §5(a)(2), substituted "through November 14, 1985" for "for fiscal years 1984 and 1985".

1984—Subsec. (a)(4). Pub. L. 98–479, §101(a)(1), in last sentence, struck out "while its population is included in an urban county for such fiscal year" after "fiscal year 1984 or 1985", and substituted "elects" for "continues" and "an" for "such" before "urban county".

Subsec. (a)(6). Pub. L. 98–479, §101(a)(2), inserted ", except that the provisions of this sentence shall not apply with respect to any county losing its classification as an urban county by reason of the election of any unit of general local government included in such county to have its population excluded under clause (B)(i) of the first sentence or to not renew a cooperation agreement under clause (B)(ii) of such sentence" at end of second sentence, ", (excluding the population of metropolitan cities therein) in all its unincorporated areas that are not units of general local government and in all units of general local government located within such county" at end of cl. (B) in last sentence, and "(excluding the population of metropolitan cities therein) in all its unincorporated areas that are not units of general local government and in all units of general local government located within such county" at end of cl. (D) in last sentence.

Subsec. (a)(17). Pub. L. 98–479, §203(l)(1), substituted "chapter 67 of title 31" for "the State and Local Fiscal Assistance Act of 1972 (Public Law 92–512)".

Subsec. (a)(20). Pub. L. 98–479, §101(a)(3), in amending par. (20) generally, designated existing provisions as subpar. (A) and substituted "mean families and individuals whose incomes do not exceed 80 percent of the median income of the area involved, as determined by the Secretary with adjustments for smaller and larger families" for "have the meaning given the term 'lower income families' in section 1437a(b)(2) of this title", substituted "whose incomes do not exceed 50 percent of the median income of the area involved, as determined by the Secretary with adjustments for smaller and larger families" for "has the meaning given the term 'very low-income families' in such section", inserted "The term 'persons of moderate income' means families and individuals whose incomes exceed 50 percent, but do not exceed 80 percent, of the median income of the area involved, as determined by the Secretary with adjustments for smaller and larger families", and added subpar. (B).

Subsec. (a)(21). Pub. L. 98–479, §101(a)(4), substituted "capitol" for "capital", and added a comma after "or office buildings".

1983—Subsec. (a)(3). Pub. L. 98–181, §102(d), substituted "Office of Management and Budget" for "Department of Commerce".

Subsec. (a)(4). Pub. L. 98–181, §102(d), substituted "Office of Management and Budget" for "Department of Commerce".

Pub. L. 98–181, §102(a), substituted provision authorizing retention of classification as metropolitan cities through fiscal year 1985 of any cities classified as deemed to be such for purposes of assistance for fiscal year 1983 for provision that any city which had been classified as a metropolitan city under this paragraph because the population of such city exceeded fifty thousand would be so classified until the decennial census indicated that the population of such city was less than fifty thousand or until September 30, 1983, whichever was later, and inserted provision permitting any units of general local government which become eligible to be classified as metropolitan cities for fiscal years 1984 and 1985 while their population is included in an urban county for such fiscal year to defer such classification through fiscal year 1986 if such unit of general local government continues to have its population included in such urban county under subsec. (d) of this section.

Subsec. (a)(6). Pub. L. 98–181, §102(b), substituted provision permitting retention of classification as urban counties through fiscal year 1985 of any counties classified or deemed to be such for purposes of assistance under this chapter for fiscal year 1983, and allowing a county to qualify as an urban county upon meeting certain conditions despite failing to meet the requirements of cl. (B) of the first sentence for provision that any urban county qualifying as such in fiscal year 1981 which did not meet the population requirements of cl. (B) of the first sentence would be considered to meet such requirements through Sept. 30, 1983, and would not be subject to subsec. (d) of this section through such date.

Subsec. (a)(9). Pub. L. 98–181, §102(d), substituted "Office of Management and Budget" for "Department of Commerce".

Subsec. (a)(20), (21). Pub. L. 98–181, §102(c), added pars. (20) and (21).

Subsec. (b). Pub. L. 98–181, §102(d), substituted "Office of Management and Budget" for "Department of Commerce" in two places.

Pub. L. 98–181, §102(e), struck out provisions that no data from the 1980 Decennial Census, except those relating to population and poverty, would be taken into account for purposes of sections 5306 and 5318 of this title and that no revision to the criteria for establishing a metropolitan area or defining a central city of such an area published after January 1, 1983, would be taken into account for purposes of this chapter, except that any area or city which would newly qualify as a metropolitan area or central city of such an area by reason of such revision would be so qualified.

Subsec. (d). Pub. L. 98–181, §102(f), inserted exception where the unit of general local government loses the designation of metropolitan city.

1982—Subsec. (a)(4). Pub. L. 97–289, §5(1), (2), substituted "under this paragraph because the population of such city exceeded fifty thousand shall" for "under clause (B) of this paragraph shall continue to", and substituted "1983" for "1982".

Subsec. (a)(6). Pub. L. 97–289, §5(3)(A)–(C), substituted "before October 1, 1983," for "for fiscal year 1982" after "population of which", "through September 30, 1983," for "for fiscal year 1982" after "requirements of such clause", and "through such date" for "that fiscal year".

1981—Subsec. (a). Pub. L. 97–35, §§309(a), 310, in par. (4) inserted applicability of Sept. 30, 1982, date to provisions, in par. (6) inserted provisions relating to urban county qualifying in fiscal year 1981, added par. (7), struck out pars. (18) and (19), which defined "program period" and "Community Development Program", respectively, and redesignated former pars. (7) to (17) and (20) as (8) to (18) and (19), respectively.

Subsec. (c). Pub. L. 97–35, §309(b), substituted "activities assisted under this chapter" for "a Community Development Program in whole or in part".

Subsec. (d). Pub. L. 97–35, §309(c), substituted provisions relating to nonreceipt of a grant, for provisions relating to disapproval or withdrawal of an application, and struck out "(a)(1)" after "5303".

1980—Subsec. (a)(3), (4), (8). Pub. L. 96–399, §111(a), substituted "Department of Commerce" for "Office of Management and Budget" wherever appearing.

Subsec. (b). Pub. L. 96–399, §§101(a), 111(a), inserted provisions relating to prohibition of use, in fiscal years 1981 to 1983, of data from the 1980 Decennial Census, except those relating to population and poverty, for purposes of section 5318 and 5306, and prohibition on revision to criteria for establishment of a metropolitan area or definition of a central city, except for those newly qualifying, and substituted "Department of Commerce" for "Office of Management and Budget", wherever appearing.

Subsec. (d). Pub. L. 96–399, §101(b)(1), substituted provisions relating to inclusion of the population of any unit of general local government in the population of such urban county for three program years, such unit to be ineligible for a grant under section 5306 as a separate entity, and prohibiting eligibility for second and third years if not included for the first year, for provisions relating to notification of units of general local government of their opportunity to exclude their populations from such urban county, and inclusion in such urban county unless exclusion is elected by notification.

Subsec. (e). Pub. L. 96–399, §101(c), added subsec. (e).

1979—Subsec. (a)(1). Pub. L. 96–153, inserted reference to Northern Mariana Islands in definition of unit

of general local government.

1977—Subsec. (a)(1). Pub. L. 95–128, §102(a)(1), excluded from term "unit of general local government" Indian tribes, bands, groups, and nations, including Alaska Indians, Aleuts, and Eskimos of the United States.

Subsec. (a)(4). Pub. L. 95–128, §102(a)(2), clarified term "metropolitan city" to continue the classification of any city classified as a metropolitan city under cl. (B) as such city until the decennial census indicates the population of such city is less than fifty thousand.

Subsec. (a)(5). Pub. L. 95–128, §102(a)(3), limited the meaning of "city" to a town or township without any incorporated places within its boundaries which have entered into cooperation agreements with such town or township to undertake or to assist in the undertaking of essential community development and housing assistance activities.

Subsec. (a)(6). Pub. L. 95–128, §102(a)(4), inserted "either" before "(B)" and added cl. (C).

Subsec. (a)(10) to (20). Pub. L. 95–128, §102(a)(5), (6), added pars. (10) to (16) and redesignated former pars. (10) to (13) as (17) to (20).

Subsec. (d). Pub. L. 95–128, §102(b), added subsec. (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1990 AMENDMENTS

Pub. L. 101–625, title IX, §903(c)(3), Nov. 28, 1990, 104 Stat. 4386, provided that: "The amendments made by this subsection [amending this section] shall apply with respect to assistance under title I of the Housing and Community Development Act of 1974 [this chapter] for fiscal year 1991 and any fiscal year thereafter."

Pub. L. 101–625, title IX, §904(b), Nov. 28, 1990, 104 Stat. 4387, provided that: "The amendment made by subsection (a) [amending this section] shall apply to the first allocation of assistance under section 106 [section 5306 of this title] that is made after the date of the enactment of this Act [Nov. 28, 1990] and to each allocation thereafter."

Pub. L. 101–507, title II, Nov. 5, 1990, 104 Stat. 1370, provided in part that: "The amendment made by this paragraph [amending this section] shall apply to the first allocation of assistance under section 106 [section 5306 of this title] that is made after the date of the enactment of this Act [Nov. 5, 1990] and to each allocation thereafter."

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–235 applicable to amounts approved in any appropriation Act under section 5303 of this title for fiscal year 1990 and each fiscal year thereafter, see section 702(e) of Pub. L. 101–235, as amended, set out as a note under section 5306 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 14001(b)(3) of Pub. L. 99–272 effective Oct. 18, 1986, see section 14001(e) of Pub. L. 99–272.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–181 applicable only to funds available for fiscal year 1984 and thereafter, see section 110(b) of Pub. L. 98–181, as amended, set out as a note under section 5316 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96–399, title I, §101(b)(2), Oct. 8, 1980, 94 Stat. 1614, provided that: "The amendment made by paragraph (1) [amending this section] shall take effect on October 1, 1981."

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–128 effective Oct. 1, 1977, see section 114 of Pub. L. 95–128, set out as a note under section 5301 of this title.

REGULATIONS

Pub. L. 108–186, title V, §501(g), Dec. 16, 2003, 117 Stat. 2698, provided that: "The Secretary of Housing and Urban Development shall issue regulations to carry out the amendments made by this section [amending

this section and sections 5304, 5306, and 5307 of this title], which shall take effect not later than the expiration of the 90-day period beginning on the date of the enactment of this Act [Dec. 16, 2003]."

[1] *See References in Text note below.*

[2] *So in original. Probably should be followed by a semicolon.*

§5303. Grants to States, units of general local government and Indian tribes; authorizations

The Secretary is authorized to make grants to States, units of general local government, and Indian tribes to carry out activities in accordance with the provisions of this chapter. For purposes of assistance under section 5306 of this title, there are authorized to be appropriated $4,000,000,000 for fiscal year 1993 and $4,168,000,000 for fiscal year 1994. Sums authorized pursuant to this section shall remain available until expended.

(Pub. L. 93–383, title I, §103, Aug. 22, 1974, 88 Stat. 637; Pub. L. 94–375, §15(a), Aug. 3, 1976, 90 Stat. 1076; Pub. L. 95–128, title I, §103, Oct. 12, 1977, 91 Stat. 1113; Pub. L. 96–153, title I, §103(a), (b), Dec. 21, 1979, 93 Stat. 1101, 1102; Pub. L. 96–399, title I, §§106, 111(b), Oct. 8, 1980, 94 Stat. 1618, 1621; Pub. L. 97–35, title III, §301, Aug. 13, 1981, 95 Stat. 384; Pub. L. 98–181, title I [title I, §103], Nov. 30, 1983, 97 Stat. 1161; Pub. L. 100–242, title V, §501(a), Feb. 5, 1988, 101 Stat. 1922; Pub. L. 101–625, title IX, §901(a), Nov. 28, 1990, 104 Stat. 4384; Pub. L. 102–550, title VIII, §801(a), Oct. 28, 1992, 106 Stat. 3843.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title I of Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, which is classified principally to this chapter. For complete classification of title I to the Code, see Tables.

AMENDMENTS

1992—Pub. L. 102–550 substituted provisions authorizing appropriations of $4,000,000,000 for fiscal year 1993 and $4,168,000,000 for fiscal year 1994 for provisions authorizing appropriations of $3,137,000,000 for fiscal year 1991 and $3,272,000,000 for fiscal year 1992, and struck out provisions requiring Secretary to make available, to extent approved in appropriation Acts (1) not less than $3,000,000 in each of fiscal years 1991 and 1992 for assistance to economically disadvantaged and minority students participating in community development work study programs and enrolled in full-time programs in community and economic development, community planning, or community management, (2) not less than $6,500,000 for each of fiscal years 1991 and 1992 for historically black colleges, (3) not less than $7,000,000 for each of fiscal years 1991 and 1992 for Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, and (4) not less than $500,000 in fiscal year 1991 to demonstrate feasibility of database system and computer mapping tool for compliance, programming, and evaluation of community development block grants.

1990—Pub. L. 101–625 substituted provisions authorizing appropriations for purposes of assistance under section 5306 of this title of $3,137,000,000 for fiscal year 1991 and $3,272,000,000 for fiscal year 1992, along with provisions mandating certain minimum allotments of such appropriations as specified in pars. (1) to (4) for provisions authorizing appropriations for the purposes of assistance under sections 5306 and 5307 of this title of $3,000,000,000 for fiscal year 1988, and $3,000,000,000 for fiscal year 1989.

1988—Pub. L. 100–242 amended second sentence generally, substituting "$3,000,000,000 for fiscal year 1988, and $3,000,000,000 for fiscal year 1989" for "not to exceed $3,468,000,000 for each of the fiscal years 1984, 1985, and 1986".

1983—Pub. L. 98–181 substituted provisions authorizing appropriations for purposes of assistance under sections 5306 and 5307 of this title of not to exceed $3,468,000,000 for each of fiscal years 1984, 1985, and 1986 for provision which had authorized appropriations of not to exceed $4,166,000,000 for each of fiscal

years 1982 and 1983.

1981—Pub. L. 97–35 completely restructured and revised provisions and substituted provisions relating to authorization of appropriations for fiscal years 1982 and 1983 to carry out activities under this chapter, for provisions relating to authorization of appropriations for fiscal years 1981 and 1982 to finance Community Development Programs, additional authorizations, supplemental assistance, and availability of funds.

1980—Subsec. (a)(1). Pub. L. 96–399, §106(a), substituted provisions authorizing appropriations not to exceed $3,810,000,000, $3,960,000,000, and $4,110,000,000 for fiscal years 1981, 1982 and 1983, respectively, for provisions authorizing appropriations not to exceed $3,500,000,000, $3,650,000,000, and $3,800,000,000 for fiscal years 1978, 1979, and 1980, respectively.

Subsec. (a)(2). Pub. L. 96–399, §106(b), substituted "$275,000,000 for the fiscal year 1981 shall be added to the amount available for allocation under section 5306(c) of this title" for "$50,000,000 for each of the fiscal years 1975 and 1976, $200,000,000 for the fiscal year 1977 (not more than 50 per centum of which amount may be used under section 5306(d)(1) of this title), $350,000,000 for the fiscal year 1978 (of which not more than $175,000,000 may be used under such section), $265,000,000 for the fiscal year 1979 (of which not more than $25,000,000 may be used under such section), and $275,000,000 for the fiscal year 1980 (none of which may be used under such section) shall be added to the amount available for allocation under section 5306(d) of this title".

Subsec. (c). Pub. L. 96–399, §106(c), substituted "amounts aggregating not to exceed $1,475,000,000 for fiscal years prior to the fiscal year 1981, and an additional amount not to exceed $675,000,000 for each of the fiscal years 1981, 1982, and 1983." for "a sum not to exceed $400,000,000 for each of the fiscal years 1978 and 1979, and not to exceed $675,000,000 for the fiscal year 1980, except that no funds shall be made available for such purpose (1) for fiscal year 1978 unless the amount appropriated under subsections (a) and (b) of this section for fiscal year 1978 is at least $3,600,000,000; (2) for fiscal year 1979 unless the amount appropriated under subsections (a) and (b) of this section for fiscal year 1979 is at least $3,750,000,000; or (3) for fiscal year 1980 unless the amount appropriated under subsections (a) and (b) of this section for fiscal year 1980 is at least $3,900,000,000".

Subsec. (e). Pub. L. 96–399, §111(b), struck out subsec. (e) which related to submission to Congress of timely requests for additional appropriations for fiscal years 1978 through 1980.

1979—Subsec. (a)(2). Pub. L. 96–153, §103(b), increased authorization of appropriation from $250,000,000 to $275,000,000 for fiscal year 1980.

Subsec. (c). Pub. L. 96–153, §103(a), increased authorization of appropriation for fiscal year 1980 from $400,000,000 to $675,000,000.

1977—Subsec. (a)(1). Pub. L. 95–128, §103(a), (b), authorized: grants to Indian tribes, appropriation authorizations for fiscal years 1978 through 1980, and unappropriated funds to be appropriated for any succeeding fiscal year; and deleted provisions which: prescribed $8,400,000,000 as the limitation on amount of obligations incurred, authorized appropriation of $2,500,000,000 for fiscal year 1975, increased to $5,450,000,000 and $8,400,000,000 for fiscal years 1976 and 1977 for liquidation of obligations, and made available for liquidation of contracts entered into hereunder appropriations for grants under title VII of the Housing Act of 1961 and sections 3102 and 3103 of this title, and supplemental grants under title I of the Demonstration Cities and Metropolitan Development Act of 1966, not otherwise obligated prior to Jan. 1, 1975.

Subsec. (a)(2). Pub. L. 95–128, §103(c), inserted use of additional money authorization provisions for fiscal years 1978 through 1980.

Subsec. (b). Pub. L. 95–128, §103(d), authorized appropriations for fiscal years 1978 through 1980, substituted "for the financial settlement and, to the extent feasible, the completion of projects and programs assisted under the categorical programs terminated in section 5316(a) of this title, primarily urban renewal projects assisted under the Housing Act of 1949, to units of general local government which require supplemental assistance which cannot be provided" for "to units of general local government having urgent community development needs which cannot be met" and inserted provision respecting requirement of prior appropriation of a minimum amount.

Subsecs. (c) to (e). Pub. L. 95–128, §103(e), added subsec. (c) and redesignated existing subsecs. (c) and (d) as (d) and (e), respectively.

1976—Subsec. (a)(2). Pub. L. 94–375 inserted ", and $200,000,000 for the fiscal year 1977, not more than 50 per centum of which amount may be used under section 5306(d)(1) of this title," after "1976".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–181 applicable only to funds available for fiscal year 1984 and thereafter, see section 110(b) of Pub. L. 98–181, as amended, set out as a note under section 5316 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–128 effective Oct. 1, 1977, see section 114 of Pub. L. 95–128, set out as a note under section 5301 of this title.

§5304. Statement of activities and review

(a) Statement of objectives and projected use of funds by grantee prerequisite to receipt of grant; publication of proposals by grantees; notice and comment; citizen participation plan

(1) Prior to the receipt in any fiscal year of a grant under section 5306(b) of this title by any metropolitan city or urban county, under section 5306(d) of this title by any State, under section 5306(d)(2)(B) of this title by any unit of general local government, or under section 5306(a)(3) of this title by any insular area, the grantee shall have prepared a final statement of community development objectives and projected use of funds and shall have provided the Secretary with the certifications required in subsection (b) and, where appropriate, subsection (c). In the case of metropolitan cities and urban counties receiving grants pursuant to section 5306(b) of this title, units of general local government receiving grants pursuant to section 5306(d)(2)(B) of this title, and insular areas receiving grants pursuant to section 5306(a)(3) of this title, the statement of projected use of funds shall consist of proposed community development activities. In the case of States receiving grants pursuant to section 5306(d) of this title, the statement of projected use of funds shall consist of the method by which the States will distribute funds to units of general local government.

(2) In order to permit public examination and appraisal of such statements, to enhance the public accountability of grantees, and to facilitate coordination of activities with different levels of government, the grantee shall in a timely manner—

(A) furnish citizens or, as appropriate, units of general local government information concerning the amount of funds available for proposed community development and housing activities and the range of activities that may be undertaken, including the estimated amount proposed to be used for activities that will benefit persons of low and moderate income and the plans of the grantee for minimizing displacement of persons as a result of activities assisted with such funds and to assist persons actually displaced as a result of such activities;

(B) publish a proposed statement in such manner to afford affected citizens or, as appropriate, units of general local government an opportunity to examine its content and to submit comments on the proposed statement and on the community development performance of the grantee;

(C) hold one or more public hearings to obtain the views of citizens on community development and housing needs;

(D) provide citizens or, as appropriate, units of general local government with reasonable access to records regarding the past use of funds received under section 5306 of this title by the grantee; and

(E) provide citizens or, as appropriate, units of general local government with reasonable notice of, and opportunity to comment on, any substantial change proposed to be made in the use of funds received under section 5306 of this title from one eligible activity to another or in the method of distribution of such funds.

In preparing the final statement, the grantee shall consider any such comments and views and may, if deemed appropriate by the grantee, modify the proposed statement. The final statement shall be made available to the public, and a copy shall be furnished to the Secretary together with the certifications required under subsection (b) and, where appropriate, subsection (c). Any final

statement of activities may be modified or amended from time to time by the grantee in accordance with the same procedures required in this paragraph for the preparation and submission of such statement.

(3) A grant under section 5306 of this title may be made only if the grantee certifies that it is following a detailed citizen participation plan which—

(A) provides for and encourages citizen participation, with particular emphasis on participation by persons of low and moderate income who are residents of slum and blight areas and of areas in which section 106 [42 U.S.C. 5306] funds are proposed to be used, and in the case of a grantee described in section 5306(a) of this title, provides for participation of residents in low and moderate income neighborhoods as defined by the local jurisdiction;

(B) provides citizens with reasonable and timely access to local meetings, information, and records relating to the grantee's proposed use of funds, as required by regulations of the Secretary, and relating to the actual use of funds under this chapter;

(C) provides for technical assistance to groups representative of persons of low and moderate income that request such assistance in developing proposals with the level and type of assistance to be determined by the grantee;

(D) provides for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program, including at least the development of needs, the review of proposed activities, and review of program performance, which hearings shall be held after adequate notice, at times and locations convenient to potential or actual beneficiaries, and with accommodation for the handicapped;

(E) provides for a timely written answer to written complaints and grievances, within 15 working days where practicable; and

(F) identifies how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate.

This paragraph may not be construed to restrict the responsibility or authority of the grantee for the development and execution of its community development program.

(b) Certification of enumerated criteria by grantee to Secretary

Any grant under section 5306 of this title shall be made only if the grantee certifies to the satisfaction of the Secretary that—

(1) the grantee is in full compliance with the requirements of subsection (a)(2)(A), (B), and (C) and has made the final statement available to the public;

(2) the grant will be conducted and administered in conformity with the Civil Rights Act of 1964 [42 U.S.C. 2000a et seq.] and the Fair Housing Act [42 U.S.C. 3601 et seq.], and the grantee will affirmatively further fair housing;

(3) the projected use of funds has been developed so as to give maximum feasible priority to activities which will benefit low- and moderate-income families or aid in the prevention or elimination of slums or blight, and the projected use of funds may also include activities which the grantee certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs, except that (A) the aggregate use of funds received under section 5306 of this title and, if applicable, as a result of a guarantee or a grant under section 5308 of this title, during a period specified by the grantee of not more than 3 years, shall principally benefit persons of low and moderate income in a manner that ensures that not less than 70 percent of such funds are used for activities that benefit such persons during such period; and (B) a grantee that borders on the Great Lakes and that experiences significant adverse financial and physical effects due to lakefront erosion or flooding may include in the projected use of funds activities that are clearly designed to alleviate the threat posed, and rectify the damage caused, by such erosion or flooding if such activities will principally benefit persons of low and moderate income and the grantee certifies that such activities are necessary to meet other needs having a particular urgency;

(4) it has developed a community development plan pursuant to subsection (m), for the period specified by the grantee under paragraph (3), that identifies community development needs and specifies both short- and long-term community development objectives that have been developed in accordance with the primary objective and requirements of this chapter;

(5) the grantee will not attempt to recover any capital costs of public improvements assisted in whole or part under section 5306 of this title or with amounts resulting from a guarantee under section 5308 of this title by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless (A) funds received under section 5306 of this title are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under this chapter; or (B) for purposes of assessing any amount against properties owned and occupied by persons of moderate income, the grantee certifies to the Secretary that it lacks sufficient funds received under section 5306 of this title to comply with the requirements of subparagraph (A); and

(6) the grantee will comply with the other provisions of this chapter and with other applicable laws.

(c) Special certifications required for certain grants

A grant may be made under section 5306(b) of this title only if the unit of general local government certifies that it is following—

(1) a current housing affordability strategy which has been approved by the Secretary in accordance with section 12705 of this title, or

(2) a housing assistance plan which was approved by the Secretary during the 180-day period beginning on November 28, 1990, or during such longer period as may be prescribed by the Secretary in any case for good cause.

(d) Residential antidisplacement and relocation assistance plan; certification of adherence; contents

(1) A grant under section 5306 or 5318 of this title may be made only if the grantee certifies that it is following a residential antidisplacement and relocation assistance plan. A grantee receiving a grant under section 5306(a) of this title or section 5318 of this title shall so certify to the Secretary. A unit of general local government receiving amounts from a State under section 5306(d) of this title shall so certify to the State, and a unit of general local government receiving amounts from the Secretary under section 5306(d) of this title shall so certify to the Secretary.

(2) The residential antidisplacement and relocation assistance plan shall in connection with a development project assisted under section 5306 or 5318 of this title—

(A) in the event of such displacement, provide that—

(i) governmental agencies or private developers shall provide within the same community comparable replacement dwellings for the same number of occupants as could have been housed in the occupied and vacant occupiable low and moderate income dwelling units demolished or converted to a use other than for housing for low and moderate income persons, and provide that such replacement housing may include existing housing assisted with project based assistance provided under section 1437f of this title;

(ii) such comparable replacement dwellings shall be designed to remain affordable to persons of low and moderate income for 10 years from the time of initial occupancy;

(iii) relocation benefits shall be provided for all low or moderate income persons who occupied housing demolished or converted to a use other than for low or moderate income housing, including reimbursement for actual and reasonable moving expenses, security deposits, credit checks, and other moving-related expenses, including any interim living costs; and in the case of displaced persons of low and moderate income, provide either—

(I) compensation sufficient to ensure that, for a 5-year period, the displaced families shall not bear, after relocation, a ratio of shelter costs to income that exceeds 30 percent; or

(II) if elected by a family, a lump-sum payment equal to the capitalized value of the benefits available under subclause (I) to permit the household to secure participation in a

housing cooperative or mutual housing association; and

(iv) persons displaced shall be relocated into comparable replacement housing that is—
(I) decent, safe, and sanitary;
(II) adequate in size to accommodate the occupants;
(III) functionally equivalent; and
(IV) in an area not subject to unreasonably adverse environmental conditions;

(B) provide that persons displaced shall have the right to elect, as an alternative to the benefits under this subsection, to receive benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) if such persons determine that it is in their best interest to do so; and

(C) provide that where a claim for assistance under subparagraph (A)(iv) is denied by a grantee, the claimant may appeal to the Secretary in the case of a grant under section 5306 or 5318 of this title or to the appropriate State official in the case of a grant under section 5306(d) of this title, and that the decision of the Secretary or the State official shall be final unless a court determines the decision was arbitrary and capricious.

(3) Paragraphs (2)(A)(i) and (2)(A)(ii) shall not apply in any case in which the Secretary finds, on the basis of objective data, that there is available in the area an adequate supply of habitable affordable housing for low and moderate income persons. A determination under this paragraph is final and nonreviewable.

(e) Submission of performance and evaluation report by grantee to Secretary; contents; availability for citizen comment; annual review and audit by Secretary of program implementation; adjustments in amount of annual grants

Each grantee shall submit to the Secretary, at a time determined by the Secretary, a performance and evaluation report concerning the use of funds made available under section 5306 of this title, together with an assessment by the grantee of the relationship of such use to the objectives identified in the grantee's statement under subsection (a) and to the requirements of subsection (b)(3). Such report shall also be made available to the citizens in each grantee's jurisdiction in sufficient time to permit such citizens to comment on such report prior to its submission, and in such manner and at such times as the grantee may determine. The grantee's report shall indicate its programmatic accomplishments, the nature of and reasons for changes in the grantee's program objectives, indications of how the grantee would change its programs as a result of its experiences, and an evaluation of the extent to which its funds were used for activities that benefited low- and moderate-income persons. The report shall include a summary of any comments received by the grantee from citizens in its jurisdiction respecting its program. The Secretary shall encourage and assist national associations of grantees eligible under section 5306(d)(2)(B) of this title, national associations of States, and national associations of units of general local government in nonentitlement areas to develop and recommend to the Secretary, within one year after November 30, 1983, uniform recordkeeping, performance reporting, and evaluation reporting, and auditing requirements for such grantees, States, and units of general local government, respectively. Based on the Secretary's approval of these recommendations, the Secretary shall establish such requirements for use by such grantees, States, and units of general local government. The Secretary shall, at least on an annual basis, make such reviews and audits as may be necessary or appropriate to determine—

(1) in the case of grants made under subsection (a)(3), (b), or (d)(2)(B) of section 5306 of this title, whether the grantee has carried out its activities and, where applicable, its housing assistance plan in a timely manner, whether the grantee has carried out those activities and its certifications in accordance with the requirements and the primary objectives of this chapter and with other applicable laws, and whether the grantee has a continuing capacity to carry out those activities in a timely manner; and

(2) in the case of grants to States made under section 5306(d) of this title, whether the State has distributed funds to units of general local government in a timely manner and in conformance to

the method of distribution described in its statement, whether the State has carried out its certifications in compliance with the requirements of this chapter and other applicable laws, and whether the State has made such reviews and audits of the units of general local government as may be necessary or appropriate to determine whether they have satisfied the applicable performance criteria described in paragraph (1) of this subsection.

The Secretary may make appropriate adjustments in the amount of the annual grants in accordance with the Secretary's findings under this subsection. With respect to assistance made available to units of general local government under section 5306(d) of this title, the Secretary may adjust, reduce, or withdraw such assistance, or take other action as appropriate in accordance with the Secretary's reviews and audits under this subsection, except that funds already expended on eligible activities under this chapter shall not be recaptured or deducted from future assistance to such units of general local government.

(f) Audit of grantees by Government Accountability Office; access to books, accounts, records, etc., by representatives of Government Accountability Office

Insofar as they relate to funds provided under this chapter, the financial transactions of recipients of such funds may be audited by the Government Accountability Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the Government Accountability Office shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by such recipients pertaining to such financial transactions and necessary to facilitate the audit.

(g) Environmental protection measures applicable for release of funds to applicants for projects; issuance of regulations by Secretary subsequent to consultation with Council on Environmental Quality; request and certification to Secretary for approval of release of funds; form, contents and effect of certification

(1) In order to assure that the policies of the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds under this chapter, and to assure to the public undiminished protection of the environment, the Secretary, in lieu of the environmental protection procedures otherwise applicable, may under regulations provide for the release of funds for particular projects to recipients of assistance under this chapter who assume all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary specify, that would apply to the Secretary were he to undertake such projects as Federal projects. The Secretary shall issue regulations to carry out this subsection only after consultation with the Council on Environmental Quality.

(2) The Secretary shall approve the release of funds for projects subject to the procedures authorized by this subsection only if, at least fifteen days prior to such approval and prior to any commitment of funds to such projects other than for purposes authorized by section 5305(a)(12) of this title or for environmental studies, the recipient of assistance under this chapter has submitted to the Secretary a request for such release accompanied by a certification which meets the requirements of paragraph (3). The Secretary's approval of any such certification shall be deemed to satisfy his responsibilities under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the releases of funds for projects to be carried out pursuant thereto which are covered by such certification.

(3) A certification under the procedures authorized by this subsection shall—

(A) be in a form acceptable to the Secretary,

(B) be executed by the chief executive officer or other officer of the recipient of assistance under this chapter qualified under regulations of the Secretary,

(C) specify that the recipient of assistance under this chapter has fully carried out its responsibilities as described under paragraph (1) of this subsection, and

(D) specify that the certifying officer (i) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to paragraph (1) of this subsection, and (ii) is authorized and consents on behalf of the recipient of assistance under this chapter and himself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his responsibilities as such an official.

(4) In the case of grants made to States pursuant to section 5306(d) of this title, the State shall perform those actions of the Secretary described in paragraph (2) and the performance of such actions shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of such paragraph.

(h) Payments; revolving loan fund: establishment in private financial institution for rehabilitation activities; standards for payments: criteria

(1) Units of general local government receiving assistance under this chapter may receive funds, in one payment, in an amount not to exceed the total amount designated in the grant (or, in the case of a unit of general local government receiving a distribution from a State pursuant to section 5306(d) of this title, not to exceed the total amount of such distribution) for use in establishing a revolving loan fund which is to be established in a private financial institution and which is to be used to finance rehabilitation activities assisted under this chapter. Rehabilitation activities authorized under this section shall begin within 45 days after receipt of such payment and substantial disbursements from such fund must begin within 180 days after receipt of such payment.

(2) The Secretary shall establish standards for such cash payments which will insure that the deposits result in appropriate benefits in support of the recipient's rehabilitation program. These standards shall be designed to assure that the benefits to be derived from the local program include, at a minimum, one or more of the following elements, or such other criteria as determined by the Secretary—

(A) leverage of community development block grant funds so that participating financial institutions commit private funds for loans in the rehabilitation program in amounts substantially in excess of deposit of community development funds;

(B) commitment of private funds for rehabilitation loans at below-market interest rates or with repayment periods lengthened or at higher risk than would normally be taken;

(C) provision of administrative services in support of the rehabilitation program by the participating lending institutions; and

(D) interest earned on such cash deposits shall be used in a manner which supports the community rehabilitation program.

(i) Metropolitan city as part of urban county

In any case in which a metropolitan city is located, in whole or in part, within an urban county, the Secretary may, upon the joint request of such city and county, approve the inclusion of the metropolitan city as part of the urban county for purposes of submitting a statement under subsection (a) and carrying out activities under this chapter.

(j) Retention of program income; condition of distribution

Notwithstanding any other provision of law, any unit of general local government may retain any program income that is realized from any grant made by the Secretary, or any amount distributed by a State, under section 5306 of this title if (1) such income was realized after the initial disbursement of the funds received by such unit of general local government under such section; and (2) such unit of general local government has agreed that it will utilize the program income for eligible community development activities in accordance with the provisions of this chapter; except that the Secretary may, by regulation, exclude from consideration as program income any amounts determined to be so small that compliance with this subsection creates an unreasonable administrative burden on the unit of general local government. A State may require as a condition of

any amount distributed by such State under section 5306(d) of this title that a unit of general local government shall pay to such State any such income to be used by such State to fund additional eligible community development activities, except that such State shall waive such condition to the extent such income is applied to continue the activity from which such income was derived.

(k) Provision of benefits to displaced persons

Each grantee shall provide for reasonable benefits to any person involuntarily and permanently displaced as a result of the use of assistance received under this chapter to acquire or substantially rehabilitate property.

(l) Protection of individuals engaging in nonviolent civil rights demonstrations

No funds authorized to be appropriated under section 5303 of this title may be obligated or expended to any unit of general local government that—

(1) fails to adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; or

(2) fails to adopt and enforce a policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such nonviolent civil rights demonstration within its jurisdiction.

(m) Community development plans

(1) In general

Prior to the receipt in any fiscal year of a grant from the Secretary under subsection (a)(2),(b), (d)(1), or (d)(2)(B) of section 5306 of this title, each recipient shall have prepared and submitted in accordance with this subsection and in such standardized form as the Secretary shall, by regulation, prescribe a description of its priority nonhousing community development needs eligible for assistance under this chapter.

(2) Local governments

In the case of a recipient that is a unit of general local government other than an insular area—

(A) prior to the submission required by paragraph (1), the recipient shall, to the extent practicable, notify adjacent units of general local government and solicit the views of citizens on priority nonhousing community development needs; and

(B) the description required under paragraph (1) shall be submitted to the Secretary, the State, and any other unit of general local government within which the recipient is located, in such standardized form as the Secretary shall, by regulation, prescribe.

(3) States

In the case of a recipient that is a State, the description required by paragraph (1)—

(A) shall include only the needs within the State that affect more than one unit of general local government and involve activities typically funded by such States under this chapter; and

(B) shall be submitted to the Secretary in such standard form as the Secretary, by regulation, shall prescribe.

(4) Effect of submission

A submission under this subsection shall not be binding with respect to the use or distribution of amounts received under section 5306 of this title.

(Pub. L. 93–383, title I, §104, Aug. 22, 1974, 88 Stat. 638; Pub. L. 95–128, title I, §§104, 110(a), Oct. 12, 1977, 91 Stat. 1114, 1125; Pub. L. 95–557, title I, §103(a)–(d), Oct. 31, 1978, 92 Stat. 2083; Pub. L. 96–153, title I, §§103(c), (g), 109(a), Dec. 21, 1979, 93 Stat. 1102, 1105; Pub. L. 96–399, title I, §§101(d), 104(b), 105(a), 109, 111(c), Oct. 8, 1980, 94 Stat. 1615, 1616, 1618, 1619, 1621; Pub. L. 97–35, title III, §§302(b), (c)(1), (d)–(f), 309(d), Aug. 13, 1981, 95 Stat. 384, 386, 387, 396; Pub. L. 98–181, title I [title I, §§101(b)], 104, Nov. 30, 1983, 97 Stat. 1159, 1161; Pub. L. 98–479, title I, §101(a)(5)–(7), Oct. 17, 1984, 98 Stat. 2219; Pub. L. 100–242, title V, §§502(c), 505–509(a), Feb. 5, 1988, 101 Stat. 1923, 1926, 1927; Pub. L. 100–628, title X, §1083, Nov. 7, 1988, 102 Stat.

3277; Pub. L. 101–625, title IX, §§902(b), 905, 906, 922, Nov. 28, 1990, 104 Stat. 4385, 4387, 4402; Pub. L. 102–550, title VIII, §§804, 808, 812, Oct. 28, 1992, 106 Stat. 3845, 3850; Pub. L. 103–233, title II, §232(a)(2)(B), Apr. 11, 1994, 108 Stat. 367; Pub. L. 108–186, title V, §501(c), Dec. 16, 2003, 117 Stat. 2697; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title I of Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, which is classified principally to this chapter. For complete classification of title I to the Code, see Tables.

The Civil Rights Act of 1964, referred to in subsec. (b)(2), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, which is classified principally to subchapters II to IX (§2000a 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.

The Fair Housing Act, referred to in subsec. (b)(2), is title VIII of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 81, which is classified principally to subchapter I (§3601 et seq.) of chapter 45 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, referred to in subsec. (d)(2)(B), is Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, which is classified principally to chapter 61 (§4601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (g)(1), (2), (3)(D), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

AMENDMENTS

2004—Subsec. (f). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office" in two places.

2003—Subsec. (a)(1). Pub. L. 108–186, §501(c)(1), in first sentence, struck out "or" after "State," and inserted "or under section 5306(a)(3) of this title by any insular area," after "government,", and, in second sentence, substituted a comma for "and in the case of" before "units" and inserted "and insular areas receiving grants pursuant to section 5306(a)(3) of this title," after "section 5306(d)(2)(B) of this title,".

Subsec. (e)(1). Pub. L. 108–186, §501(c)(2), substituted "subsection (a)(3), (b), or (d)(2)(B) of section 5306 of this title" for "section 5306(b) or section 5306(d)(2)(B) of this title".

Subsec. (m)(1). Pub. L. 108–186, §501(c)(3)(A), inserted "(a)(2)," after "under subsection".

Subsec. (m)(2). Pub. L. 108–186, §501(c)(3)(B), substituted "government other than an insular area" for "government" in introductory provisions.

1994—Subsec. (b)(3)(A). Pub. L. 103–233 inserted "or a grant" after "guarantee".

1992—Subsec. (b)(2). Pub. L. 102–550, §808, substituted "the Civil Rights Act of 1964 and the Fair Housing Act" for "Public Law 88–352 and Public Law 90–284".

Subsec. (b)(4). Pub. L. 102–550, §812(b), inserted "pursuant to subsection (m)" after "plan" and struck out "and housing" before "needs and".

Subsec. (j). Pub. L. 102–550, §804, in first sentence, struck out "while the unit of general local government is participating in a community development program under this chapter" after "has agreed that" and inserted before period at end "; except that the Secretary may, by regulation, exclude from consideration as program income any amounts determined to be so small that compliance with this subsection creates an unreasonable administrative burden on the unit of general local government".

Subsecs. (l), (m). Pub. L. 102–550, §812(a), redesignated subsec. (l), relating to community development plans, as (m) and amended it generally, substituting present provisions for provisions requiring recipients to have submitted a description of its nonhousing community development needs and strategies for meeting those needs, providing for special requirements for such plans where the recipient was a State or a unit of general local government, and providing that a submission of a plan would not be binding with respect to the use or distribution of amounts received under section 5306 of this title.

1990—Subsec. (b)(3). Pub. L. 101–625, §902(b), substituted "70 percent" for "60 percent".

Subsec. (c). Pub. L. 101–625, §905, amended subsec. (c) generally, substituting present provisions for provisions authorizing grants under section 5306(b) of this title only if the unit of local government certified that it followed a current housing assistance plan approved by the Secretary which (1) accurately surveyed the

condition of the housing stock in the community, (2) specified a realistic annual goal for the number of dwelling units or persons of low and moderate income to be assisted, (3) indicated the general locations of proposed low and moderate income housing, and (4) specified activities that would be undertaken annually to minimize displacement and preserve or expand the availability of low and moderate income housing, and which required the establishment of dates and manner for the submission of housing assistance plans.

Subsec. (l). Pub. L. 101–625, §922, added subsec. (l) relating to community development plans.

Pub. L. 101–625, §906, added subsec. (l) relating to protection of individuals engaging in nonviolent civil rights demonstrations.

1988—Subsec. (a)(1). Pub. L. 100–242, §505, struck out at end "In all cases, beginning in fiscal year 1984, the statement required in this subsection shall include a description of the use of funds made available under section 5306 of this title in fiscal year 1982 and thereafter (or, beginning in fiscal year 1985, such use since preparation of the last statement prepared pursuant to this subsection) together with an assessment of the relationship of such use to the community development objectives identified in the statement prepared pursuant to this subsection for such previous fiscal years and to the requirements of subsection (b)(3) of this section."

Subsec. (a)(3). Pub. L. 100–242, §508, added par. (3).

Subsec. (b)(3). Pub. L. 100–242, §506, designated provision after "except that" as cl. (A) and added cl. (B).

Pub. L. 100–242, §502(c), substituted "60" for "51".

Subsec. (c)(1)(A), (B). Pub. L. 100–242, §507(b)(1), substituted "persons of low and moderate income" for "lower income persons" wherever appearing.

Subsec. (c)(1)(C). Pub. L. 100–242, §507(b), substituted "persons of low and moderate income" for "lower income persons" and "low-income persons".

Subsec. (c)(1)(D). Pub. L. 100–242, §507(a), added subpar. (D).

Subsec. (d). Pub. L. 100–242, §509(a)(2), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (d)(1). Pub. L. 100–628, §1083(a), amended third sentence generally. Prior to amendment, third sentence read as follows: "A grantee receiving a grant under section 5306(d) of this title shall so certify to the State".

Subsec. (d)(2)(A)(iii)(II). Pub. L. 100–628, §1083(b), inserted "and" after "mutual housing association;".

Subsecs. (e) to (k). Pub. L. 100–242, §509(a)(1), redesignated subsecs. (d) to (j) as (e) to (k), respectively.

1984—Subsec. (a)(2)(E). Pub. L. 98–479, §101(a)(5), inserted "or in the method of distribution of such funds".

Subsec. (b)(5)(B). Pub. L. 98–479, §101(a)(6), substituted "moderate" for "low and moderate income who are not persons of very low" before "income, the grantee certifies".

Subsec. (d). Pub. L. 98–479, §101(a)(7), struck out the comma between "which" and "its funds" in third sentence, and inserted "general" before "local" after "and units of" in fifth sentence, and before "local" in sixth sentence.

1983—Subsec. (a)(1). Pub. L. 98–181, §104(a), inserted sentence at end that the statement must include a description of the use of funds made available under section 5306 of this title in fiscal year 1982 and thereafter (or, beginning with fiscal year 1985, such use since preparation of the last statement under this subsection) together with an assessment of the relationship of such use to the community development objectives identified in the statement prepared pursuant to this subsection for previous fiscal years and to the requirements of subsec. (b)(3) of this section.

Subsec. (a)(2). Pub. L. 98–181, §104(b)(1), in provisions preceding subpar. (A) substituted "shall in a timely manner" for "shall".

Pub. L. 98–181, §104(b)(6), inserted at end "Any final statement of activities may be modified or amended from time to time by the grantee in accordance with the same procedures required in this paragraph for the preparation and submission of such statement."

Subsec. (a)(2)(A). Pub. L. 98–181, §104(b)(2), substituted "citizens or, as appropriate, units of general local government" for "citizens", and inserted ", including the estimated amount proposed to be used for activities that will benefit persons of low and moderate income and the plans of the grantee for minimizing displacement of persons as a result of activities assisted with such funds and to assist persons actually displaced as a result of such activities".

Subsec. (a)(2)(D), (E). Pub. L. 98–181, §104(b)(3)–(5), added subpars. (D) and (E).

Subsec. (b)(2). Pub. L. 98–181, §104(c)(1), inserted requirement that the grantee affirmatively further fair housing.

Subsec. (b)(3). Pub. L. 98–181, §101(b), inserted provision that the aggregate use of funds received under section 5306 of this title and, if applicable, as a result of a guarantee under section 5308 of this title, during a period specified by the grantee of not more than 3 years, shall principally benefit persons of low and moderate

income in a manner that ensures that not less than 51 percent of such funds are used for activities that benefit such persons during such period.

Subsec. (b)(4) to (6). Pub. L. 98–181, §104(c)(2)–(4), added pars. (4) and (5) and redesignated former par. (4) as (6).

Subsec. (c)(1)(A). Pub. L. 98–181, §104(d), inserted "(including the number of vacant and abandoned dwelling units)".

Subsec. (d). Pub. L. 98–181, §104(e), in provisions preceding par. (1), substituted "performance and evaluation report" for "performance report"; substituted "subsection (a) and to the requirements of subsection (b)(3)" for "subsection (a)"; and inserted provision requiring that the report be made available for citizen comment prior to submission, that the report summarize such comments and indicate programmatic accomplishments, changes in programs and objectives, and an evaluation of the extent to which funds were used to benefit low- and moderate-income persons, and requiring the Secretary to establish uniform recordkeeping, performance and evaluation reporting, and requirements for grantees, States, and local governments, based on the Secretary's approval of recommendations made by such grantees and State and local governments.

Subsec. (g)(1). Pub. L. 98–181, §104(f), inserted "and substantial disbursements from such fund must begin within 180 days after receipt of such payment".

Subsecs. (i), (j). Pub. L. 98–181, §104(g), added subsecs. (i) and (j).

1981—Subsec. (a). Pub. L. 97–35, §302(b), substituted provisions relating to statement of objectives and projected use of funds by grantee, publication of proposals by grantees, and procedures applicable for provisions relating to contents and statements required in application.

Subsec. (b). Pub. L. 97–35, §302(b), substituted provisions relating to certifications of enumerated criteria by grantee to Secretary for provisions relating to additional requirements for application, certifications to Secretary, and waiver of required program contents.

Subsec. (c). Pub. L. 97–35, §302(b), substituted provisions relating to certifications by the unit of general local government respecting enumerated grants for provisions relating to approval of applications.

Subsec. (d). Pub. L. 97–35, §302(c)(1), substituted provisions relating to performance and assessment reports by grantee to the Secretary concerning use of funds under section 5306 of this title, and reviews, audits and adjustments by the Secretary, for provisions relating to performance and assessment reports by grantee to the Secretary concerning activities carried out under this chapter, and reviews, audits, and adjustments by Secretary.

Subsec. (e). Pub. L. 97–35, §302(d), redesignated subsec. (g) as (e). Former subsec. (e), which related to review and comment on application by areawide agency under procedures established by President, was struck out.

Subsec. (f). Pub. L. 97–35, §302(d), (e), redesignated subsec. (h) as (f), in par. (1) substituted "recipients of assistance under this chapter" for "applicants", in par. (2) "recipient of assistance under this chapter" for "applicant" and "the releases of funds" for "the applications and releases of funds" and in par. (3)(B) to (D) "recipient of assistance under this chapter" for "applicant", and added par. (4). Former subsec. (f), which related to approval date of application and adjustment of grant subsequent to approval of application, was struck out.

Subsec. (g). Pub. L. 97–35, §302(d), (f), redesignated subsec. (i) as (g), in par. (1) substituted provision relating to units of general local government as recipients for provision relating to recipients of funds and in par. (2) struck out provision relating to review and approval of agreements. Former subsec. (g) redesignated (e).

Subsec. (h). Pub. L. 97–35, §§302(d), 309(d), redesignated subsec. (j) as (h) and substituted provisions relating to submission of a statement and carrying out activities for provisions relating to program planning, meeting application requirements, and program implementation. Former subsec. (h) redesignated (f).

Subsecs. (i), (j). Pub. L. 97–35, §302(d), redesignated subsecs. (i) and (j) as (g) and (h), respectively.

1980—Subsec. (a). Pub. L. 96–399, §104(b), inserted provision following par. (6) relating to discretionary inclusion in program summary comparable information with respect to applicant's energy conservation and renewable energy resource needs and objectives.

Subsec. (a)(2). Pub. L. 96–399, §105(a), in cl. (B) substituted "activities, and objectives, including activities" for "including activities", struck out "and objectives" after "moderate-income persons", and in cl. (C) inserted provisions respecting activities on the involuntary displacement of low- and moderate-income persons.

Subsec. (c). Pub. L. 96–399, §111(c)(1), substituted "5306(b)" for "5306(a)".

Subsec. (d). Pub. L. 96–399, §§109, 111(c)(2), substituted "Each" for "Prior to the beginning of fiscal year 1977 and each fiscal year thereafter, each", inserted provision relating to the annual submission of the

performance report, prior to the beginning of each fiscal year, and less frequently for a grantee receiving a grant not funding a comprehensive development program, inserted provisions respecting determinations by the Secretary in the case of a grant for which a report is submitted less frequently than annually in accordance with the second sentence of this paragraph, and substituted "5306(c)" for "5306(d)(2)" and "5306(e)" for "5306(f)(1)(B)".

Subsec. (e). Pub. L. 96–399, §111(c)(2), substituted "5306(c)" for "5306(d)(2)" and "5306(e)" for "5306(f)(1)(B)".

Subsec. (j). Pub. L. 96–399, §101(d), added subsec. (j).

1979—Subsec. (a)(4)(A). Pub. L. 96–153, §109(a), inserted reference to impact of conversion of rental housing to condominium or cooperative ownership on housing needs.

Subsec. (b)(3). Pub. L. 96–153, §103(c), struck out cl. (A) and redesignated cls. (B) and (C) as (A) and (B), respectively.

Subsec. (h)(1). Pub. L. 96–153, §103(g)(1), substituted "Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most" for "Act of 1969 are most", and "such Act, and such other provisions of law as the regulations of the Secretary specify that would apply" for "such Act that would apply".

Subsec. (h)(2). Pub. L. 96–153, §103(g)(2), substituted "National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify" for "National Environmental Policy Act".

Subsec. (h)(3)(D). Pub. L. 96–153, §103(g)(3), substituted "Act of 1969 and each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other provision of law" for "Act of 1969 insofar as the provisions of such Act" in cl. (i).

1978—Subsec. (a)(3)(C). Pub. L. 95–557, §103(c), inserted "as a result of existing or projected employment opportunities in the community (and those elderly persons residing in or expected to reside in the community), or as estimated in a community accepted State or regional housing opportunity plan approved by the Secretary" after "expected to reside in the community".

Subsec. (a)(4)(A). Pub. L. 95–557, §103(a), (c), inserted "owners of homes requiring rehabilitation assistance" after "large families" and inserted "as a result of existing or projected employment opportunities in the community (and those elderly persons residing in or expected to reside in the community), or as estimated in a community accepted State or regional housing opportunity plan approved by the Secretary" after "expected to reside in the community".

Subsec. (a)(4)(B)(i). Pub. L. 95–557, §103(b), inserted "including existing rental and owner occupied dwelling units to be upgraded and thereby preserved" after "existing dwelling units".

Subsec. (c). Pub. L. 95–557, §103(d), inserted provisions relating to approval or disapproval of any application on the basis that such application addresses any one of the primary purposes described in par. (3) to a greater or lesser extent than any other, unless such purpose is plainly inappropriate, in which case the application may be disapproved.

1977—Subsec. (a). Pub. L. 95–128, §110(a), inserted reference to section 5318 of this title.

Subsec. (a)(1). Pub. L. 95–128, §104(a)(1), inserted "and housing" before "needs".

Subsec. (a)(2)(B). Pub. L. 95–128, §104(a)(2), included provision activities designed to revitalize neighborhoods for benefit of low- and moderate-income persons.

Subsec. (a)(3). Pub. L. 95–128, §104(a)(3), inserted subpar. (B) requirement for a program designed to insure fully opportunity for participation by, and benefits to, the handicapped and added subpar. (C).

Subsec. (a)(4). Pub. L. 95–128, §104(a)(4), inserted subpar. (A) provision for identification of housing stock in a deteriorated condition; inserted in subpar. (B) "lower-income" before "persons" and added cl. (iii); and inserted subpar. (C)(i) provision respecting reclamation of housing stock where feasible through use of a broad range of techniques for housing restoration by local government, the private sector, or community organizations, including provision of a reasonable opportunity for tenants displaced as a result of such activities to relocate in their immediate neighborhood.

Subsec. (a)(6). Pub. L. 95–128, §104(a)(5), added cl. (A), redesignated former cls. (A) and (B) as (B) and (C), and redesignated former cl. (C) as (D) and substituted "with an opportunity to submit comments concerning the community development performance of the applicant; but nothing in this paragraph" for "an adequate opportunity to participate in the development of the application; but no part of this paragraph".

Subsec. (b)(2). Pub. L. 95–128, §104(b), substituted in first sentence "low- and moderate-income" for "low- or moderate-income" and in second sentence after "urgency" the clause "because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available" for "as specifically described in the application".

Subsec. (b)(3). Pub. L. 95–128, §104(c), added cl. (B), struck out former cl. "(B) the application relates to

the first community development activity to be carried out by such locality with assistance under this chapter", redesignated cl. (D) as (C) and struck out former cl. "(C) the assistance requested is for a single development activity under this chapter of a type eligible for assistance under title VII of the Housing Act of 1961 or title VII of the Housing and Urban Development Act of 1965".

Subsec. (c)(3). Pub. L. 95–128, §104(d), inserted ", with specific regard to the primary purposes of principally benefiting persons of low- and moderate-income or aiding in the prevention or elimination of slums or blight or meeting other community development needs having a particular urgency," before "or other applicable law".

Subsec. (d). Pub. L. 95–128, §104(e), inserted requirement for inclusion of citizen comments in the performance reports and Secretary's consideration of the comments and inserted provision for adjustment of grants under section 5306(d)(2) and (f)(1)(B) of this title without recapture of expended funds or deduction from future grants.

Subsec. (e). Pub. L. 95–128, §104(f), inserted provisions respecting State participation in selection process for funding the grants.

Subsec. (i). Pub. L. 95–128, §104(g), added subsec. (i).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–233 applicable with respect to any amounts made available to carry out subchapter II (§12721 et seq.) of chapter 130 of this title after Apr. 11, 1994, and any amounts made available to carry out that subchapter before that date that remain uncommitted on that date, with Secretary to issue any regulations necessary to carry out such amendment not later than end of 45-day period beginning on that date, see section 209 of Pub. L. 103–233, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–242, title V, §509(b), Feb. 5, 1988, 101 Stat. 1929, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1988."

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–181 applicable only to funds available for fiscal year 1984 and thereafter, see section 110(b) of Pub. L. 98–181, as amended, set out as a note under section 5316 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by sections 302(b), (d)–(f) and 309(d) of Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

Pub. L. 97–35, title III, §302(c)(2), Aug. 13, 1981, 95 Stat. 386, provided that: "The amendment made by paragraph (1) [amending this section] shall take effect on October 1, 1982."

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–557 effective Oct. 1, 1978, see section 104 of Pub. L. 95–557, set out as a note under section 1709 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–128 effective Oct. 1, 1977, see section 114 of Pub. L. 95–128, set out as a note under section 5301 of this title.

COMPUTERIZED DATABASE OF COMMUNITY DEVELOPMENT NEEDS

Pub. L. 102–550, title VIII, §852, Oct. 28, 1992, 106 Stat. 3858, provided that:

"(a) ESTABLISHMENT OF DEMONSTRATION PROGRAM.—Not later than the expiration of the 1-year period beginning on the date appropriations for the purposes of this section are made available, the Secretary of Housing and Urban Development (hereafter in this section referred to as the 'Secretary') shall establish and implement a demonstration program to determine the feasibility of assisting States and units of general local government to develop methods, utilizing contemporary computer technology, to—

"(1) monitor, inventory, and maintain current listings of the community development needs of the States and units of general local government; and

"(2) coordinate strategies within States (especially among various units of general local government) for meeting such needs.

"(b) INTEGRATED DATABASE SYSTEM AND COMPUTER MAPPING TOOL.—

"(1) DEVELOPMENT AND PURPOSES.—In carrying out the program under this section, the Secretary shall provide for the development of an integrated database system and computer mapping tool designed to efficiently (A) collect, store, process, and retrieve information relating to priority nonhousing community development needs within States, and (B) coordinate strategies for meeting such needs. The integrated database system and computer mapping tool shall be designed in a manner to coordinate and facilitate the preparation of community development plans under section 104(m)(1) of the Housing and Community Development Act of 1974 [42 U.S.C. 5304(m)(1)] and to process any information necessary for such plans.

"(2) AVAILABILITY TO STATES.—The Secretary shall make the integrated database system and computer mapping tool developed pursuant to this subsection available to States without charge.

"(3) COORDINATION WITH EXISTING TECHNOLOGY.—The Secretary shall, to the extent practicable, utilize existing technologies and coordinate such activities with existing data systems to prevent duplication.

"(c) TECHNICAL ASSISTANCE.—Under the program under this section, the Secretary shall provide consultation and advice to States and units of general local government regarding the capabilities and advantages of the integrated database system and computer mapping tool developed pursuant to subsection (b) and assistance in installing and using the database system and mapping tool.

"(d) GRANTS.—

"(1) AUTHORITY AND PURPOSE.—The Secretary shall, to the extent amounts are made available under appropriation Acts pursuant to subsection (g), make grants to States for capital costs relating to installation and use of the integrated database system and computer mapping tool developed pursuant to subsection (b).

"(2) LIMITATIONS.—The Secretary may not make more than one grant under this subsection to any single State. The Secretary may not make a grant under this subsection to any single State in an amount exceeding $1,000,000.

"(3) APPLICATION AND SELECTION.—The Secretary shall provide for the form and manner of applications for grants under this subsection. The Secretary shall establish criteria for the selection of States which have submitted applications to receive grants under this section and shall select recipients according to such criteria, which shall give priority to States having, on a long-term basis (as determined by the Secretary), levels of unemployment above the national average level.

"(e) STATE COORDINATION OF LOCAL NEEDS.—Each State that receives a grant under subsection (d) shall annually submit to the Secretary a report containing a summary of the priority nonhousing community development needs within the State.

"(f) REPORTS BY SECRETARY.—The Secretary shall annually submit to the Committees on Banking, Finance and Urban Affairs [now Committee on Financial Services] of the House of Representatives and Banking, Housing, and Urban Affairs of the Senate, a report containing a summary of the information submitted for the year by States pursuant to subsection (e), which shall describe the priority nonhousing community development needs within such States.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 1993 and 1994, $10,000,000 to carry out the program established under this section."

AUTHORITY TO PROVIDE LUMP-SUM PAYMENTS TO REVOLVING LOAN FUNDS

Pub. L. 101–625, title IX, §909, Nov. 28, 1990, 104 Stat. 4389, provided that:

"(a) IN GENERAL.—Notwithstanding any other provision of law, units of general local government receiving assistance under title I of the Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.] may receive funds in one payment for use in establishing or supplementing revolving loan funds in the manner provided under section 104(h) of such Act (42 U.S.C. 5304(h)).

"(b) APPLICABILITY.—This section shall apply to funds approved in appropriations Acts for use under title I of the Housing and Community Development Act of 1974 for fiscal year 1992 and any fiscal year thereafter."

REVOLVING LOAN FUNDS

Pub. L. 102–139, title II, Oct. 28, 1991, 105 Stat. 752, provided: "That after September 30, 1991, notwithstanding section 909 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625) [set out above], no funds provided or heretofore provided in this or any other appropriations Act shall be used to establish or supplement a revolving fund under section 104(h) of the Housing and Community Development Act of 1974 [42 U.S.C. 5304(h)], as amended."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 101–507, title II, Nov. 5, 1990, 104 Stat. 1365.

Pub. L. 101–144, title II, Nov. 9, 1989, 103 Stat. 850.

REPORT TO CONGRESS CONCERNING CONVERSION OF RENTAL HOUSING TO CONDOMINIUM OR COOPERATIVE OWNERSHIP

Pub. L. 96–153, title I, §109(b), Dec. 21, 1979, 93 Stat. 1105, directed Secretary of Housing and Urban Development, not later than six months after Dec. 12, 1979, to submit a report to Congress concerning conversion of rental housing to condominium or cooperative ownership, which report was to include an estimate of number of such conversions which have occurred since 1970, a projection of number of such conversions estimated to occur during period 1980 through 1985, an assessment of impact that such conversions have had or are likely to have on availability of housing to lower income persons, an assessment of extent to which such conversions are concentrated in certain areas or types of areas of country, and an assessment of factors contributing to increase in such conversions, and which report was also to include recommendations concerning alternative means to minimize the adverse impact that such conversions may have on lower income persons.

EXECUTIVE DOCUMENTS

FLOODPLAIN MANAGEMENT

For provisions relating to reduction of risk of flood loss, minimization of impact of floods on human safety, health and welfare, and management of floodplains, see Ex. Ord. No. 11988, May 24, 1977, 42 F.R. 26951, set out as a note under section 4321 of this title.

PROTECTION OF WETLANDS

For provisions relating to protection of wetlands, see Ex. Ord. No. 11990, May 24, 1977, 42 F.R. 26961, set out as a note under section 4321 of this title.

§5305. Activities eligible for assistance

(a) Enumeration of eligible activities

Activities assisted under this chapter may include only—

(1) the acquisition of real property (including air rights, water rights, and other interests therein) which is (A) blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth; (B) appropriate for rehabilitation or conservation activities; (C) appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development; (D) to be used for the provision of public works, facilities, and improvements eligible for assistance under this chapter; or (E) to be used for other public purposes;

(2) the acquisition, construction, reconstruction, or installation (including design features and improvements with respect to such construction, reconstruction, or installation that promote energy efficiency) of public works, facilities (except for buildings for the general conduct of government), and site or other improvements;

(3) code enforcement in deteriorated or deteriorating areas in which such enforcement, together with public or private improvements or services to be provided, may be expected to arrest the decline of the area;

(4) clearance, demolition, removal, reconstruction, and rehabilitation (including rehabilitation which promotes energy efficiency) of buildings and improvements (including interim assistance, and financing public or private acquisition for reconstruction or rehabilitation, and reconstruction or rehabilitation, of privately owned properties, and including the renovation of closed school buildings);

(5) special projects directed to the removal of material and architectural barriers which restrict the mobility and accessibility of elderly and handicapped persons;

(6) payments to housing owners for losses of rental income incurred in holding for temporary periods housing units to be utilized for the relocation of individuals and families displaced by

activities under this chapter;

(7) disposition (through sale, lease, donation, or otherwise) of any real property acquired pursuant to this chapter or its retention for public purposes;

(8) provision of public services, including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, energy conservation, welfare or recreation needs, if such services have not been provided by the unit of general local government (through funds raised by such unit, or received by such unit from the State in which it is located) during any part of the twelve-month period immediately preceding the date of submission of the statement with respect to which funds are to be made available under this chapter, and which are to be used for such services, unless the Secretary finds that the discontinuation of such services was the result of events not within the control of the unit of general local government, except that not more than 15 per centum of the amount of any assistance to a unit of general local government (or in the case of nonentitled communities not more than 15 per centum statewide) under this chapter including program income may be used for activities under this paragraph unless such unit of general local government used more than 15 percent of the assistance received under this chapter for fiscal year 1982 or fiscal year 1983 for such activities (excluding any assistance received pursuant to Public Law 98–8), in which case such unit of general local government may use not more than the percentage or amount of such assistance used for such activities for such fiscal year, whichever method of calculation yields the higher amount, except that of any amount of assistance under this chapter (including program income) in each of fiscal years 1993 through 2003 to the City of Los Angeles and County of Los Angeles, each such unit of general government may use not more than 25 percent in each such fiscal year for activities under this paragraph, and except that of any amount of assistance under this chapter (including program income) in each of fiscal years 1999, 2000, and 2001, to the City of Miami, such city may use not more than 25 percent in each fiscal year for activities under this paragraph;

(9) payment of the non-Federal share required in connection with a Federal grant-in-aid program undertaken as part of activities assisted under this chapter;

(10) payment of the cost of completing a project funded under title I of the Housing Act of 1949 [42 U.S.C. 1450 et seq.];

(11) relocation payments and assistance for displaced individuals, families, businesses, organizations, and farm operations, when determined by the grantee to be appropriate;

(12) activities necessary (A) to develop a comprehensive community development plan, and (B) to develop a policy-planning-management capacity so that the recipient of assistance under this chapter may more rationally and effectively (i) determine its needs, (ii) set long-term goals and short-term objectives, (iii) devise programs and activities to meet these goals and objectives, (iv) evaluate the progress of such programs in accomplishing these goals and objectives, and (v) carry out management, coordination, and monitoring of activities necessary for effective planning implementation;

(13) payment of reasonable administrative costs related to establishing and administering federally approved enterprise zones and payment of reasonable administrative costs and carrying charges related to (A) administering the HOME program under title II of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12721 et seq.]; and (B) the planning and execution of community development and housing activities, including the provision of information and resources to residents of areas in which community development and housing activities are to be concentrated with respect to the planning and execution of such activities, and including the carrying out of activities as described in section 701(e) of the Housing Act of 1954 [1] on August 12, 1981;

(14) provision of assistance including loans (both interim and long-term) and grants for activities which are carried out by public or private nonprofit entities, including (A) acquisition of real property; (B) acquisition, construction, reconstruction, rehabilitation, or installation of (i) public facilities (except for buildings for the general conduct of government), site improvements, and utilities, and (ii) commercial or industrial buildings or structures and other commercial or industrial real property improvements; and (C) planning;

(15) assistance to neighborhood-based nonprofit organizations, local development corporations, nonprofit organizations serving the development needs of the communities in nonentitlement areas, or entities organized under section 681(d) [1] of title 15 to carry out a neighborhood revitalization or community economic development or energy conservation project in furtherance of the objectives of section 5301(c) of this title, and assistance to neighborhood-based nonprofit organizations, or other private or public nonprofit organizations, for the purpose of assisting, as part of neighborhood revitalization or other community development, the development of shared housing opportunities (other than by construction of new facilities) in which elderly families (as defined in section 1437a(b)(3) of this title) benefit as a result of living in a dwelling in which the facilities are shared with others in a manner that effectively and efficiently meets the housing needs of the residents and thereby reduces their cost of housing;

(16) activities necessary to the development of energy use strategies related to a recipient's development goals, to assure that those goals are achieved with maximum energy efficiency, including items such as—

(A) an analysis of the manner in, and the extent to, which energy conservation objectives will be integrated into local government operations, purchasing and service delivery, capital improvements budgeting, waste management, district heating and cooling, land use planning and zoning, and traffic control, parking, and public transportation functions; and

(B) a statement of the actions the recipient will take to foster energy conservation and the use of renewable energy resources in the private sector, including the enactment and enforcement of local codes and ordinances to encourage or mandate energy conservation or use of renewable energy resources, financial and other assistance to be provided (principally for the benefit of low- and moderate-income persons) to make energy conserving improvements to residential structures, and any other proposed energy conservation activities;

(17) provision of assistance to private, for-profit entities, when the assistance is appropriate to carry out an economic development project (that shall minimize, to the extent practicable, displacement of existing businesses and jobs in neighborhoods) that—

(A) creates or retains jobs for low- and moderate-income persons;

(B) prevents or eliminates slums and blight;

(C) meets urgent needs;

(D) creates or retains businesses owned by community residents;

(E) assists businesses that provide goods or services needed by, and affordable to, low- and moderate-income residents; or

(F) provides technical assistance to promote any of the activities under subparagraphs (A) through (E);

(18) the rehabilitation or development of housing assisted under section 1437o [1] of this title;

(19) provision of technical assistance to public or nonprofit entities to increase the capacity of such entities to carry out eligible neighborhood revitalization or economic development activities, which assistance shall not be considered a planning cost as defined in paragraph (12) or administrative cost as defined in paragraph (13);

(20) housing services, such as housing counseling in connection with tenant-based rental assistance and affordable housing projects assisted under title II of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12721 et seq.], energy auditing, preparation of work specifications, loan processing, inspections, tenant selection, management of tenant-based rental assistance, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in housing activities assisted under title II of the Cranston-Gonzalez National Affordable Housing Act;

(21) provision of assistance by recipients under this chapter to institutions of higher education having a demonstrated capacity to carry out eligible activities under this subsection for carrying out such activities;

(22) provision of assistance to public and private organizations, agencies, and other entities

(including nonprofit and for-profit entities) to enable such entities to facilitate economic development by—

(A) providing credit (including providing direct loans and loan guarantees, establishing revolving loan funds, and facilitating peer lending programs) for the establishment, stabilization, and expansion of microenterprises;

(B) providing technical assistance, advice, and business support services (including assistance, advice, and support relating to developing business plans, securing funding, conducting marketing, and otherwise engaging in microenterprise activities) to owners of microenterprises and persons developing microenterprises; and

(C) providing general support (such as peer support programs and counseling) to owners of microenterprises and persons developing microenterprises;

(23) activities necessary to make essential repairs and to pay operating expenses necessary to maintain the habitability of housing units acquired through tax foreclosure proceedings in order to prevent abandonment and deterioration of such housing in primarily low- and moderate-income neighborhoods;

(24) provision of direct assistance to facilitate and expand homeownership among persons of low and moderate income (except that such assistance shall not be considered a public service for purposes of paragraph (8)) by using such assistance to—

(A) subsidize interest rates and mortgage principal amounts for low- and moderate-income homebuyers;

(B) finance the acquisition by low- and moderate-income homebuyers of housing that is occupied by the homebuyers;

(C) acquire guarantees for mortgage financing obtained by low- and moderate-income homebuyers from private lenders (except that amounts received under this chapter may not be used under this subparagraph to directly guarantee such mortgage financing and grantees under this chapter may not directly provide such guarantees);

(D) provide up to 50 percent of any downpayment required from low- or moderate-income homebuyer; or

(E) pay reasonable closing costs (normally associated with the purchase of a home) incurred by a low- or moderate-income homebuyer;

(25) the construction or improvement of tornado-safe shelters for residents of manufactured housing, and the provision of assistance (including loans and grants) to nonprofit and for-profit entities (including owners of manufactured housing parks) for such construction or improvement, except that—

(A) a shelter assisted with amounts provided pursuant to this paragraph may be located only in a neighborhood (including a manufactured housing park) that—

(i) contains not less than 20 manufactured housing units that are within such proximity to the shelter that the shelter is available to the residents of such units in the event of a tornado;

(ii) consists predominantly of persons of low and moderate income; and

(iii) is located within a State in which a tornado has occurred during the fiscal year for which the amounts to be used under this paragraph were made available or any of the 3 preceding fiscal years, as determined by the Secretary after consultation with the Administrator of the Federal Emergency Management Agency;

(B) such a shelter shall comply with standards for construction and safety as the Secretary, after consultation with the Administrator of the Federal Emergency Management Agency, shall provide to ensure protection from tornadoes;

(C) such a shelter shall be of a size sufficient to accommodate, at a single time, all occupants of manufactured housing units located within the neighborhood in which the shelter is located; and

(D) amounts may not be used for a shelter as provided under this paragraph unless there is

located, within the neighborhood in which the shelter is located (or, in the case of a shelter located in a manufactured housing park, within 1,500 feet of such park), a warning siren that is operated in accordance with such local, regional, or national disaster warning programs or systems as the Secretary, after consultation with the Administrator of the Federal Emergency Management Agency, considers appropriate to ensure adequate notice of occupants of manufactured housing located in such neighborhood or park of a tornado; and

(26) lead-based paint hazard evaluation and reduction, as defined in section 4851b of this title.

(b) Reimbursement of Secretary for administrative services connected with rehabilitation of properties

Upon the request of the recipient of assistance under this chapter, the Secretary may agree to perform administrative services on a reimbursable basis on behalf of such recipient in connection with loans or grants for the rehabilitation of properties as authorized under subsection (a)(4).

(c) Activities benefiting persons of low and moderate income

(1) In any case in which an assisted activity described in paragraph (14) or (17) of subsection (a) is identified as principally benefiting persons of low and moderate income, such activity shall—

(A) be carried out in a neighborhood consisting predominately of persons of low and moderate income and provide services for such persons; or

(B) involve facilities designed for use predominately by persons of low and moderate income; or

(C) involve employment of persons, a majority of whom are persons of low and moderate income.

(2)(A) In any case in which an assisted activity described in subsection (a) is designed to serve an area generally and is clearly designed to meet identified needs of persons of low and moderate income in such area, such activity shall be considered to principally benefit persons of low and moderate income if (i) not less than 51 percent of the residents of such area are persons of low and moderate income; (ii) in any metropolitan city or urban county, the area served by such activity is within the highest quartile of all areas within the jurisdiction of such city or county in terms of the degree of concentration of persons of low and moderate income; or (iii) the assistance for such activity is limited to paying assessments (including any charge made as a condition of obtaining access) levied against properties owned and occupied by persons of low and moderate income to recover the capital cost for a public improvement.

(B) The requirements of subparagraph (A) do not prevent the use of assistance under this chapter for the development, establishment, and operation for not to exceed 2 years after its establishment of a uniform emergency telephone number system if the Secretary determines that—

(i) such system will contribute substantially to the safety of the residents of the area served by such system;

(ii) not less than 51 percent of the use of the system will be by persons of low and moderate income; and

(iii) other Federal funds received by the grantee are not available for the development, establishment, and operation of such system due to the insufficiency of the amount of such funds, the restrictions on the use of such funds, or the prior commitment of such funds for other purposes by the grantee.

The percentage of the cost of the development, establishment, and operation of such a system that may be paid from assistance under this chapter and that is considered to benefit low and moderate income persons is the percentage of the population to be served that is made up of persons of low and moderate income.

(3) Any assisted activity under this chapter that involves the acquisition or rehabilitation of property to provide housing shall be considered to benefit persons of low and moderate income only to the extent such housing will, upon completion, be occupied by such persons.

(4) For the purposes of subsection (c)(1)(C)—

(A) if an employee resides in, or the assisted activity through which he or she is employed, is located in a census tract that meets the Federal enterprise zone eligibility criteria, the employee shall be presumed to be a person of low- or moderate-income; or

(B) if an employee resides in a census tract where not less than 70 percent of the residents have incomes at or below 80 percent of the area median, the employee shall be presumed to be a person of low or moderate income.

(d) Training program

The Secretary shall implement, using funds recaptured pursuant to section 5318(o) of this title, an on-going education and training program for officers and employees of the Department, especially officers and employees of area and other field offices of the Department, who are responsible for monitoring and administering activities pursuant to paragraphs (14), (15), and (17) of subsection (a) for the purpose of ensuring that (A) such personnel possess a thorough understanding of such activities; and (B) regulations and guidelines are implemented in a consistent fashion.

(e) Guidelines for evaluating and selecting economic development projects

(1) Establishment

The Secretary shall establish, by regulation, guidelines to assist grant recipients under this chapter to evaluate and select activities described in subsection (a)(14), (15), and (17) for assistance with grant amounts. The Secretary shall not base a determination of eligibility of the use of funds under this chapter for such assistance solely on the basis that the recipient fails to achieve one or more of the guidelines' objectives as stated in paragraph (2).

(2) Project costs and financial requirements

The guidelines established under this subsection shall include the following objectives:

(A) The project costs of such activities are reasonable.

(B) To the extent practicable, reasonable financial support has been committed for such activities from non-Federal sources prior to disbursement of Federal funds.

(C) To the extent practicable, any grant amounts to be provided for such activities do not substantially reduce the amount of non-Federal financial support for the activity.

(D) Such activities are financially feasible.

(E) To the extent practicable, such activities provide not more than a reasonable return on investment to the owner.

(F) To the extent practicable, grant amounts used for the costs of such activities are disbursed on a pro rata basis with amounts from other sources.

(3) Public benefit

The guidelines established under this subsection shall provide that the public benefit provided by the activity is appropriate relative to the amount of assistance provided with grant amounts under this chapter.

(f) Assistance to for-profit entities

In any case in which an activity described in paragraph (17) of subsection (a) is provided assistance such assistance shall not be limited to activities for which no other forms of assistance are available or could not be accomplished but for that assistance.

(g) Microenterprise and small business program requirements

In developing program requirements and providing assistance pursuant to paragraph (17) of subsection (a) to a microenterprise or small business, the Secretary shall—

(1) take into account the special needs and limitations arising from the size of the entity; and

(2) not consider training, technical assistance, or other support services costs provided to small businesses or microenterprises or to grantees and subgrantees to develop the capacity to provide such assistance, as a planning cost pursuant to subsection (a)(12) or an administrative cost pursuant to subsection (a)(13).

(h) Prohibition on use of assistance for employment relocation activities

Notwithstanding any other provision of law, no amount from a grant under section 5306 of this title made in fiscal year 1999 or any succeeding fiscal year may be used to assist directly in the relocation of any industrial or commercial plant, facility, or operation, from 1 area to another area, if the relocation is likely to result in a significant loss of employment in the labor market area from which the relocation occurs.

(Pub. L. 93–383, title I, §105, Aug. 22, 1974, 88 Stat. 641; Pub. L. 94–375, §15(b), Aug. 3, 1976, 90 Stat. 1076; Pub. L. 95–128, title I, §105, Oct. 12, 1977, 91 Stat. 1116; Pub. L. 95–557, title I, §103(e), Oct. 31, 1978, 92 Stat. 2084; Pub. L. 96–399, title I, §104(c)–(e), Oct. 8, 1980, 94 Stat. 1616–1618; Pub. L. 97–35, title III, §§303(a), 309(e)–(g), Aug. 13, 1981, 95 Stat. 387, 396; Pub. L. 98–181, title I [title I, §105(a), (b)(1), (c)–(e), title III, §302(a)], Nov. 30, 1983, 97 Stat. 1163, 1164, 1206; Pub. L. 98–479, title I, §101(a)(8), (9)(A), Oct. 17, 1984, 98 Stat. 2219; Pub. L. 100–242, title V, §§504, 510, 511, Feb. 5, 1988, 101 Stat. 1925, 1929; Pub. L. 100–404, title I, Aug. 19, 1988, 102 Stat. 1019; Pub. L. 101–625, title IX, §§907, 908, Nov. 28, 1990, 104 Stat. 4387, 4389; Pub. L. 102–550, title VIII, §§805, 806(a), (b), (c), 807(a), (b)(3), (c)(1), (d)–(f), 809, title X, §1012(f), Oct. 28, 1992, 106 Stat. 3846, 3847, 3849, 3850, 3905; Pub. L. 103–195, §2(a), Dec. 14, 1993, 107 Stat. 2297; Pub. L. 103–233, title II, §207, Apr. 11, 1994, 108 Stat. 365; Pub. L. 104–134, title I, §101(e) [title II, §225], Apr. 26, 1996, 110 Stat. 1321–257, 1321–291; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 104–204, title II, §220, Sept. 26, 1996, 110 Stat. 2906; Pub. L. 105–276, title II, §§218, 232, title V, §§588, 596(a), Oct. 21, 1998, 112 Stat. 2487, 2492, 2651, 2659; Pub. L. 106–377, §1(a)(1) [title II, §224], Oct. 27, 2000, 114 Stat. 1441, 1441A–30; Pub. L. 107–116, title VI, §631, Jan. 10, 2002, 115 Stat. 2227; Pub. L. 108–146, §2, Dec. 3, 2003, 117 Stat. 1883; Pub. L. 109–295, title VI, §612(c), Oct. 4, 2006, 120 Stat. 1410; Pub. L. 112–141, div. F, title II, §100243(a), (b), July 6, 2012, 126 Stat. 963, 966.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b), (c)(2), (3), and (e)(1), (3), was in the original "this title", meaning title I of Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, which is classified principally to this chapter. For complete classification of title I to the Code, see Tables.

Public Law 98–8, referred to in subsec. (a)(8), is Pub. L. 98–8, Mar. 24, 1983, 97 Stat. 13. Provisions of that Act relating to assistance under this chapter are not classified to the Code. For complete classification of this Act to the Code, see Tables.

The Housing Act of 1949, referred to in subsec. (a)(10), is act July 15, 1949, ch. 338, 63 Stat. 413. Title I of the Housing Act of 1949 was classified generally to subchapter II (§1450 et seq.) of chapter 8A of this title, and was omitted from the Code pursuant to section 5316 of this title which terminated authority to make grants and loans under such title I after Jan. 1, 1975. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of this title and Tables.

The Cranston-Gonzalez National Affordable Housing Act, referred to in subsec. (a)(13)(A), (20), is Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4079. Title II of the Act, known as the HOME Investment Partnerships Act, is classified principally to subchapter II (§12721 et seq.) of chapter 130 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

Section 701(e) of the Housing Act of 1954, referred to in subsec. (a)(13)(B), is section 701(e) of act Aug. 2, 1954, ch. 649, 68 Stat. 640, which was classified to section 461(e) of former Title 40, Public Buildings, Property, and Works, and was repealed by Pub. L. 97–35, title III, §313(b), Aug. 13, 1981, 95 Stat. 398.

Section 681(d) of title 15, referred to in subsec. (a)(15), was repealed by Pub. L. 104–208, div. D, title II, §208(b)(3)(A), Sept. 30, 1996, 110 Stat. 3009–742.

Section 1437o of this title, referred to in subsec. (a)(18), was repealed by Pub. L. 101–625, title II, §289(b), Nov. 28, 1990, 104 Stat. 4128.

CODIFICATION

In subsec. (a)(13), "August 12, 1981" substituted for "the date prior to the date of enactment of the Housing and Community Development Amendments of 1981".

AMENDMENTS

2012—Subsec. (a)(24). Pub. L. 112–141, §100243(a)(3), struck out "and" at end of par. (24).

Subsec. (a)(25). Pub. L. 112–141, §100243(b)(1), inserted "and" at end.

Pub. L. 112–141, §100243(a)(4), struck out "and" at end.

Pub. L. 112–141, §100243(a)(2), which directed redesignation of second par. (24), relating to tornado-safe shelters, as (25), was executed by redesignating the par. (24) which appeared first and which related to tornado-safe shelters as (25) and moving such par. so as to appear after the par. (24) relating to homeownership among persons with low and moderate income, to reflect the probable intent of Congress.

Subsec. (a)(26). Pub. L. 112–141, §100243(b)(2), substituted period for semicolon at end.

Pub. L. 112–141, §100243(a)(1), redesignated par. (25) as (26).

Subsec. (a)(27), (28). Pub. L. 112–141, §100243(b)(3), struck out pars. (27) and (28) which related to supplementing existing State or local funding for administration of building code enforcement by local building code enforcement departments and assistance to local governmental agencies responsible for floodplain management activities for outreach activities to encourage and facilitate the purchase of flood insurance protection and to promote educational activities that increase awareness of flood risk reduction.

Pub. L. 112–141, §100243(a)(4)–(6), added pars. (27) and (28).

2003—Subsec. (a)(22). Pub. L. 108–146, §2(1), which directed amendment of par. (22) by striking out "and" at end, could not be executed because that word had been previously stricken.

Subsec. (a)(23). Pub. L. 108–146, §2(2), which directed amendment of par. (23) by substituting a semicolon for period at end, could not be executed because par. (23) did not have a period at end.

Subsec. (a)(24). Pub. L. 108–146, §2(2), added par. (24) relating to tornado-safe shelters.

2002—Subsec. (a)(8). Pub. L. 107–116 substituted "through 2003" for "through 2001".

2000—Subsec. (a)(8). Pub. L. 106–377 substituted "1993 through 2001 to the City of Los Angeles" for "1993 through 2000 to the City of Los Angeles".

1998—Subsec. (a)(8). Pub. L. 105–276, §596(a), which directed the substitution of "2000" for "1998", was executed by substituting "2000" for "1999", to reflect the probable intent of Congress and the amendment by Pub. L. 105–276, §218, see below.

Pub. L. 105–276, §232, substituted "each of fiscal years 1999, 2000, and 2001, to the City of Miami, such city may use not more than 25 percent in each fiscal year for activities under this paragraph;" for "fiscal year 1994 to the City of Pittsburgh, Pennsylvania, such city may use not more than 20 percent in each such fiscal year for activities under this paragraph;".

Pub. L. 105–276, §218, substituted "1999" for "1998".

Subsec. (h). Pub. L. 105–276, §588, added subsec. (h).

1996—Subsec. (a)(4). Pub. L. 104–134, §101[(e)] [title II, §225(1)], inserted "reconstruction," after "removal," and substituted "acquisition for reconstruction or rehabilitation, and reconstruction or rehabilitation" for "acquisition for rehabilitation, and rehabilitation".

Subsec. (a)(8). Pub. L. 104–204 substituted "through 1998" for "through 1997".

Subsec. (a)(13). Pub. L. 104–134, §101(e) [title II, §225(2)], struck out "and" at end.

Subsec. (a)(19). Pub. L. 104–134, §101(e) [title II, §225(3), (6)], redesignated par. (20) as (19) and struck out former par. (19) which read as follows: "provision of assistance to facilitate substantial reconstruction of housing owned and occupied by low and moderate income persons (A) where the need for the reconstruction was not determinable until after rehabilitation under this section had already commenced, or (B) where the reconstruction is part of a neighborhood rehabilitation effort and the grantee (i) determines the housing is not suitable for rehabilitation, and (ii) demonstrates to the satisfaction of the Secretary that the cost of substantial reconstruction is significantly less than the cost of new construction and less than the fair market value of the property after substantial reconstruction;".

Subsec. (a)(20). Pub. L. 104–134, §101(e) [title II, §225(6)], redesignated par. (21) relating to housing services as (20). Former par. (20) redesignated (19).

Subsec. (a)(21). Pub. L. 104–134, §101(e) [title II, §225(6)], redesignated par. (22) as (21). Former par. (21), relating to housing services, redesignated (20). Another former par. (21), relating to lead-based paint hazard evaluation and reduction, redesignated (25).

Subsec. (a)(22). Pub. L. 104–134, §101(e) [title II, §225(6)], redesignated par. (23) as (22). Former par. (22) redesignated (21).

Subsec. (a)(23). Pub. L. 104–134, §101(e) [title II, §225(4), (6)], redesignated par. (24) as (23) and struck out "and" at end. Former par. (23) redesignated (22).

Subsec. (a)(24). Pub. L. 104–134, §101(e) [title II, §225(5), (6)], redesignated par. (25) as (24) and substituted "; and" for period at end. Former par. (24) redesignated (23).

Subsec. (a)(25). Pub. L. 104–134, §101(e) [title II, §225(7)], redesignated par. (21) relating to lead-based

paint hazard evaluation and reduction as (25). Former par. (25) redesignated (24).

1994—Subsec. (a)(13). Pub. L. 103–233, §207(a), inserted cl. (A) and designated provisions after cl. (A) as cl. (B).

Subsec. (a)(21). Pub. L. 103–233, §207(b), inserted "in connection with tenant-based rental assistance and affordable housing projects assisted under title II of the Cranston-Gonzalez National Affordable Housing Act" after "housing counseling" and substituted "assisted under title II of the Cranston-Gonzalez National Affordable Housing Act" for "authorized under this section, or under title II of the Cranston-Gonzalez National Affordable Housing Act, except that activities under this paragraph shall be subject to any limitation on administrative expenses imposed by any law".

1993—Subsec. (a)(8). Pub. L. 103–195 struck out "and" after "higher amount," and inserted before semicolon at end ", and except that of any amount of assistance under this chapter (including program income) in fiscal year 1994 to the City of Pittsburgh, Pennsylvania, such city may use not more than 20 percent in each such fiscal year for activities under this paragraph".

1992—Subsec. (a)(3). Pub. L. 102–550, §807(e), substituted "public or private improvements or" for "public improvements and".

Subsec. (a)(8). Pub. L. 102–550, §807(a)(1), inserted before semicolon at end ", and except that of any amount of assistance under this chapter (including program income) in each of fiscal years 1993 through 1997 to the City of Los Angeles and County of Los Angeles, each such unit of general government may use not more than 25 percent in each such fiscal year for activities under this paragraph".

Subsec. (a)(13). Pub. L. 102–550, §809, inserted "payment of reasonable administrative costs related to establishing and administering federally approved enterprise zones and" after "(13)".

Subsec. (a)(14). Pub. L. 102–550, §807(d), inserted "provision of assistance including loans (both interim and long-term) and grants for" before "activities".

Subsec. (a)(15). Pub. L. 102–550, §807(f), inserted "nonprofit organizations serving the development needs of the communities in nonentitlement areas," after "corporations,".

Subsec. (a)(20). Pub. L. 102–550, §807(a)(2)–(4), added par. (20) and redesignated former par. (20) as (25).

Subsec. (a)(21). Pub. L. 102–550, §1012(f), added par. (21) relating to lead-based paint hazard evaluation and reduction.

Pub. L. 102–550, §807(a)(2)–(4), added par. (21) relating to housing services.

Subsec. (a)(22). Pub. L. 102–550, §807(a)(2)–(4), added par. (22).

Subsec. (a)(23) to (25). Pub. L. 102–550, §807(b)(3), amended directory language of Pub. L. 101–625, §907(b)(2). See 1990 Amendment note below.

Pub. L. 102–550, §807(a)(2)–(4), added pars. (23) and (24) and redesignated former par. (20) as (25).

Subsec. (c)(4). Pub. L. 102–550, §806(e), added par. (4).

Subsec. (d). Pub. L. 102–550, §805, added subsec. (d).

Subsec. (e). Pub. L. 102–550, §806(a), added subsec. (e).

Subsec. (f). Pub. L. 102–550, §806(b), added subsec. (f).

Subsec. (g). Pub. L. 102–550, §807(c)(1), added subsec. (g).

1990—Subsec. (a)(8). Pub. L. 101–625, §908, inserted "(or in the case of nonentitled communities not more than 15 per centum statewide)" after "assistance to a unit of general local government" and "including program income" before "may be used for activities".

Subsec. (a)(17). Pub. L. 101–625, §907(a), amended par. (17) generally. Prior to amendment, par. (17) read as follows: "provision of assistance to private, for-profit entities, when the assistance is necessary or appropriate to carry out an economic development project;".

Subsec. (a)(20). Pub. L. 101–625, §907(b)(1), added par. (20).

Subsec. (a)(23) to (25). Pub. L. 101–625, §907(b)(2), as amended by Pub. L. 102–550, §807(b)(3), directed the amendment of subsec. (a) by inserting "and" at end of par. (23), substituting a period for "; and" at end of par. (24), and striking out par. (25). This amendment was not executed pursuant to Pub. L. 104–204 which provided that subsec. (a)(25) shall continue to be effective and the termination and conforming provisions of section 907(b)(2) of Pub. L. 101–625 shall not be effective. See Effective Date of 1990 Amendments note below.

1988—Subsec. (a)(15). Pub. L. 100–242, §504(a), substituted "assistance" for "grants" in two places.

Subsec. (a)(16). Pub. L. 100–242, §504(b), amended par. (16) generally, revising and restating as subpars. (A) and (B) provisions of former subpars. (A) to (I).

Subsec. (a)(19). Pub. L. 100–242, §510, added par. (19).

Subsec. (c)(2). Pub. L. 100–242, §511, designated existing provision as subpar. (A), redesignated subpars. (A) and (B) as cls. (i) and (ii), respectively, and added subpar. (B).

Subsec. (c)(2)(A)(iii). Pub. L. 100–404 added cl. (iii).

1984—Subsec. (a)(8). Pub. L. 98–479, §101(a)(8)(A), inserted "fiscal year 1982 or".

Subsec. (a)(15). Pub. L. 98–479, §101(a)(8)(B), substituted "and" for "including" before "grants to neighborhood-based nonprofit organizations".

Subsec. (c)(2)(B). Pub. L. 98–479, §101(a)(9)(A), substituted "in any metropolitan city or urban county, the area served by such activity is within the highest quartile of all areas within the jurisdiction of such city or county in terms of the degree of concentration of persons of low and moderate income" for "in any jurisdiction having no areas meeting the requirements of subparagraph (A), the area served by such activity has a larger proportion of persons of low and moderate income than not less than 75 percent of the other areas in the jurisdiction of the recipient".

1983—Subsec. (a)(2). Pub. L. 98–181, §105(a), amended par. (2) generally, inserting exception for buildings for the general conduct of government, and striking out provisions which enumerated types of public works, facilities, and site or other improvements, including neighborhood facilities, centers for the handicapped, senior centers, historic properties, etc.

Subsec. (a)(8). Pub. L. 98–181, §105(b)(1), substituted "not more than 15 per centum" for "not more than 10 per centum" and inserted at the end thereof "unless such unit of general local government used more than 15 percent of the assistance received under this chapter for fiscal year 1983 for such activities (excluding any assistance received pursuant to Public Law 98–8), in which case such unit of general local government may use not more than the percentage or amount of such assistance used for such activities for such fiscal year, whichever method of calculation yields the higher amount".

Subsec. (a)(14). Pub. L. 98–181, §105(c), substituted "public facilities (except for buildings for the general conduct of government)" for "public facilities".

Subsec. (a)(15). Pub. L. 98–181, §105(d), inserted provision for assistance for shared housing facilities for elderly families, as defined in section 1437a(b)(3) of this title.

Subsec. (a)(18). Pub. L. 98–181, §302(a), added par. (18).

Subsec. (c). Pub. L. 98–181, §105(e), added subsec. (c).

1981—Subsec. (a). Pub. L. 97–35, §309(f)(1), in provisions preceding par. (1) substituted provisions relating to activities eligible for assistance for provisions relating to activities of a Community Development Program eligible for assistance.

Subsec. (a)(6). Pub. L. 97–35, §309(f)(2), struck out "program" after "displaced by".

Subsec. (a)(8). Pub. L. 97–35, §303(a)(1), added new par. (8) which generally revised and restructured provisions relating to provision of public services if such services have not been provided by the relevant unit of local government or State in which such unit is located, and limited amount of assistance under this paragraph to not more than 10 per centum of the amount of any assistance to a unit of general local government under this chapter.

Subsec. (a)(9). Pub. L. 97–35, §309(f)(3), substituted "activities assisted under this chapter" for "Community Development Program".

Subsec. (a)(11). Pub. L. 97–35, §309(f)(4), struck out "to the community development program" after "appropriate".

Subsec. (a)(13). Pub. L. 97–35, §303(a)(2), inserted reference to the carrying out of activities as described in section 701(e) of the Housing Act of 1954 on Aug. 12, 1981.

Subsec. (a)(14). Pub. L. 97–35, §309(f)(5), substituted "which are carried out by public or private non-profit entities" for "(as specifically described in the application submitted pursuant to section 5304 of this title) which are carried out by public or private non-profit entities when such activities are necessary or appropriate to meeting the needs and objectives of the community development plan described in section 5304(a)(1) of this title".

Subsec. (a)(15). Pub. L. 97–35, §309(f)(6), struck out "(as specifically described in the application submitted pursuant to section 5304 of this title)" after "conservation project".

Subsec. (a)(17). Pub. L. 97–35, §303(a)(5), added par. (17).

Subsec. (b). Pub. L. 97–35, §309(g), substituted "assistance" for "a grant".

1980—Subsec. (a)(2). Pub. L. 96–399, §104(c)(1), inserted provisions respecting design features and improvements, power generation and distribution facilities, park, etc., facilities, and recycling and conversion facilities.

Subsec. (a)(4). Pub. L. 96–399, §104(c)(2), (d), inserted provisions respecting rehabilitation which promotes energy efficiency and the renovation of closed school buildings.

Subsec. (a)(8). Pub. L. 96–399, §104(c)(3), inserted reference to energy conservation.

Subsec. (a)(14). Pub. L. 96–399, §104(c)(5), (e)(1), inserted provision respecting the application pursuant to section 5304 of this title.

Subsec. (a)(15). Pub. L. 96–399, §104(c)(4), (5), (e)(2), inserted provisions respecting energy conservation,

and the application submitted pursuant to section 5304 of this title.

Subsec. (a)(16). Pub. L. 96–399, §104(c)(5), added par. (16).

1978—Subsec. (a)(11). Pub. L. 95–557 inserted "displaced" after "payments and assistance for" and substituted "when determined by the grantee to be appropriate to the community development program" for "displaced by activities assisted under this chapter".

1977—Subsec. (a). Pub. L. 95–128, §105(a), inserted in introductory text description of activities covered including the words "These activities".

Subsec. (a)(4). Pub. L. 95–128, §105(b), substituted "(including interim assistance, and financing public or private acquisition for rehabilitation, and rehabilitation, of privately owned properties)" for "(including interim assistance and financing rehabilitation of privately owned properties when incidental to other activities)".

Subsec. (a)(8). Pub. L. 95–128, §105(c), struck out from cl. (A) "economic development," before "crime prevention" and authorized the program to provide public services only if such services have not been provided by the unit of general local government during any part of the twelve-month period preceding the date of application submission for funds to be made available under this chapter, and to be utilized for such services, unless the Secretary finds that the discontinuation of such services was the result of events not within the control of the applicant.

Subsec. (a)(14), (15). Pub. L. 95–128, §105(d), added pars. (14) and (15).

1976—Subsec. (a)(2). Pub. L. 94–375 inserted "centers for the handicapped," after "neighborhood facilities,".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Administrator of the Federal Emergency Management Agency" substituted for "Director of the Federal Emergency Management Agency" in subsec. (a)(25)(A)(iii), (B), (D) on authority of section 612(c) of Pub. L. 109–295, set out as a note under section 313 of Title 6, Domestic Security. Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109–295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109–295, set out as a note under section 313 of Title 6.

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112–141, div. F, title II, §100243(b), July 6, 2012, 126 Stat. 966, provided that the amendment made by section 100243(b) of Pub. L. 112–141 is effective on the date that is 2 years after July 6, 2012.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–116 effective Sept. 30, 2001, see section 603 of Pub. L. 107–116, set out as a note under section 1715n of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

Pub. L. 105–276, title V, §596(b), Oct. 21, 1998, 112 Stat. 2659, provided that: "The amendment made by this section [amending this section] is made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998]."

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–233 applicable with respect to any amounts made available to carry out subchapter II (§12721 et seq.) of chapter 130 of this title after Apr. 11, 1994, and any amounts made available to carry out that subchapter before that date that remain uncommitted on that date, with Secretary to issue any regulations necessary to carry out such amendment not later than end of 45-day period beginning on that date, see section 209 of Pub. L. 103–233, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1990 AMENDMENTS

Pub. L. 104–204, title II, Sept. 26, 1996, 110 Stat. 2887, provided in part: "That for fiscal year 1997 and thereafter, section 105(a)(25) of such Act [section 105(a)(25) [now (24)] of Pub. L. 93–383, classified to subsec. (a)(24) of this section], shall continue to be effective and the termination and conforming provisions of

section 907(b)(2) of the Cranston-Gonzalez National Affordable Housing Act [Pub. L. 101–625, set out below] shall not be effective".

Pub. L. 104–134, title I, §101(e) [title II], Apr. 26, 1996, 110 Stat. 1321–257, 1321–272, provided in part: "That section 105(a)(25) of such Act [section 105(a)(25) [now (24)] of Pub. L. 93–383, classified to subsec. (a)(24) of this section], as added by section 907(b)(1) of the Cranston-Gonzalez National Affordable Housing Act [Pub. L. 101–625], shall continue to be effective after September 30, 1995, notwithstanding section 907(b)(2) of such Act [set out below]".

Pub. L. 104–120, §3(a), Mar. 28, 1996, 110 Stat. 835, provided that: "Notwithstanding the amendments made by section 907(b)(2) of the Cranston-Gonzalez National Affordable Housing Act [Pub. L. 101–625, set out below], section 105(a)(25) of the Housing and Community Development Act of 1974 [subsec. (a)(25) [now (24)] of this section], as in existence on September 30, 1995, shall apply to the use of assistance made available under title I of the Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.] during fiscal year 1996."

Amendment by section 907(b)(2) of Pub. L. 101–625, as amended by Pub. L. 102–550, title VIII, §807(b)(1), (2), Oct. 28, 1992, 106 Stat. 3849, effective "October 1, 1994 (or October 1, 1995, if the Secretary determines that such later date is necessary to continue to provide homeownership assistance until homeownership assistance is available under title II of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12721 et seq.])". [Date extended by Secretary to Oct. 1, 1995, see 59 F.R. 49954, Sept. 30, 1994.]

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98–479, title I, §101(a)(9)(B), Oct. 17, 1984, 98 Stat. 2219, provided that: "The amendment made by subparagraph (A) [amending this section] shall take effect upon the enactment of this Act [Oct. 17, 1984] and shall be implemented through an interim instruction issued by the Secretary of Housing and Urban Development. Not later than June 1, 1985, the Secretary of Housing and Urban Development shall issue a final regulation regarding the provisions of such amendment."

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–181 applicable only to funds available for fiscal year 1984 and thereafter, see section 110(b) of Pub. L. 98–181, as amended, set out as a note under section 5316 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–557 effective Oct. 1, 1978, see section 104 of Pub. L. 95–557, set out as a note under section 1709 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–128 effective Oct. 1, 1977, see section 114 of Pub. L. 95–128, set out as a note under section 5301 of this title.

NON-FEDERAL COST SHARING OF ARMY CORPS OF ENGINEERS PROJECTS

Pub. L. 105–276, title II, Oct. 21, 1998, 112 Stat. 2478, provided in part that: "For any fiscal year, of the amounts made available as emergency funds under the heading 'Community Development Block Grants Fund' and notwithstanding any other provision of law, not more than $250,000 may be used for the non-Federal cost-share of any project funded by the Secretary of the Army through the Corps of Engineers."

BROWNFIELDS PROJECTS AS ELIGIBLE CDBG ACTIVITY

Pub. L. 105–276, title II, §205, Oct. 21, 1998, 112 Stat. 2484, provided that: "For fiscal years 1998, 1999, and all fiscal years thereafter, States and entitlement communities may use funds allocated under the community development block grants program under title I of the Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.] for environmental cleanup and economic development activities related to Brownfields projects in conjunction with the appropriate environmental regulatory agencies, as if such activities were eligible under section 105(a) of such Act [42 U.S.C. 5305(a)]."

Similar provisions were contained in the following prior appropriation act:

Pub. L. 105–65, title II, §209, Oct. 27, 1997, 111 Stat. 1366.

GAO STUDY OF USE OF GRANTS FOR ECONOMIC DEVELOPMENT PROJECTS

Pub. L. 102–550, title VIII, §806(c), Oct. 28, 1992, 106 Stat. 3847, directed Comptroller General to conduct a study of use of grant amounts under this chapter for activities described in paragraphs (14), (15), and (17) of subsec. (a) of this section, including an evaluation of whether the activities for which such amounts are being used under such paragraphs further the goals and objectives of such program, as established in section 5301 of this title, and directed Comptroller General to submit a report to Congress regarding the findings of the study and recommendations not later than the expiration of the 18-month period beginning on Oct. 28, 1992.

ENHANCING JOB QUALITY; REPORT TO CONGRESS

Pub. L. 102–550, title VIII, §806(d), Oct. 28, 1992, 106 Stat. 3847, directed Comptroller General, not later than 1 year after Oct. 28, 1992, to submit to Congress a report on types and quality of jobs created or retained through assistance provided pursuant to this chapter and the extent to which projects and activities assisted under this chapter enhance the upward mobility and future earning capacity of low- and moderate-income persons who are benefited by such projects and activities.

REPORT TO CONGRESS ON EFFECTIVENESS OF ASSISTANCE IN PROMOTING DEVELOPMENT OF MICROENTERPRISES

Pub. L. 102–550, title VIII, §807(c)(4), Oct. 28, 1992, 106 Stat. 3849, directed Secretary, not later than 18 months after Oct. 28, 1992, to submit to Congress a report on effectiveness of assistance provided through this chapter in promoting development of microenterprises, including a review of any statutory or regulatory provision that impedes development of microenterprises.

COMMUNITY INVESTMENT CORPORATION DEMONSTRATION

Pub. L. 102–550, title VIII, §853, Oct. 28, 1992, 106 Stat. 3859, provided for establishment of a demonstration program to develop ways to improve access to capital for initiatives which would benefit specific targeted geographic areas and to test new models for bringing credit and investment capital to low-income persons in targeted geographic areas, using depository institution holding companies and eligible local nonprofit organizations selected by Secretary of Housing and Urban Development to provide capital assistance, grants, and training under direction of an advisory board. Funds for the program were authorized for fiscal years 1993 and 1994 to remain available until expended.

WAIVER OF LIMITATION ON AMOUNT OF FUNDS WHICH MAY BE USED IN FISCAL YEARS 1982, 1983, AND 1984 FOR PUBLIC SERVICE ACTIVITIES

Pub. L. 97–35, title III, §303(b), Aug. 13, 1981, 95 Stat. 388, as amended Pub. L. 98–181, title I [title I, §105(b)(2)], Nov. 30, 1983, 97 Stat. 1164, authorized Secretary, in fiscal years 1982 and 1983, to waive the limitation on amount of funds which could be used for public services activities under subsec. (a)(8) of this section, in the case of a unit of general local government which, during fiscal year 1981, allocated more than 10 per centum of funds received under this chapter for such activities.

[1] *See References in Text note below.*

§5306. Allocation and distribution of funds

(a) Amounts allocated to Indian tribes, discretionary fund, and metropolitan cities and urban counties; limitations on amount of annual grants

(1) For each fiscal year, of the amount approved in appropriation Acts under section 5303 of this title for grants for such fiscal year (excluding the amounts provided for use in accordance with section 5307 of this title), the Secretary shall reserve for grants to Indian tribes 1 percent of the amount appropriated under such section. The Secretary shall provide for distribution of amounts under this paragraph to Indian tribes on the basis of a competition conducted pursuant to specific criteria for the selection of Indian tribes to receive such amounts. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment. Notwithstanding any other provision of this Act, such grants to Indian tribes shall not be subject to the requirements of section 5304 of this title, except subsections (f), (g), and (k) of such section.

(2) For each fiscal year, of the amount approved in appropriation Acts under section 5303 of this title for grants for such fiscal year (excluding the amounts provided for use in accordance with section 5307 of this title), the Secretary shall reserve for grants to insular areas $7,000,000. The

Secretary shall provide for distribution of amounts under this paragraph to insular areas on the basis of the ratio of the population of each insular area to the population of all insular areas. In determining the distribution of amounts to insular areas, the Secretary may also include other statistical criteria as data become available from the Bureau of the Census, but only if such criteria are contained in a regulation promulgated by the Secretary after notice and public comment.

(3) After reserving such amounts for Indian tribes under paragraph (1) and after reserving such amounts for insular areas under paragraph (2), the Secretary shall allocate amounts provided for use under section 5307 of this title.

(4) Of the amount remaining after allocations pursuant to paragraphs (1), (2), and (3), 70 percent shall be allocated by the Secretary to metropolitan cities and urban counties. Except as otherwise specifically authorized, each metropolitan city and urban county shall be entitled to an annual grant from such allocation in an amount not exceeding its basic amount computed pursuant to paragraph (1) or (2) of subsection (b).

(b) Computation of amount allocated to metropolitan cities and urban counties

(1) The Secretary shall determine the amount to be allocated to each metropolitan city which shall be the greater of an amount that bears the same ratio to the allocation for all metropolitan areas as either—

(A) the average of the ratios between—

(i) the population of that city and the population of all metropolitan areas;

(ii) the extent of poverty in that city and the extent of poverty in all metropolitan areas; and

(iii) the extent of housing overcrowding in that city and the extent of housing overcrowding in all metropolitan areas; or

(B) the average of the ratios between—

(i) the extent of growth lag in that city and the extent of growth lag in all metropolitan cities;

(ii) the extent of poverty in that city and the extent of poverty in all metropolitan areas; and

(iii) the age of housing in that city and the age of housing in all metropolitan areas.

(2) The Secretary shall determine the amount to be allocated to each urban county, which shall be the greater of an amount that bears the same ratio to the allocation for all metropolitan areas as either—

(A) the average of the ratios between—

(i) the population of that urban county and the population of all metropolitan areas;

(ii) the extent of poverty in that urban county and the extent of poverty in all metropolitan areas; and

(iii) the extent of housing overcrowding in that urban county and the extent of housing overcrowding in all metropolitan areas; or

(B) the average of the ratios between—

(i) the extent of growth lag in that urban county and the extent of growth lag in all metropolitan cities and urban counties;

(ii) the extent of poverty in that urban county and the extent of poverty in all metropolitan areas; and

(iii) the age of housing in that urban county and the age of housing in all metropolitan areas.

(3) In determining the average of ratios under paragraphs (1)(A) and (2)(A), the ratio involving the extent of poverty shall be counted twice, and each of the other ratios shall be counted once; and in determining the average of ratios under paragraphs (1)(B) and (2)(B), the ratio involving the extent of growth lag shall be counted once, the ratio involving the extent of poverty shall be counted one and one-half times, and the ratio involving the age of housing shall be counted two and one-half times.

(4) In computing amounts or exclusions under this section with respect to any urban county, there shall be excluded units of general local government located in the county the populations of which

are not counted in determining the eligibility of the urban county to receive a grant under this subsection, except that there shall be included any independent city (as defined by the Bureau of the Census) which—

(A) is not part of any county;

(B) is not eligible for a grant pursuant to subsection (b)(1);

(C) is contiguous to the urban county;

(D) has entered into cooperation agreements with the urban county which provide that the urban county is to undertake or to assist in the undertaking of essential community development and housing assistance activities with respect to such independent city; and

(E) is not included as a part of any other unit of general local government for purposes of this section.

Any independent city which is included in any fiscal year for purposes of computing amounts pursuant to the preceding sentence shall not be eligible to receive assistance under subsection (d) with respect to such fiscal year.

(5) In computing amounts under this section with respect to any urban county, there shall be included all of the area of any unit of local government which is part of, but is not located entirely within the boundaries of, such urban county if the part of such unit of local government which is within the boundaries of such urban county would otherwise be included in computing the amount for such urban county under this section, and if the part of such unit of local government which is not within the boundaries of such urban county is not included as a part of any other unit of local government for the purpose of this section. Any amount received by such urban county under this section may be used with respect to the part of such unit of local government which is outside the boundaries of such urban county.

(6)(A) Where data are available, the amount determined under paragraph (1) for a metropolitan city that has been formed by the consolidation of one or more metropolitan cities with an urban county shall be equal to the sum of the amounts that would have been determined under paragraph (1) for the metropolitan city or cities and the balance of the consolidated government, if such consolidation had not occurred. This paragraph shall apply only to any consolidation that—

(i) included all metropolitan cities that received grants under this section for the fiscal year preceding such consolidation and that were located within the urban county;

(ii) included the entire urban county that received a grant under this section for the fiscal year preceding such consolidation; and

(iii) took place on or after January 1, 1983.

(B) The population growth rate of all metropolitan cities referred to in section 5302(a)(12) of this title shall be based on the population of (i) metropolitan cities other than consolidated governments the grant for which is determined under this paragraph; and (ii) cities that were metropolitan cities before their incorporation into consolidated governments. For purposes of calculating the entitlement share for the balance of the consolidated government under this paragraph, the entire balance shall be considered to have been an urban county.

(c) Reallocation of undistributed funds within same metropolitan area as original allocation; amount and calculation of reallocation grant; disaster relief

(1) Except as provided in paragraphs (2) and (4), any amounts allocated to a metropolitan city or an urban county pursuant to the preceding provisions of this section which are not received by the city or county for a fiscal year because of failure to meet the requirements of subsection (a), (b), (c), or (d) of section 5304 of this title, or which become available as a result of actions under section 5304(e) or 5311 of this title, shall be reallocated in the succeeding fiscal year to the other metropolitan cities and urban counties in the same metropolitan area which certify to the satisfaction of the Secretary that they would be adversely affected by the loss of such amounts from the metropolitan area. The amount of the share of funds reallocated under this paragraph for any metropolitan city or urban county shall bear the same ratio to the total of such reallocated funds in the metropolitan area as the amount of funds awarded to the city or county for the fiscal year in

which the reallocated funds become available bears to the total amount of funds awarded to all metropolitan cities and urban counties in the same metropolitan area for that fiscal year, except that—

(A) in determining the amounts awarded to cities or counties for purposes of calculating shares pursuant to this sentence, there shall be excluded from the award of any city or county any amounts which become available as a result of actions against such city or county under section 5311 of this title;

(B) in reallocating amounts resulting from an action under section 5304(e) of this title or section 5311 of this title, a city or county against whom any such action was taken in a fiscal year shall be excluded from a calculation of share for purposes of reallocating, in the succeeding year, the amounts becoming available as a result of such action; and

(C) in no event may the share of reallocated funds for any metropolitan city or urban county exceed 25 per centum of the amount awarded to the city or county under subsection (b) for the fiscal year in which the reallocated funds under this paragraph become available.

Any amounts allocated under subsection (b) which become available for reallocation and for which no metropolitan city or urban county qualifies under this paragraph shall be added to amounts available for allocation under such subsection (b) in the succeeding fiscal year.

(2) Notwithstanding any other provision of this chapter, the Secretary shall make grants from amounts authorized for use under subsection (b) by the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1981, in accordance with the provisions of this chapter which governed grants with respect to such amounts, as such provisions existed prior to October 1, 1981, except that any such amounts which are not obligated before January 1, 1982, shall be reallocated in accordance with paragraph (1).

(3) Notwithstanding the provisions of paragraph (1), the Secretary may upon request transfer responsibility to any metropolitan city for the administration of any amounts received, but not obligated, by the urban county in which such city is located if (A) such city was an included unit of general local government in such county prior to the qualification of such city as a metropolitan city; (B) such amounts were designated and received by such county for use in such city prior to the qualification of such city as a metropolitan city; and (C) such city and county agree to such transfer of responsibility for the administration of such amounts.

(4)(A) Notwithstanding paragraph (1), in the event of a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.], the Secretary shall make available, to metropolitan cities and urban counties located or partially located in the areas affected by the disaster, any amounts that become available as a result of actions under section 5304(e) or 5311 of this title.

(B) In using any amounts that become available as a result of actions under section 5304(e) or 5311 of this title, the Secretary shall give priority to providing emergency assistance under this paragraph.

(C) The Secretary may provide assistance to any metropolitan city or urban county under this paragraph only to the extent necessary to meet emergency community development needs, as the Secretary shall determine (subject to subparagraph (D)), of the city or county resulting from the disaster that are not met with amounts otherwise provided under this chapter, the Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.], and other sources of assistance.

(D) Amounts provided to metropolitan cities and urban counties under this paragraph may be used only for eligible activities under section 5305 of this title, and in implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.

(E) The Secretary shall provide for applications (or amended applications and statements under section 5304 of this title) for assistance under this paragraph.

(F) A metropolitan city or urban county eligible for assistance under this paragraph may receive such assistance only in each of the fiscal years ending during the 3-year period beginning on the date

of the declaration of the disaster by the President.

(G) This paragraph may not be construed to require the Secretary to reserve any amounts that become available as a result of actions under section 5304(e) or 5311 of this title for assistance under this paragraph if, when such amounts are to be reallocated under paragraph (1), no metropolitan city or urban county qualifies for assistance under this paragraph.

(d) Allocation among States for nonentitlement areas; amount and calculation of grants; distributions by State or Secretary; certain distributions made pursuant to prior provisions; certifications required by Governor enumerated; responsibility for administration and administrative expenses; reallocation; certifications required of units of general local government in nonentitlement areas; applicability of this chapter and other law

(1) Of the amount approved in an appropriation Act under section 5303 of this title that remains after allocations pursuant to paragraphs (1), (2), and (3) of subsection (a), 30 per centum shall be allocated among the States for use in nonentitlement areas. The allocation for each State shall be the greater of an amount that bears the same ratio to the allocation for such areas of all States available under this subparagraph as either—

(A) the average of the ratios between—

(i) the population of the nonentitlement areas in that State and the population of the nonentitlement areas of all States;

(ii) the extent of poverty in the nonentitlement areas in that State and the extent of poverty in the nonentitlement areas of all States; and

(iii) the extent of housing overcrowding in the nonentitlement areas in that State and the extent of housing overcrowding in the nonentitlement areas of all States; or

(B) the average of the ratios between—

(i) the age of housing in the nonentitlement areas in that State and the age of housing in the nonentitlement areas of all States;

(ii) the extent of poverty in the nonentitlement areas in that States and the extent of poverty in the nonentitlement areas of all States; and

(iii) the population of the nonentitlement areas in that State and the population of the nonentitlement areas of all States.

In determining the average of the ratios under subparagraph (A) the ratio involving the extent of poverty shall be counted twice and each of the other ratios shall be counted once; and in determining the average of the ratios under subparagraph (B), the ratio involving the age of housing shall be counted two and one-half times, the ratio involving the extent of poverty shall be counted one and one-half times, and the ratio involving population shall be counted once. The Secretary shall, in order to compensate for the discrepancy between the total of the amounts to be allocated under this paragraph and the total of the amounts available under such paragraph, make a pro rata reduction of each amount allocated to the nonentitlement areas in each State under such paragraph so that the nonentitlement areas in each State will receive an amount which represents the same percentage of the total amount available under such paragraph as the percentage which the nonentitlement areas of the same State would have received under such paragraph if the total amount available under such paragraph had equaled the total amount which was allocated under such paragraph.

(2)(A) Amounts allocated under paragraph (1) shall be distributed to units of general local government located in nonentitlement areas of the State to carry out activities in accordance with the provisions of this chapter—

(i) by a State that has elected, in such manner and at such time as the Secretary shall prescribe, to distribute such amounts, consistent with the statement submitted under section 5304(a) of this title; or

(ii) by the Secretary, in any case described in subparagraph (B), for use by units of general local government in accordance with paragraph (3)(B).

Any election to distribute funds made after the close of fiscal year 1984 is permanent and final.

Notwithstanding any provision of this chapter, the Secretary shall make grants from amounts authorized for use in nonentitlement areas by the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1981, in accordance with the provisions of this chapter which governed grants with respect to such amounts, as such provisions existed prior to October 1, 1981. Any amounts under the preceding sentence (except amounts for which preapplications have been approved by the Secretary prior to October 1, 1981, and which have been obligated by January 1, 1982) which are or become available for obligation after fiscal year 1981 shall be available for distribution in the State in which the grants from such amounts were made, by the State or by the Secretary, whichever is distributing the State allocation in the fiscal year in which such amounts are or become available.

(B) The Secretary shall distribute amounts allocated under paragraph (1) if the State has not elected to distribute such amounts.

(C) To receive and distribute amounts allocated under paragraph (1), the State must certify that it, with respect to units of general local government in nonentitlement areas—

(i) engages or will engage in planning for community development activities;

(ii) provides or will provide technical assistance to units of general local government in connection with community development programs;

(iii) will not refuse to distribute such amounts to any unit of general local government on the basis of the particular eligible activity selected by such unit of general local government to meet its community development needs, except that this clause may not be considered to prevent a State from establishing priorities in distributing such amounts on the basis of the activities selected; and

(iv) has consulted with local elected officials from among units of general local government located in nonentitlement areas of that State in determining the method of distribution of funds required by subparagraph (A).

(D) To receive and distribute amounts allocated under paragraph (1), the State shall certify that each unit of general local government to be distributed funds will be required to identify its community development and housing needs, including the needs of low and moderate income persons, and the activities to be undertaken to meet such needs.

(3)(A) If the State receives and distributes such amounts, it shall be responsible for the administration of funds so distributed. The State shall pay from its own resources all administrative expenses incurred by the State in carrying out its responsibilities under this chapter or section 1437o(e)(1) [1] of this title, except that from the amounts received for distribution in nonentitlement areas, the State may deduct an amount to cover such expenses and its administrative expenses under section 1706e [1] of title 12 not to exceed the sum of $100,000 plus 50 percent of any such expenses under this chapter in excess of $100,000. Amounts deducted in excess of $100,000 shall not, subject to paragraph (6), exceed 3 percent of the amount so received.

(B) If the Secretary distributes such amounts, the distribution shall be made in accordance with determinations of the Secretary pursuant to statements submitted and the other requirements of section 5304 of this title (other than subsection (c)) and in accordance with regulations and procedures prescribed by the Secretary.

(C) Any amounts allocated for use in a State under paragraph (1) that are not received by the State for any fiscal year because of failure to meet the requirements of subsection (a), (b), or (d) of section 5304 of this title or to make the certifications required in subparagraphs (C) and (D) of paragraph (2), or that become available as a result of actions against the State under section 5304(e) or 5311 of this title, shall be added to amounts allocated to all States under paragraph (1) for the succeeding fiscal year.

(D) Any amounts allocated for use in a State under paragraph (1) that become available as a result of actions under section 5304(e) or 5311 of this title against units of general local government in nonentitlement areas of the State or as a result of the closeout of a grant made by the Secretary under this section in nonentitlement areas of the State shall be added to amounts allocated to the State under paragraph (1) for the fiscal year in which the amounts become so available.

(4) Any combination of units of general local governments may not be required to obtain

recognition by the Secretary pursuant to section 5302(a)(1) of this title to be treated as a single unit of general local government for purposes of this subsection.

(5) From the amounts received under paragraph (1) for distribution in nonentitlement areas, the State may deduct an amount, subject to paragraph (6), not to exceed 3 percent of the amount so received, to provide technical assistance to local governments and nonprofit program recipients.

(6) Of the amounts received under paragraph (1), the State may deduct not more than an aggregate total of 3 percent of such amounts for—

(A) administrative expenses under paragraph (3)(A); and

(B) technical assistance under paragraph (5).

(7) No amount may be distributed by any State or the Secretary under this subsection to any unit of general local government located in a nonentitlement area unless such unit of general local government certifies that—

(A) it will minimize displacement of persons as a result of activities assisted with such amounts;

(B) its program will be conducted and administered in conformity with the Civil Rights Act of 1964 [42 U.S.C. 2000a et seq.] and the Fair Housing Act [42 U.S.C. 3601 et seq.], and that it will affirmatively further fair housing;

(C) it will provide for opportunities for citizen participation, hearings, and access to information with respect to its community development program that are comparable to those required of grantees under section 5304(a)(2) of this title; and

(D) it will not attempt to recover any capital costs of public improvements assisted in whole or part under this section or with amounts resulting from a guarantee under section 5308 of this title by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless (i) funds received under this section are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under this chapter; or (ii) for purposes of assessing any amount against properties owned and occupied by persons of moderate income, the grantee certifies to the Secretary or such State, as the case may be, that it lacks sufficient funds received under this section to comply with the requirements of clause (i).

(8) Any activities conducted with amounts received by a unit of general local government under this subsection shall be subject to the applicable provisions of this chapter and other Federal law in the same manner and to the same extent as activities conducted with amounts received by a unit of general local government under subsection (a).

(e) Qualification or submission dates, and finality and conclusiveness of computations and determinations

The Secretary may fix such qualification or submission dates as he determines are necessary to permit the computations and determinations required by this section to be made in a timely manner, and all such computations and determinations shall be final and conclusive.

(f) Pro rata adjustment of entitlement amounts

If the total amount available for distribution in any fiscal year to metropolitan cities and urban counties under this section is insufficient to provide the amounts to which metropolitan cities and urban counties would be entitled under subsection (b), and funds are not otherwise appropriated to meet the deficiency, the Secretary shall meet the deficiency through a pro rata reduction of all amounts determined under subsection (b). If the total amount available for distribution in any fiscal year to metropolitan cities and urban counties under this section exceeds the amounts to which metropolitan cities and urban counties would be entitled under subsection (b), the Secretary shall distribute the excess through a pro rata increase of all amounts determined under subsection (b).

(Pub. L. 93–383, title I, §106, Aug. 22, 1974, 88 Stat. 642; Pub. L. 95–128, title I, §106, Oct. 12, 1977, 91 Stat. 1117; Pub. L. 96–153, title I, §103(d), (e), Dec. 21, 1979, 93 Stat. 1102; Pub. L. 96–399, title I, §§102, 103, 111(d)–(g), 112, Oct. 8, 1980, 94 Stat. 1615, 1621, 1622; Pub. L. 97–35,

title III, §§304, 309(h), Aug. 13, 1981, 95 Stat. 388, 396; Pub. L. 98–181, title I [title I, §106], Nov. 30, 1983, 97 Stat. 1164; Pub. L. 98–479, title I, §101(a)(10)–(12), Oct. 17, 1984, 98 Stat. 2219, 2220; Pub. L. 100–242, title V, §§512, 513, 517(b)(1), Feb. 5, 1988, 101 Stat. 1930, 1936; Pub. L. 100–628, title X, §1082(b), (c), Nov. 7, 1988, 102 Stat. 3277; Pub. L. 101–235, title VII, §702(b), Dec. 15, 1989, 103 Stat. 2056; Pub. L. 101–625, title IX, §§913(b), 933, Nov. 28, 1990, 104 Stat. 4392, 4403; Pub. L. 102–550, title VIII, §§802(b), 808, 811, title XII, §1204(i), Oct. 28, 1992, 106 Stat. 3845, 3850, 3940; Pub. L. 108–186, title V, §501(d), (e), Dec. 16, 2003, 117 Stat. 2697; Pub. L. 108–199, div. G, title IV, §423, Jan. 23, 2004, 118 Stat. 416.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(1), is Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, known as the Housing and Community Development Act of 1974. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

This chapter, referred to in subsecs. (c)(2), (4)(C) and (d)(2)(A), (3)(A), (7)(D)(i), (8), was in the original "this title", meaning title I of Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, which is classified principally to this chapter. For complete classification of title I to the Code, see Tables.

The Department of Housing and Urban Development—Related Agencies Appropriation Act, 1981, referred to in subsecs. (c)(2) and (d)(2)(A), is Pub. L. 96–526, Dec. 15, 1980, 94 Stat. 3044. For complete classification of this Act to the Code, see Tables.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (c)(4)(A), (C), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, which is classified principally to chapter 68 (§5121 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

This subparagraph, referred to in subsec. (d)(1), probably should be a reference to this paragraph, meaning par. (1) of subsec. (d) of this section.

Section 1437o of this title and section 1706e of title 12, referred to in subsec. (d)(3)(A), was repealed by Pub. L. 101–625, title II, §289(b), Nov. 28, 1990, 104 Stat. 4128.

The Civil Rights Act of 1964, referred to in subsec. (d)(7)(B), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, which is classified principally to subchapters II to IX (§2000a 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.

The Fair Housing Act, referred to in subsec. (d)(7)(B), is title VIII of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 81, which is classified principally to subchapter I (§3601 et seq.) of chapter 45 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

CODIFICATION

In subsecs. (c)(2) and (d)(2)(A), "October 1, 1981" substituted for "the effective date of the Housing and Community Development Amendments of 1981" meaning the effective date of subtitle A of title III of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 384, which was generally effective Oct. 1, 1981. See Effective Date of 1981 Amendment note below.

AMENDMENTS

2004—Subsec. (d)(3)(A). Pub. L. 108–199, §423(1), substituted "shall not, subject to paragraph (6), exceed 3 percent" for "shall not exceed 2 percent".

Subsec. (d)(5). Pub. L. 108–199, §423(3), redesignated par. (5), relating to prohibition of distributions to units of general local government without certifications, as (7).

Pub. L. 108–199, §423(2), substituted "subject to paragraph (6), not to exceed 3 percent" for "not to exceed 1 percent" in par. (5), relating to State deductions for technical assistance.

Subsec. (d)(6). Pub. L. 108–199, §423(4), added par. (6). Former par. (6) redesignated (8).

Subsec. (d)(7), (8). Pub. L. 108–199, §423(3), redesignated pars. (5), relating to prohibition of distributions to units of general local government without certifications, and (6) as pars. (7) and (8), respectively.

2003—Subsec. (a)(1). Pub. L. 108–186, §501(d)(1), in first sentence, substituted "appropriation Acts" for "an appropriation Act" and "for such fiscal year" for "in any year".

Subsec. (a)(2). Pub. L. 108–186, §501(d)(5), added par. (2). Former par. (2) redesignated (3).

Pub. L. 108–186, §501(d)(2), inserted "under paragraph (1) and after reserving such amounts for insular areas under paragraph (2)" after "tribes".

Subsec. (a)(3). Pub. L. 108–186, §501(d)(4), redesignated par. (2) as (3). Former par. (3) redesignated (4).

Pub. L. 108–186, §501(d)(3), substituted "paragraphs (1), (2), and (3)" for "paragraphs (1) and (2)".

Subsec. (a)(4). Pub. L. 108–186, §501(d)(4), redesignated par. (3) as (4).

Subsec. (d)(1). Pub. L. 108–186, §501(e), substituted "paragraphs (1), (2), and (3)" for "paragraphs (1) and (2)" in first sentence.

1992—Subsec. (d)(1). Pub. L. 102–550, §1204(i), in first sentence, substituted "that remains after allocations pursuant to paragraphs (1) and (2) of subsection (a)" for "for grants in any year (excluding the amounts provided for use in accordance with subsection (a)(1) and (2) of this section)".

Subsec. (d)(4). Pub. L. 102–550, §802(b), added par. (4).

Subsec. (d)(5). Pub. L. 102–550, §811, added par. (5) relating to State deductions for technical assistance.

Subsec. (d)(5)(B). Pub. L. 102–550, §808, substituted "the Civil Rights Act of 1964 and the Fair Housing Act" for "Public Law 88–352 and Public Law 90–284".

1990—Subsec. (a). Pub. L. 101–625, §913(b)(1)(B), added subsec. (a) and struck out former subsec. (a) which read as follows: "Of the amount approved in an appropriation Act under section 5303 of this title for grants in any year (excluding the amounts provided for use in accordance with section 5307 of this title and section 5318 of this title), 70 per centum shall be allocated by the Secretary to metropolitan cities and urban counties and Indian tribes. Except as otherwise specifically authorized, each metropolitan city and urban county shall be entitled to an annual grant from such allocation in an amount not exceeding its basic amount computed pursuant to paragraph (1) or (2) of subsection (b) of this section Indian tribes shall receive grants from such allocation pursuant to subsection (b)(7) of this section."

Subsec. (b)(1), (2). Pub. L. 101–625, §913(b)(2), substituted "The" for "After taking into account the set-aside for Indian tribes under paragraph (7), the" in introductory provisions of pars. (1) and (2).

Subsec. (b)(7). Pub. L. 101–625, §913(b)(1)(A), struck out par. (7), which read as follows:

"(A) For each fiscal year, the Secretary shall reserve for grants to Indian tribes, from amounts approved in appropriation Acts under section 5303 of this title for grants for the year under subsection (a) of this section, not more than 1 percent of the amounts appropriated under such section.

"(B) The Secretary shall provide for distribution of amounts under this paragraph to Indian tribes on the basis of a competition conducted pursuant to specific criteria for the selection of Indian tribes to receive such amounts. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment."

Subsec. (c)(1). Pub. L. 101–625, §933(1), substituted "paragraphs (2) and (4)" for "paragraph (2)" in introductory provisions.

Subsec. (c)(4). Pub. L. 101–625, §933(2), added par. (4).

Subsec. (d)(1). Pub. L. 101–625, §913(b)(3), substituted "subsection (a)(1) and (2) of this section" for "section 5307 of this title and section 5318 of this title" in introductory provisions.

1989—Subsec. (a). Pub. L. 101–235, §702(b)(1), inserted "and Indian tribes" after "urban counties" in first sentence and inserted "Indian tribes shall receive grants from such allocation pursuant to subsection (b)(7) of this section" before period at end of second sentence.

Subsec. (b)(1). Pub. L. 101–235, §702(b)(2), substituted "After taking into account the set-aside for Indian tribes under paragraph (7), the" for "The".

Subsec. (b)(2). Pub. L. 101–235, §702(b)(3), substituted "After taking into account the set-aside for Indian tribes under paragraph (7), the" for "The".

Subsec. (b)(7). Pub. L. 101–235, §702(b)(4), added par. (7).

Subsec. (d)(4). Pub. L. 101–235, §702(b)(5), struck out par. (4) which excluded Indian tribes in computing amounts under par. (1).

1988—Subsec. (c)(1). Pub. L. 100–628, §1082(b), substituted "subsection (a), (b), (c), or (d) of section 5304" for "section 5304(a), (b), or (c)" in introductory provisions and substituted "section 5304(e)" for "section 5304(d)" in introductory provisions and in subpar. (B).

Subsec. (d)(2)(C). Pub. L. 100–242, §512(1), substituted "the State must certify that it" for "the Governor must certify that the State".

Subsec. (d)(2)(D). Pub. L. 100–242, §512(2), substituted "the State" for "the Governor of each State".

Subsec. (d)(3)(A). Pub. L. 100–242, §517(b)(1), inserted "its administrative expenses under section 1706e of title 12" after first reference to "such expenses", and "under this chapter" after second reference to "such expenses".

Pub. L. 100–242, §513, substituted "$100,000" for "$102,000" after "the sum of".

Subsec. (d)(3)(C). Pub. L. 100–628, §1082(c), substituted "subsection (a), (b), or (d) of section 5304" for "subsection (a) or (b) of section 5304" and "section 5304(e)" for "section 5304(d)".

Subsec. (d)(3)(D). Pub. L. 100–628, §1082(c)(2), substituted "section 5304(e)" for "section 5304(d)".

1984—Subsec. (d)(2)(A). Pub. L. 98–479, §101(a)(10)(A), substituted "the State" for "a State that has elected, in such manner and at such time as the Secretary shall prescribe" in provisions preceding cl. (i).

Subsec. (d)(2)(A)(i). Pub. L. 98–479, §101(a)(10)(B), substituted "a State that has elected, in such manner and at such time as the Secretary shall prescribe, to distribute such amounts" for "the State".

Subsec. (d)(3)(A). Pub. L. 98–479, §101(a)(11)(A), inserted "or section 1437o(e)(1) of this title".

Subsec. (d)(3)(C). Pub. L. 98–479, §101(a)(11)(B), inserted "or to make the certifications required in subparagraphs (C) and (D) of paragraph (2)".

Subsec. (d)(5)(D)(ii). Pub. L. 98–479, §101(a)(12), substituted "moderate" for "low and moderate income who are not persons of very low" before "income, the grantee certifies".

1983—Subsec. (b)(6). Pub. L. 98–181, §106(a), added par. (6).

Subsec. (c)(1)(B). Pub. L. 98–181, §106(b), substituted "a city or county against whom any such action was taken in a fiscal year shall be excluded from a calculation of share for purposes of reallocating in the succeeding year," for "the city or county against whom any such action was taken shall be excluded from the calculation of shares for purposes of reallocating".

Subsec. (c)(3). Pub. L. 98–181, §106(c), added par. (3).

Subsec. (d)(2)(A). Pub. L. 98–181, §106(d)(1), substituted "a State that has elected, in such manner and at such time as the Secretary shall prescribe" for "the State" in provisions preceding cl. (i), and inserted, following cl. (ii), "Any election to distribute funds made after the close of fiscal year 1984 is permanent and final."

Subsec. (d)(2)(B). Pub. L. 98–181, §106(d)(2), substituted provisions requiring the Secretary to distribute amounts allocated under par. (1) if the State has not elected to distribute such amounts, for provisions which required the Secretary to distribute such amounts where the State had elected, in such manner and before such time as prescribed by the Secretary, not to distribute such amounts, or the State had failed to submit the certifications described in subpar. (C).

Subsec. (d)(2)(C)(iii). Pub. L. 98–181, §106(e), amended cl. (iii) generally, substituting provisions requiring certification by the Governor that the State will not refuse to distribute funds to any local government unit on the basis of the particular activity selected to meet its community development needs, except that a State may establish priorities in distributing such amounts, for provisions requiring the Governor to certify that the State would provide funds for community development activities in an amount of at least 10 per centum of the amounts allocated for use in the State pursuant to par. (1).

Subsec. (d)(2)(D). Pub. L. 98–181, §106(f), added subpar. (D).

Subsec. (d)(3)(A). Pub. L. 98–181, §106(g), substituted provisions that the State may deduct an amount to cover such expenses not to exceed the sum of $102,000 plus 50 percent of any such expenses in excess of $100,000, and that the amounts deducted in excess of $100,000 shall not exceed 2 percent of the amount so received, for provisions that the State could deduct an amount not to exceed 50 per centum of the costs incurred by the State in carrying out such responsibilities, and that amounts so deducted could not exceed 2 per centum of the amount so received.

Subsec. (d)(3)(C), (D). Pub. L. 98–181, §106(h), amended subpar. (C) generally, substituting provisions requiring that amounts which are to be reallocated because of failure to meet requirements of section 5304(a), (b) of this title or because of action under section 5304(d) or 5311 of this title be added to amounts allocated to all States for the succeeding fiscal year for provisions that amounts reallocated because of action under section 5304(d) or section 5311 of this title were to be added to amounts available for distribution in the State in the same fiscal year, in the case of actions against units of general local government, or to amounts available for distribution in the succeeding fiscal year, in the case of action against the State, and struck out provision for distribution of such funds by either the State or the Secretary and adding subpar. (D).

Subsec. (d)(5), (6). Pub. L. 98–181, §106(i), added pars. (5) and (6).

Subsec. (f). Pub. L. 98–181, §106(j), amended subsec. (f) generally, substituting provisions for pro rata reduction of all amounts determined under subsec. (b) in the event of a deficiency for provisions for reduction of all basic grant entitlement funds provided pursuant to this section in the event of a deficiency, and inserted provision for distribution of excess amounts.

1981—Subsec. (a). Pub. L. 97–35, §304(a), substituted provisions relating to amounts allocated to metropolitan areas and urban counties and limitations on amount of annual grants for provisions relating to amounts allocated to metropolitan areas, annual grants for metropolitan cities and urban counties, and limitations.

Subsec. (b)(4). Pub. L. 97–35, §309(h), substituted provision respecting assistance under subsec. (d) of this section for provision respecting grants under subsec. (c) or (e) of this section.

Subsec. (c). Pub. L. 97–35, §304(b), (c), redesignated subsec. (d) as (c) and substituted provisions relating to reallocation of undistributed funds within same metropolitan area as original allocation, for provisions

relating to reallocation of amounts allocated to metropolitan cities, urban counties, and metropolitan areas for use by States, metropolitan cities, etc. Former subsec. (c), which related to additional allocations of amount allocated to metropolitan areas and added amounts for grants for metropolitan cities, urban counties, specified units of general local government, and States, was struck out.

Subsec. (d). Pub. L. 97–35, §304(b), (d), (e), redesignated subsec. (e) as (d) and substituted provisions relating to allocation among nonentitlement areas, amount and calculation of grants, distributions, certifications, etc., for provisions relating to amounts allocated to units of general local government of metropolitan areas and States, calculations, multiyear commitments, annual grants, reallocation of amounts to nonmetropolitan areas of other States, and review by Secretary. Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 97–35, §304(b), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsecs. (f), (g). Pub. L. 97–35, §304(b), (f), redesignated subsec. (g) as (f) and substituted "all basic grant entitlement amounts" for "(1) all basic grant entitlement amounts, and (2) funds available under subsection (c) of this section (including amounts provided for use under section 5303(a)(2) of this title) and subsection (e) of this section". Former subsec. (f) redesignated (e).

1980—Subsec. (a). Pub. L. 96–399, §111(e), substituted "subsection (d) of this section" for "subsections (c) and (e) of this section", struck out "aggregate" after "allocation in an", "the greater of" after "not exceeding", and "or its hold-harmless amount computed pursuant to subsection (g) of this section" after "subsection (b) of this section".

Subsec. (b)(4). Pub. L. 96–399, §103, substituted "the populations of which are not counted in determining the eligibility of the urban county to receive a grant under this subsection, except that there shall be included any independent city (as defined by the Bureau of the Census) which—" for "(A) which are entitled to hold-harmless grants pursuant to subsection (h) of this section, or (B) the populations of which are not counted in determining the eligibility of the urban county to receive a grant under this subsection", and added subpars. (A) to (E) and provision following subpar. (E).

Subsec. (c). Pub. L. 96–399, §111(d), (f), redesignated former subsec. (d) as (c) and struck out in par. (1) "allocated by the Secretary, first, for grants to metropolitan cities, urban counties, and other units of general local government within metropolitan areas to meet their hold-harmless needs as determined under subsections (g) and (h), and second, in accordance with the provisions of paragraph (2)" after "section 5303(a)(2) of this title", struck out "(2) Any portion of such amounts which remains after applying the provision of paragraph (1) shall be" before "utilized by the Secretary", redesignated former par. (3) as (2) and in par. (2) as so redesignated, substituted "paragraph (1)" for "paragraph (2)" wherever appearing, struck out "In determining whether to make such a commitment to a unit of general local government, the Secretary shall give special consideration to those communities presently carrying out comprehensive community development programs which are subject to the provisions of subsection (h)(2), before making new commitments." after "availability of appropriations.", and substituted "and Indian tribes" for "Indian tribes, and units of general local government which are entitled to hold-harmless grants pursuant to subsection (h) of this section". Former subsec. (c), relating to adjustment of amounts for metropolitan cities and urban counties, was struck out.

Subsec. (d). Pub. L. 96–399, §§111(d), 112, redesignated former subsec. (e) as (d) and inserted provisions relating to preferences for units of general local government in the same metropolitan area. Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 96–399, §111(d), (g), redesignated former subsec. (f) as (e) and in par. (1) struck out "allocated by the Secretary—(A) first, for grants to units of general local government outside of metropolitan areas to meet their hold-harmless needs as determined under subsection (h) of this section; and (B) second, any portion of such amount which remains after applying the provisions of subparagraph (A) shall be" after "20 per centum shall be", redesignated former cls. (1)(B)(i) and (ii) as (1)(A) and (B), respectively, redesignated former subcls. (1)(B)(i)(I) to (III) and (1)(B)(ii)(I) to (III) as (1)(A)(i) to (iii) and (1)(B)(i) to (iii), respectively, substituted "subparagraph (A)" for "clause (i) of subparagraph (B)" and "subparagraph (B)" for "clause (ii) of subparagraph (B)", substituted "allocated under this paragraph" for "allocated under subparagraph (B)", substituted "such paragraph" for "such subparagraph" wherever appearing, in par. (2) struck out "In determining whether to make such a commitment to a unit of general local government, the Secretary shall give special consideration to those communities presently carrying out comprehensive community development programs, which are subject to the provisions of subsection (h)(2) of this section, before making new commitments." after "availability of appropriations.", substituted "paragraph (1)" for "paragraph (1)(B)" wherever appearing, struck out "units of general local government which are entitled to hold-harmless grants pursuant to subsection (h) of this section and" after "shall be excluded", and in par. (3) substituted "paragraph (1)" for "paragraph (1)(B)". Former subsec. (e) was redesignated as (d).

Subsec. (f). Pub. L. 96–399, §111(d), redesignated subsec. (k) as (f). Former subsec. (f) redesignated (e).

Subsec. (g). Pub. L. 96–399, §§102, 111(d), redesignated subsec. (m) as (g) and substituted "any fiscal year" for "fiscal year 1978, fiscal year 1979, or fiscal year 1980", struck out "and hold-harmless" after "all basic grant" in two places, and substituted "subsection (c)" for "subsection (d)(2)" and "subsection (e)" for "subsection (f)(1)(B)". Former subsec. (g), relating to hold-harmless amounts for metropolitan cities and urban counties, was struck out.

Subsec. (h). Pub. L. 96–399, §111(d), struck out subsec. (h) which related to hold-harmless grants to units of general local government not metropolitan cities or urban counties.

Subsec. (i). Pub. L. 96–399, §111(d), struck out subsec. (i) which related to percentages excluded from data in computation of hold-harmless grants for units of general local government.

Subsec. (j). Pub. L. 96–399, §111(d), struck out subsec. (j) which related to waiver of eligibility by units of general local government for hold-harmless grants.

Subsec. (k). Pub. L. 96–399, §111(d), redesignated subsec. (k) as (f).

Subsec. (l). Pub. L. 96–399, §111(d), struck out subsec. (l) which related to reports to Congress with respect to adequacy and effectiveness of formula for allocation of funds.

Subsec. (m). Pub. L. 96–399, §111(d), redesignated subsec. (m) as (g).

1979—Subsec. (b)(5). Pub. L. 96–153, §103(e), added par. (5).

Subsec. (m). Pub. L. 96–153, §103(d), inserted reference to fiscal year 1980.

1977—Subsec. (a). Pub. L. 95–128, §106(a), substituted in second sentence reference to pars. "(1) or (2)" for pars. "(2) or (3)" of subsec. (b) of this section.

Subsec. (b)(1). Pub. L. 95–128, §106(b), added par. (1), and struck out former par. (1) provisions stating that "The Secretary shall determine the amount to be allocated to all metropolitan cities which shall be an amount that bears the same ratio to the allocation for all metropolitan areas as the average of the ratios between—

"(A) the population of all metropolitan cities and the population of all metropolitan areas;

"(B) the extent of poverty in all metropolitan cities and the extent of poverty in all metropolitan areas; and

"(C) the extent of housing overcrowding in all metropolitan cities and the extent of housing overcrowding in all metropolitan areas.", now incorporated in this paragraph.

Subsec. (b)(2). Pub. L. 95–128, §106(b), added par. (2) and struck out former par. (2) provisions declaring that "From the amount allocated to all metropolitan cities the Secretary shall determine for each metropolitan city a basic grant amount which shall equal an amount that bears the same ratio to the allocation for all metropolitan cities as the average of the ratios between—

"(A) the population of that city and the population of all metropolitan cities;

"(B) the extent of poverty in that city and the extent of poverty in all metropolitan cities; and

"(C) the extent of housing overcrowding in that city and the extent of housing overcrowding in all metropolitan cities.", now incorporated in subsec. (b)(1) of this section.

Subsec. (b)(3). Pub. L. 95–128, §106(b), added par. (3) and struck out former par. (3) provisions for determination of basic grant amount of each urban county, now covered in subsec. (b)(2) of this section and formerly providing that "The Secretary shall determine the basic grant amount of each urban county by—

"(A) calculating the total amount that would have been allocated to metropolitan cities and urban counties together under paragraph (1) of this subsection if data pertaining to the population, extent of poverty, and extent of housing overcrowding in all urban counties were included in the numerator of each of the fractions described in such paragraph; and

"(B) determining for each county the amount which bears the same ratio to the total amount calculated under subparagraph (A) of this paragraph as the average of the ratios between—

"(i) the population of that urban county and the population of all metropolitan cities and urban counties;

"(ii) the extent of poverty in that urban county and the extent of poverty in all metropolitan cities and urban counties; and

"(iii) the extent of housing overcrowding in that urban county and the extent of housing overcrowding in all metropolitan cities and urban counties."

Subsec. (b)(4), (5). Pub. L. 95–128, §106(b), (c), struck out par. "(4) In determining the average of ratios under paragraphs (1), (2), and (3), the ratio involving the extent of poverty shall be counted twice.", now incorporated in par. (3), redesignated par. (5) as (4), and substituted "are entitled to" for "receive".

Subsec. (c). Pub. L. 95–128, §106(d), in first sentence, substituted "With respect to funds approved for distribution to a metropolitan city or urban county under this section during fiscal years 1975, 1976, and 1977"

for "During the first three years for which funds are approved for distribution to a metropolitan city or urban county under this section" and inserted "only for such funds approved for distribution in fiscal years 1975, 1976, and 1977" after "adjusted".

Subsec. (d). Pub. L. 95–128, §106(e), incorporated existing introductory text and provisions of former par. (1) in provisions now designated par. (1); added par. (2), incorporating provisions of former par. (2) respecting additional allocations by the Secretary "for grants to units of general local government (other than metropolitan cities and urban counties) and States for use in metropolitan areas, allocating for each such metropolitan area an amount which bears the same ratio to the allocation for all metropolitan areas available under this paragraph as the average of the ratios between—

"(A) the population of that metropolitan area and the population of all metropolitan areas,

"(B) the extent of poverty in that metropolitan area and the extent of poverty in all metropolitan areas, and

"(C) the extent of housing overcrowding in that metropolitan area and the extent of housing overcrowding in all metropolitan areas." and declaring that "In determining the average of ratios under paragraph (2), the ratio involving the extent of poverty shall be counted twice"; struck out end clause providing that "in computing amounts under such paragraph there shall be excluded any metropolitan cities, urban counties, and units of general local government which receive hold–harmless grants pursuant to subsection (h) of this section", now constituting last sentence of par. (3); and added par. (3) provisions.

Subsec. (e). Pub. L. 95–128, §106(f), in first sentence, substituted "within a reasonable time" for "during such program period" and struck out "during the same period" after "shall be reallocated".

Subsec. (f)(1). Pub. L. 95–128, §106(g)(1), inserted in subpar. (B) "any portion of such amount which remains after applying the provisions of subparagraph (A) shall be utilized by the Secretary" after "second," and "the greater of" before "an amount"; reenacted existing provisions in cl. (i); added cl. (ii); inserted provision respecting determination of average of ratios under cl. (ii) of subpar. (B) and provision for pro rata reduction, to compensate for the discrepancy between the total of the amounts to be allocated under subpar. (B) and the total of the amounts available under such subparagraph, of each amount allocated to the nonmetropolitan areas in each State under such subparagraph; and struck out end clause providing that in computing amounts under such subpar. (B) there shall be excluded units of general local government which receive hold–harmless grants pursuant to subsec. (h) of this section, now constituting end sentence of subsec. (f)(2) of this section.

Subsec. (f)(2). Pub. L. 95–128, §106(g)(1), (2), added par. (2) and redesignated former par. (2) as (3).

Subsec. (f)(3). Pub. L. 95–128, §106(g)(2)–(4), redesignated former par. (2) as (3), substituted "within a reasonable time" for "during such period", and struck out "during the same period" after "as soon as practicable".

Subsec. (g)(2). Pub. L. 95–128, §106(h), substituted reference to "subsection (b)(1)(A) or (B), or (2)(A) or (B) of this section" for "subsection (b)(2) or (3) of this section" and inserted in cls. (i) and (ii) ", as computed under subsection (b)(1)(A) or (B), or (2)(A) or (B) of this section," before "shall".

Subsec. (i). Pub. L. 95–128, §106(i), struck out "population, poverty, and housing overcrowding" before "data" and substituted "are entitled to" for "receive" and reference to subsec. (b)(4) for (b)(5) of this section.

Subsec. (j). Pub. L. 95–128, §106(j), substituted "by such date as the Secretary shall determine" for "not later than thirty days prior to the beginning of any program period" and reference to subsec. (b)(4) for (b)(5) of this section and inserted "for a hold–harmless grant for a single year" after "eligibility".

Subsec. (l). Pub. L. 95–128, §106(k), substituted provisions for submission of a report to Congress not later than Sept. 30, 1978, respecting adequacy of funds allocation formula and defining "impaction" for prior requirement of a report to Congress not later than Mar. 31, 1977, setting forth recommendations to further purposes and policies of this chapter, for modifying or expanding the provisions of this section relating to the method of funding and the allocation of funds and the determination of basic grant entitlement, and for application of the provisions in the further distribution of funds under this chapter and the conduct of a study by the Secretary respecting manner of distributing funds under this chapter in accordance with community development needs, objectives, and capacities, measured to the maximum extent feasible by objective standards.

Subsec. (m). Pub. L. 95–128, §106(l), added subsec. (m).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101–625, title IX, §913(f), Nov. 28, 1990, 104 Stat. 4393, provided that:

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section

[amending this section and sections 5301 and 5307 of this title] shall apply to amounts approved in any appropriation Act under section 103 of the Housing and Community Development Act of 1974 [section 5303 of this title] for fiscal year 1990 and each fiscal year thereafter.

"(2) GRANTS IN FISCAL YEAR 1990.—The Secretary of Housing and Urban Development may make grants to Indian tribes pursuant to the amendments made by this section with any amounts approved in any appropriation Act under section 103 for fiscal year 1990 for grants to Indian tribes, and the first sentence of section 106(a)(1) of the Housing and Community Development Act of 1974 [subsec. (a)(1) of this section] (as amended by this Act) shall not apply to such grants."

EFFECTIVE DATE OF 1989 AMENDMENT

Section 702(e) of Pub. L. 101–235, as amended by Pub. L. 101–625, title IX, §913(e), Nov. 28, 1990, 104 Stat. 4393, provided that: "The amendments made by this section [amending this section and section 5302 of this title] shall apply to amounts approved in any appropriation Act under section 103 of the Housing and Community Development Act of 1974 [section 5303 of this title] for fiscal year 1990 and each fiscal year thereafter."

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–181 applicable only to funds available for fiscal year 1984 and thereafter, see section 110(b) of Pub. L. 98–181, as amended, set out as a note under section 5316 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–128 effective Oct. 1, 1977, see section 114 of Pub. L. 95–128, set out as a note under section 5301 of this title.

REGULATIONS

Pub. L. 101–235, title VII, §702(d), Dec. 15, 1989, 103 Stat. 2057, provided that: "The Secretary shall issue any regulations necessary to carry out this section and the amendments made by this section [amending this section and section 5302 of this title and enacting provisions set out as notes above] in a manner and by such time to provide for the effectiveness of such regulations with respect to amounts appropriated for fiscal year 1991 under section 103 of the Housing and Community Development Act of 1974 [section 5303 of this title]."

TRANSITIONAL PROVISIONS

Pub. L. 97–35, title III, §307, Aug. 13, 1981, 95 Stat. 392, provided that:

"(a) Any amounts appropriated for any fiscal year before fiscal year 1982 in a Department of Housing and Urban Development—Independent Agencies Appropriation Act or a Supplemental Appropriation Act under the head 'COMMUNITY DEVELOPMENT GRANTS' which are or become available for obligation on or after October 1, 1981, shall remain available as provided by law, and shall be used in accordance with the following:

"(1) funds authorized for use under section 106(b) [subsec. (b) of this section] of the Housing and Community Development Act of 1974 ('such Act') before October 1, 1981, shall be available for use as provided by section 106(c) of such Act as amended by this Act [subsec. (c) of this section];

"(2) funds authorized for use under section 107 of such Act [section 5307 of this title] before October 1, 1981, shall be available for use as provided by section 107(a) of such Act as amended by this Act [section 5307(a) of this title]; and

"(3) funds authorized for use under section 106(c) or (e) of such Act [subsec. (c) or (e) of this section] before October 1, 1981, shall be available for use as provided by section 106(d)(2)(A) of such Act as amended by this Act [subsec. (d)(2)(A) of this section].

"(b) Any grant or loan which, prior to the effective date of any provision of this part [see Effective Date note set out under section 3701 of Title 12, Banks and Banking], was obligated and governed by any authority amended by any provision of this part [Pub. L. 97–35, title III, §§301–315, Aug. 13, 1981, 95 Stat. 384–398] shall continue to be governed by the provisions of such authority as they existed immediately before such effective date."

CDBG ASSISTANCE FOR UNITED STATES-MEXICO BORDER REGION

Pub. L. 104–134, title I, §101(e) [title II], Apr. 26, 1996, 110 Stat. 1321–257, 1321–272; renumbered title I,

Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, provided in part: "That section 916 of the Cranston-Gonzalez National Affordable Housing Act [set out below] shall apply with respect to fiscal year 1996, notwithstanding section 916(f) of that Act."

Pub. L. 101–625, title IX, §916, Nov. 28, 1990, 104 Stat. 4396, as amended by Pub. L. 102–550, title VIII, §810, Oct. 28, 1992, 106 Stat. 3850; Pub. L. 104–204, title II, Sept. 26, 1996, 110 Stat. 2887, provided that:

"(a) SET-ASIDE FOR COLONIAS.—The States of Arizona, California, New Mexico, and Texas shall each make available, for activities designed to meet the needs of the residents of colonias in the State relating to water, sewage, and housing, the following percentage of the amount allocated for the State under section 106(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)):

"(1) FIRST FISCAL YEAR.—For the first fiscal year to which this section applies, 10 percent.

"(2) SUCCEEDING FISCAL YEARS.—For each of the succeeding fiscal years to which this section applies, a percentage (not to exceed 10 percent) that is determined by the Secretary of Housing and Urban Development to be appropriate after consultation with representatives of the interests of the residents of colonias.

"(b) ELIGIBLE ACTIVITIES.—Assistance distributed pursuant to this section may be used only to carry out the following activities:

"(1) PLANNING.—Payment of the cost of planning community development (including water and sewage facilities) and housing activities, including the cost of—

"(A) the provision of information and technical assistance to residents of the area in which the activities are to be concentrated and to appropriate nonprofit organizations and public agencies acting on behalf of the residents; and

"(B) preliminary surveys and analyses of market needs, preliminary site engineering and architectural services, site options, applications, mortgage commitments, legal services, and obtaining construction loans.

"(2) ASSESSMENTS FOR PUBLIC IMPROVEMENTS.—The payment of assessments (including any charge made as a condition of obtaining access) levied against properties owned and occupied by persons of low and moderate income to recover the capital cost for a public improvement.

"(3) OTHER IMPROVEMENTS.—Other activities eligible under section 105 of the Housing and Community Development Act of 1974 [42 U.S.C. 5305] designed to meet the needs of residents of colonias.

"(c) DISTRIBUTION OF ASSISTANCE.—Assistance shall be made available pursuant to this section in accordance with a distribution plan that gives priority to colonias having the greatest need for such assistance.

"(d) APPLICABLE LAW.—Except to the extent inconsistent with this section, assistance provided pursuant to this section shall be subject to the provisions of title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

"(e) DEFINITIONS.—For purposes of this section:

"(1) COLONIA.—The term 'colonia' means any identifiable community that—

"(A) is in the State of Arizona, California, New Mexico, or Texas;

"(B) is in the United States-Mexico border region;

"(C) is determined to be a colonia on the basis of objective criteria, including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing; and

"(D) was in existence as a colonia before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act [Nov. 28, 1990].

"(2) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' means an organization described in section 501(c) of the Internal Revenue Code of 1986 [26 U.S.C. 501(c)] and exempt from taxation under section 501(a) of such Code.

"(3) PERSONS OF LOW AND MODERATE INCOME.—The term 'persons of low and moderate income' has the meaning given the term in section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)).

"(4) UNITED STATES-MEXICO BORDER REGION.—The term 'United States-Mexico border region' means the area of the United States within 150 miles of the border between the United States and Mexico, except that the term does not include any standard metropolitan statistical area that has a population exceeding 1,000,000."

OFFICE OF INDIAN AND ALASKA NATIVE PROGRAMS

Pub. L. 101–235, title VII, §702(c), Dec. 15, 1989, 103 Stat. 2057, which required Secretary of Housing and Urban Development to administer grants to Indian tribes under this chapter through the Office of Indian and Alaska Native Programs of the Department of Housing and Urban Development, was repealed by Pub. L.

101–625, title IX, §913(d), Nov. 28, 1990, 104 Stat. 4393.

[1] *See References in Text note below.*

§5307. Special purpose grants

(a) Set-aside

(1) In general

For each fiscal year (except as otherwise provided in this paragraph), of the total amount provided in appropriation Acts under section 5303 of this title for the fiscal year, $60,000,000 shall be set aside for grants under subsection (b) for such year for the following purposes:

(A) $6,500,000 shall be available for grants under subsection (b)(3) [1];

(B) $6,000,000 shall be available for grants under subsection (b)(5) [1];

(C) $6,000,000 shall be available in fiscal year 1993 for grants under subsection (b)(7) [1];

(D) $3,000,000 shall be available for grants under subsection (c);

(E) such sums as may be necessary shall be available for grants under paragraphs (2), (4), and (6) [1] of subsection (b);

(F) $2,000,000 shall be available in fiscal year 1993 for a grant to the City of Bridgeport, Connecticut, subject to the approval of sufficient amounts in an appropriation Act and to binding commitments made by the City of Bridgeport and the State of Connecticut that the city and State, respectively, will supplement such amount with $2,000,000 of additional funds; and

(G) $7,500,000 shall be available to carry out the Community Outreach Partnership Act of 1992.

(2) Treatment of grants

Any grants made under this section shall be in addition to any other grants that may be made under this chapter to the same entities for the same purposes.

(b) Permissible uses of funds

From amounts set aside under subsection (a), the Secretary is authorized to make grants—

(1) to States and units of general local government for the purpose of allocating amounts to any such State or unit of general local government that is determined by the Secretary to have received insufficient amounts under section 5306 of this title as a result of a miscalculation of its share of funds under such section;

(2) to historically Black colleges;

(3) to States, units of general local government, Indian tribes, or areawide planning organizations for the purpose of providing technical assistance in planning, developing, and administering assistance under this chapter and section 1706e [1] of title 12; to groups designated by such governmental units to assist them in carrying out assistance under this chapter; to qualified groups for the purpose of assisting more than one such governmental unit to carry out assistance under this chapter; the Secretary may also provide technical assistance, directly or through contracts, to such governmental units and groups; for purposes of this paragraph the term "technical assistance" means the facilitating of skills and knowledge in planning, developing, and administering activities under this chapter in entities that may need but do not possess such skills and knowledge, and includes assessing programs and activities under this chapter; except that any recipient of a grant under this paragraph that provides technical assistance pursuant to this paragraph shall provide for the notification of the availability of such assistance and shall have specific criteria for selection of recipients of such assistance that are published and publicly available;

(4) to States and units of general local government and institutions of higher education having a demonstrated capacity to carry out eligible activities under this chapter, except that the Secretary

may make a grant under this paragraph only to a State or unit of general local government that jointly, with an institution of higher education, has prepared and submitted to the Secretary an application for such grant, as the Secretary shall by regulation require;

(5) to units of general local government in nonentitlement areas for planning community adjustments and economic diversification activities, which may include any eligible activities under section 5305 of this title, required—

(A) by the proposed or actual establishment, realignment, or closure of a military installation,

(B) by the cancellation or termination of a Department of Defense contract or the failure to proceed with an approved major weapon system program, or

(C) by a publicly announced planned major reduction in Department of Defense spending that would directly and adversely affect a unit of general local government and will result in the loss of 1,000 or more full-time Department of Defense and contractor employee positions over a 5-year period in the unit of general local government and the surrounding area, or

if the Secretary (in consultation with the Secretary of Defense) determines that an action described in subparagraph (A), (B), or (C) is likely to have a direct and significant adverse consequence on the unit of general local government; and

(6) for the purposes of rebuilding and revitalizing distressed areas of the Los Angeles metropolitan area.

(c) Assistance to economically disadvantaged and minority students participating in community development work study programs

Of the amount set aside for use under subsection (b) in any fiscal year, the Secretary shall,[2] make grants to institutions of higher education, either directly or through areawide planning organizations or States, for the purpose of providing assistance to economically disadvantaged and minority students who participate in community development work study programs and are enrolled in full-time graduate or undergraduate programs in community and economic development, community planning, or community management.

(d) Continued availability of unused funds

Amounts set aside for use under subsection (b) in any fiscal year but not used in that year shall remain available for use in subsequent fiscal years in accordance with the provisions of that subsection.

(e) Satisfactory assurances required, special assurances required of Indian tribes

(1) Except as provided in paragraph (2), no grant may be made under this section or section 5318 of this title and no assistance may be made available under section 1437o [1] of this title unless the grantee provides satisfactory assurances that its program will be conducted and administered in conformity with the Civil Rights Act of 1964 [42 U.S.C. 2000a et seq.] and the Fair Housing Act [42 U.S.C. 3601 et seq.].

(2) No grant may be made to an Indian tribe under this section, section 5306(a)(1) of this title, or section 5318 of this title unless the applicant provides satisfactory assurances that its program will be conducted and administered in conformity with title II of Public Law 90–284 [25 U.S.C. 1301 et seq.]. The Secretary may waive, in connection with grants to Indian tribes, the provisions of section 5309 of this title and section 5310 of this title.

(3) The Secretary may accept a certification from the grantee or applicant that it has complied with the requirements of paragraph (1) or (2), as appropriate.

(f) Criteria for selection of recipients

Any grant made under this section shall be made pursuant to criteria for selection of recipients of such grants that the Secretary shall by regulation establish and which the Secretary shall publish together with any notification of availability of amounts under this section.

(Pub. L. 93–383, title I, §107, Aug. 22, 1974, 88 Stat. 647; Pub. L. 94–375, §15(c), Aug. 3, 1976, 90 Stat. 1076; Pub. L. 95–128, title I, §107, Oct. 12, 1977, 91 Stat. 1123; Pub. L. 95–557, title I,

§103(f), Oct. 31, 1978, 92 Stat. 2084; Pub. L. 96–399, title I, §§107, 117(b), Oct. 8, 1980, 94 Stat. 1618, 1624; Pub. L. 97–35, title III, §305, Aug. 13, 1981, 95 Stat. 391; Pub. L. 98–181, title I [title I, §107, title III, §302(b)], Nov. 30, 1983, 97 Stat. 1167, 1206; Pub. L. 100–242, title V, §§501(b), 517(b)(2), 522(b), Feb. 5, 1988, 101 Stat. 1922, 1936, 1939; Pub. L. 101–235, title I, §105(a)–(c), (e), Dec. 15, 1989, 103 Stat. 1998, 1999; Pub. L. 101–625, title IX, §§901(c), 913(c), Nov. 28, 1990, 104 Stat. 4385, 4393; Pub. L. 102–550, title VIII, §§801(c)(1), (2), (4), 808, Oct. 28, 1992, 106 Stat. 3843–3845, 3850; Pub. L. 106–569, title I, §102(f), Dec. 27, 2000, 114 Stat. 2947; Pub. L. 108–186, title V, §501(f), Dec. 16, 2003, 117 Stat. 2697.)

EDITORIAL NOTES

REFERENCES IN TEXT

Paragraphs (2), (3), (4), (6), and (7) of subsection (b) of this section, referred to in subsec. (a)(1)(A) to (C), (E), were redesignated as paragraphs (1), (2), (3), (5), and (6), respectively, of subsection (b) by Pub. L. 108–186, title V, §501(f)(2)(B), Dec. 16, 2003, 117 Stat. 2697.

The Community Outreach Partnership Act of 1992, referred to in subsec. (a)(1)(G), is section 851 of Pub. L. 102–550, which is set out below.

This chapter, referred to in subsecs. (a)(2) and (b)(3), (4), was in the original "this title", meaning title I of Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, which is classified principally to this chapter. For complete classification of title I to the Code, see Tables.

Section 1706e of title 12, referred to in subsec. (b)(3), was repealed by Pub. L. 101–625, title II, §289(b), Nov. 28, 1990, 104 Stat. 4128.

Section 1437o of this title, referred to in subsec. (e)(1), was repealed by Pub. L. 101–625, title II, §289(b), Nov. 28, 1990, 104 Stat. 4128.

The Civil Rights Act of 1964, referred to in subsec. (e)(1), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, which is classified principally to subchapters II to IX (§2000a 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.

The Fair Housing Act, referred to in subsec. (e)(1), is title VIII of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 81, which is classified principally to subchapter I (§3601 et seq.) of chapter 45 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

Public Law 90–284, referred to in subsec. (e)(2), is Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 73, known as the Civil Rights Act of 1968. Title II of Pub. L. 90–284 is classified generally to subchapter I (§1301 et seq.) of chapter 15 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

AMENDMENTS

2003—Subsec. (a)(1). Pub. L. 108–186, §501(f)(1), redesignated subpars. (B) to (H) as (A) to (G), respectively, and struck out former subpar. (A) which read as follows: "$7,000,000 shall be available for grants under subsection (b)(1) of this section;".

Subsec. (b). Pub. L. 108–186, §501(f)(2), redesignated pars. (2) to (7) as (1) to (6), respectively, and struck out former par. (1) which read as follows: "in Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;".

2000—Subsec. (a)(1)(G). Pub. L. 106–569, §102(f)(1), inserted "and" after semicolon at end.

Subsec. (a)(1)(H), (I). Pub. L. 106–569, §102(f)(2), (3), redesignated subpar. (I) as (H) and struck out former subpar. (H) which read as follows: "$15,000,000 shall be available for grants under the Removal of Regulatory Barriers to Affordable Housing Act of 1992; and".

1992—Subsec. (a). Pub. L. 102–550, §801(c)(1), added heading and subsec. (a) and struck out former subsec. (a) which read as follows: "Of the total amount provided in appropriation Acts under section 5303 of this title for fiscal years 1988 and 1989, $60,000,000 may be set aside in each year for grants under subsection (b) of this section. Grants under this section are in addition to any other grants which may be made under this chapter to the same entities for the same purposes."

Subsec. (b)(5) to (7). Pub. L. 102–550, §801(c)(2), added pars. (5) to (7).

Subsec. (c). Pub. L. 102–550, §801(c)(4), substituted "make" for "to the extent approved in appropriation Acts, make available not less than $3,000,000 in the form of".

Subsec. (e)(1). Pub. L. 102–550, §808, substituted "the Civil Rights Act of 1964 and the Fair Housing Act" for "Public Law 88–352 and Public Law 90–284".

1990—Subsec. (a). Pub. L. 101–625, §901(c), directed the amendment of subsec. (a), which did not contain

designated pars., by adding par. (3) and redesignating former pars. (3) and (4) as (4) and (5), respectively.

Subsec. (e)(2). Pub. L. 101–625, §913(c), inserted ", section 5306(a)(1) of this title," after "this section".

1989—Pub. L. 101–235, §105(e), substituted "Special purpose grants" for "Discretionary fund" in section catchline.

Subsec. (a). Pub. L. 101–235, §105(a), struck out "in a special discretionary fund" after "in each year" and struck out at end "Of the amount set aside for grants under subsection (b) of this section for fiscal year 1988, $5,000,000 shall be made available by the Secretary for purposes of grants under subsection (b)(1) of this section for the Park Central New Community Project."

Subsec. (b)(1). Pub. L. 101–235, §105(b)(1), (3), redesignated former par. (2) as (1) and struck out former par. (1) which read as follows: "in behalf of new communities assisted under title VII of the Housing and Urban Development Act of 1970 or title IV of the Housing and Urban Development Act of 1968 or in behalf of new community projects assisted under title X of the National Housing Act which meet the eligibility standards set forth in title VII of the Housing and Urban Development Act of 1970 and which were the subject of an application or preapplication under such title prior to January 14, 1975;".

Subsec. (b)(2). Pub. L. 101–235, §105(b)(3), redesignated par. (5) as (2). Former par. (2) redesignated (1).

Subsec. (b)(3). Pub. L. 101–235, §105(b)(1), (4), added par. (3) and struck out former par. (3) which related to grants to Indian tribes.

Subsec. (b)(4). Pub. L. 101–235, §105(b)(5), struck out "and to States and units of general local government for implementing special projects otherwise authorized under this chapter; and" after "to carry out assistance under this chapter;", and substituted "for purposes of this paragraph the term 'technical assistance' means the facilitating of skills and knowledge in planning, developing, and administering activities under this chapter in entities that may need but do not possess such skills and knowledge, and includes assessing programs and activities under this chapter; except that any recipient of a grant under this paragraph that provides technical assistance pursuant to this paragraph shall provide for the notification of the availability of such assistance and shall have specific criteria for selection of recipients of such assistance that are published and publicly available." for "and" after "such governmental units and groups;".

Subsec. (b)(5). Pub. L. 101–235, §105(b)(3), redesignated par. (5) as (2).

Subsec. (f). Pub. L. 101–235, §105(c), added subsec. (f).

1988—Subsec. (a). Pub. L. 100–242, §522(b), inserted sentence at end making $5,000,000 of grant moneys available for the Park Central New Community Project.

Pub. L. 100–242, §501(b)(1), amended first sentence generally. Prior to amendment, first sentence read as follows: "Of the total amount approved in appropriation Acts under section 5303 of this title for each of the fiscal years 1984, 1985, and 1986, not more than $68,200,000 for each such fiscal year may be set aside in a special discretionary fund for grants under subsection (b) of this section."

Subsec. (b)(4). Pub. L. 100–242, §517(b)(2), inserted "and section 1706e of title 12" before first semicolon.

Subsecs. (c) to (e). Pub. L. 100–242, §501(b)(2), added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

1983—Subsec. (a). Pub. L. 98–181, §107(a), substituted provisions permitting not more than $68,200,000 for each of fiscal years 1984, 1985, and 1986 to be set aside in a special discretionary fund for grants under subsection (b) of this section, for provisions permitting not more than $60,000,000 to be set aside for each of fiscal years 1982 and 1983 in such a fund.

Subsec. (b)(4). Pub. L. 98–181, §107(b), amended par. (4) generally, inserting provisions authorizing the Secretary to provide assistance to groups designated by certain enumerated governmental units to assist in carrying out this chapter, to qualified groups for the purpose of assisting more than one such governmental unit and to provide technical assistance, directly or through contracts, to such governmental units and groups.

Subsec. (b)(5). Pub. L. 98–181, §107(c), added par. (5).

Subsec. (d)(1). Pub. L. 98–181, §302(b)(1), inserted provisions relating to section 1437o of this title, and substituted "grantee" for "applicant".

Subsec. (d)(3). Pub. L. 98–181, §302(b)(2), inserted "grantee or" before "applicant".

1981—Subsec. (a). Pub. L. 97–35 substituted provisions relating to authorization of appropriations under section 5303 of this title for fiscal years 1982 and 1983, and supplemental nature of grants, for provisions relating to authorization of appropriations under section 5303(a)(1) of this title for fiscal years 1981 to 1983, and purposes for expenditures from fund.

Subsec. (b). Pub. L. 97–35 substituted provisions relating to permissible uses of funds for provisions relating to limitations on amounts reserved for emergency disaster needs.

Subsec. (c). Pub. L. 97–35 substituted provisions relating to amounts set aside for use under subsec. (b) of this section for provisions relating to amounts set aside and reserved in the special fund under subsec. (b) of this section.

Subsec. (d). Pub. L. 97–35 substituted provisions relating to assurances required for provisions relating to Indian tribal eligibility for grant as dependent upon conformity of program with prescribed constitutional rights and habeas corpus.

1980—Subsec. (a). Pub. L. 96–399, §107, substituted "approved in appropriation Acts under section 5303(a)(1) of this title for each of the fiscal years 1981, 1982, and 1983, not more than $104,000,000 for fiscal year 1981, not more than $104,000,000 for fiscal year 1982, and not more than $107,000,000 for fiscal year 1983 may" for "of authority to enter into contracts approved in appropriation Acts under section 5303(a)(1) of this title for each of the fiscal years 1975, 1976, 1977, 1978, 1979, and 1980, an amount equal to 3 per centum thereof shall".

Subsec. (d). Pub. L. 96–399, §117(b), inserted "under this chapter" after "Indian tribe".

1978—Subsec. (a)(8). Pub. L. 95–557 substituted "The Secretary may also provide, directly or through contracts, technical assistance under this paragraph to such governmental units, or to a group designated by such a governmental unit for the purpose of assisting that governmental unit to carry out its Community Development Program" for "The Secretary may also provide such technical assistance under this paragraph directly or through contracts".

1977—Subsec. (a). Pub. L. 95–128, §107(1), (2), extended provisions to fiscal years 1978 through 1980 and increased rate to 3 from 2 per centum.

Subsec. (a)(5). Pub. L. 95–128, §107(3), provided for grants to Indian tribes.

Subsec. (a)(7), (8). Pub. L. 95–128, §107(4), added pars. (7) and (8).

Subsec. (b). Pub. L. 95–128, §107(5), substituted "15 per centum" for "one-fourth".

Subsec. (d). Pub. L. 95–128, §107(6), added subsec. (d).

1976—Subsec. (a)(1). Pub. L. 94–375 included new community projects assisted under title X of the National Housing Act as within the authority of the Secretary to make grants from the special discretionary fund.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 913(c) of Pub. L. 101–625 applicable to amounts approved in any appropriation Act under section 5303 of this title for fiscal year 1990 and each fiscal year thereafter, see section 913(f) of Pub. L. 101–625, set out as a note under section 5306 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–235, title I, §105(d), Dec. 15, 1989, 103 Stat. 1999, provided that:

"(1) IN GENERAL.—Except as provided in this paragraph and paragraph (2), the amendments made by this section [amending this section] shall apply with respect to any grants made under section 107 of the Housing and Community Development Act of 1974 [this section] on or after the date of the enactment of this Act [Dec. 15, 1989], except a grant made under the third sentence of section 107(a) of [the] Housing and Community Development Act of 1974, as such sentence existed immediately before such date, and grants for specific activities (referred to in House Report Number 101–297) pursuant to the amount appropriated for use under section 107 by the enactment of the bill, H.R. 2916, of the One Hundred First Congress [Pub. L. 101–144, Nov. 9, 1989, 103 Stat. 850].

"(2) PRIOR GRANTS.—Any grant made under section 107 of the Housing and Community Development Act of 1974 [this section] before the date of the enactment of this Act [Dec. 15, 1989] or pursuant to a grant award notification made before such date shall be governed by the provisions of such section as it existed immediately before the date of the enactment of this Act."

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–181 applicable only to funds available for fiscal year 1984 and thereafter, see section 110(b) of Pub. L. 98–181, as amended, set out as a note under section 5316 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–557 effective Oct. 1, 1978, see section 104 of Pub. L. 95–557, set out as a note under section 1709 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–128 effective Oct. 1, 1977, see section 114 of Pub. L. 95–128, set out as a note under section 5301 of this title.

REGULATIONS

Pub. L. 102–550, title VIII, §801(c)(3), Oct. 28, 1992, 106 Stat. 3844, provided that, not later than the expiration of the 60-day period beginning on Oct. 28, 1992, the Secretary of Housing and Urban Development was to issue proposed regulations to carry out subsec. (b)(6) of this section and to issue final regulations to carry out subsec. (b)(6) not later than the expiration of the 120-day period beginning on Oct. 28, 1992.

COMMUNITY OUTREACH PARTNERSHIP

Pub. L. 102–550, title VIII, §851, Oct. 28, 1992, 106 Stat. 3855, directed Secretary to carry out a 5-year demonstration program to determine feasibility of facilitating partnerships between institutions of higher education and communities to solve urban problems through research, outreach, and exchange of information, established program of grants to public and private nonprofit institutions of higher education to assist in establishing or carrying out such activities and to establish and operate Community Outreach Partnership Centers which were to focus on problems associated with housing, economic development, neighborhood revitalization, infrastructure, health care, job training, education, crime prevention, planning, community organizing, and other areas deemed appropriate by the Secretary, further provided for establishment of national advisory council to assist Secretary in these areas and a national clearinghouse to disseminate information resulting from these activities, and further provided for appropriations for the demonstration program as well as for an annual report to Congress by the Secretary.

[1] See References in Text note below.

[2] So in original. The comma probably should not appear.

§5308. Guarantee and commitment to guarantee loans for acquisition of property

(a) Authority of Secretary; issuance of obligations by eligible public entities or designated public agencies; form, denomination, maturity, and conditions of notes or other obligations; percentage allocation requirements

The Secretary is authorized, upon such terms and conditions as the Secretary may prescribe, to guarantee and make commitments to guarantee, only to such extent or in such amounts as provided in appropriation Acts, the notes or other obligations issued by eligible public entities, or by public agencies designated by such eligible public entities, for the purposes of financing (1) acquisition of real property or the rehabilitation of real property owned by the eligible public entity (including such related expenses as the Secretary may permit by regulation); (2) housing rehabilitation; (3) economic development activities permitted under paragraphs (14), (15), and (17) of section 5305(a) of this title; (4) construction of housing by nonprofit organizations for homeownership under section 1437o(d) [1] of this title or title VI of the Housing and Community Development Act of 1987; (5) the acquisition, construction, reconstruction, or installation of public facilities (except for buildings for the general conduct of government); or (6) in the case of colonias (as such term is defined in section 916 of the Cranston-Gonzalez National Affordable Housing Act), public works and site or other improvements. A guarantee under this section may be used to assist a grantee in obtaining financing only if the grantee has made efforts to obtain such financing without the use of such guarantee and cannot complete such financing consistent with the timely execution of the program plans without such guarantee. Notes or other obligations guaranteed pursuant to this section shall be in such form and denominations, have such maturities, and be subject to such conditions as may be prescribed by regulations issued by the Secretary. The Secretary may not deny a guarantee under this section on the basis of the proposed repayment period for the note or other obligation, unless the period is more than 20 years or the Secretary determines that the period causes the guarantee to constitute an unacceptable financial risk. Notwithstanding any other provision of law and subject only to the absence of qualified applicants or proposed activities and to the authority provided in this section, to

the extent approved or provided in appropriation Acts, the Secretary shall enter into commitments to guarantee notes and obligations under this section with an aggregate principal amount of $2,000,000,000 for fiscal year 1993 and $2,000,000,000 for fiscal year 1994. Of the amount approved in any appropriation Act for guarantees under this section in any fiscal year, the Secretary shall allocate 70 percent for guarantees for metropolitan cities, urban counties, and Indian tribes and 30 percent for guarantees for units of general local government in nonentitlement areas. The Secretary may waive the percentage requirements of the preceding sentence in any fiscal year only to the extent that there is an absence of qualified applicants or proposed activities from metropolitan cities, urban counties, and Indian tribes or units of general local government in nonentitlement areas.

(b) Prerequisites

No guarantee or commitment to guarantee shall be made with respect to any note or other obligation if the issuer's total outstanding notes or obligations guaranteed under this section (excluding any amount defeased under the contract entered into under subsection (d)(1)(A)) would thereby exceed an amount equal to 5 times the amount of the grant approval for the issuer pursuant to section 5306 or 5307 of this title.

(c) Payment of principal, interest and costs

Notwithstanding any other provision of this chapter, grants allocated to an issuer pursuant to this chapter (including program income derived therefrom) are authorized for use in the payment of principal and interest due (including such servicing, underwriting, or other costs as may be specified in regulations of the Secretary) on the notes or other obligations guaranteed pursuant to this section.

(d) Repayment contract; security; pledge by State

(1) To assure the repayment of notes or other obligations and charges incurred under this section and as a condition for receiving such guarantees, the Secretary shall require the issuer to—

(A) enter into a contract, in a form acceptable to the Secretary, for repayment of notes or other obligations guaranteed hereunder;

(B) pledge any grant for which the issuer may become eligible under this chapter; and

(C) furnish, at the discretion of the Secretary, such other security as may be deemed appropriate by the Secretary in making such guarantees, including increments in local tax receipts generated by the activities assisted under this chapter or dispositions proceeds from the sale of land or rehabilitated property.

(2) To assist in assuring the repayment of notes or other obligations and charges incurred under this section, a State shall pledge any grant for which the State may become eligible under this chapter as security for notes or other obligations and charges issued under this section by any unit of general local government in a nonentitlement area in the State.

(e) Pledged grants for repayments

The Secretary is authorized, notwithstanding any other provision of this chapter, to apply grants pledged pursuant to paragraphs (1)(B) and (2) of subsection (d) to any repayments due the United States as a result of such guarantees.

(f) Full faith and credit of United States pledged for payment; conclusiveness and validity of guarantee

The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligations for such guarantee with respect to principal and interest, and the validity of any such guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligations.

(g) Issuance of obligations by Secretary to Secretary of the Treasury to satisfy authorized guarantee obligations; establishment of maturities and rates of interest and purchase of obligations by Secretary of the Treasury

The Secretary may issue obligations to the Secretary of the Treasury in an amount outstanding at

any one time sufficient to enable the Secretary to carry out his obligations under guarantees authorized by this section. The obligations issued under this subsection shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Secretary issued under this section, and for such purposes is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which such securities may be issued under such chapter are extended to include the purchases of the Secretary's obligations hereunder.

(h) Federal taxation of guaranteed obligations; grants to borrowing entity or agency of taxable obligations for net interest costs, etc.; limitation on amount of grant; assistance to issuer in hardship cases

Obligations guaranteed under this section shall be subject to Federal taxation as provided in subsection (j). The Secretary is authorized to make, and to contract to make, grants, in such amounts as may be approved in appropriations Acts, to or on behalf of the issuing eligible public entity or public agency to cover not to exceed 30 per centum of the net interest cost (including such servicing, underwriting, or other costs as may be specified in regulations of the Secretary) to the borrowing entity or agency of such obligations. The Secretary may also, to the extent approved in appropriation Acts, assist the issuer of a note or other obligation guaranteed under this section in the payment of all or a portion of the principal and interest amount due under the note or other obligation, if the Secretary determines that the issuer is unable to pay the amount because of circumstances of extreme hardship beyond the control of the issuer.

(i) Omitted

(j) Inclusion within gross income for purpose of chapter 1 of title 26 of interest paid on taxable obligations

With respect to any obligation issued by a [2] eligible public entity or designated agency which is guaranteed pursuant to this section, the interest paid on such obligation shall be included in gross income for the purpose of chapter 1 of title 26.

(k) Outstanding obligations; limitation; monitoring use of guarantees under this section

(1) The total amount of outstanding obligations guaranteed on a cumulative basis by the Secretary pursuant to subsection (a) shall not at any time exceed $4,500,000,000 or such higher amount as may be authorized to be appropriated for sections 5306 and 5307 of this title for any fiscal year.

(2) The Secretary shall monitor the use of guarantees under this section by eligible public entities. If the Secretary finds that 50 percent of the aggregate guarantee authority has been committed, the Secretary may—

(A) impose limitations on the amount of guarantees any one entity may receive in any fiscal year of $35,000,000 for units of general local government receiving grants under section 5306(b) of this title and $7,000,000 for units of general local government receiving grants under section 5306(d) of this title; or

(B) request the enactment of legislation increasing the aggregate limitation on guarantees under this section.

(l) Purchase of guaranteed obligations by Federal Financing Bank

Notes or other obligations guaranteed under this section may not be purchased by the Federal Financing Bank.

(m) Limitation on imposition of fee or charge

No fee or charge may be imposed by the Secretary or any other Federal agency on or with respect to a guarantee made by the Secretary under this section after February 5, 1988.

(n) State assistance in submission of applications

Any State that has elected under section 5306(d)(2)(A) of this title to distribute funds to units of general local government in nonentitlement areas may assist such units in the submission of

applications for guarantees under this section.

(o) "Eligible public entity" defined

For purposes of this section, the term "eligible public entity" means any unit of general local government, including units of general local government in nonentitlement areas.

(p) Training and information activities relating to home guarantee program

(1) The Secretary, in cooperation with eligible public entities, shall carry out training and information activities with respect to the guarantee program under this section. Such activities shall commence not later than 1 year after November 28, 1990.[3]

(2) The Secretary may use amounts set aside under section 5307 of this title to carry out this subsection.

(q) Economic development grants

(1) Authorization

The Secretary may make grants in connection with notes or other obligations guaranteed under this section to eligible public entities for the purpose of enhancing the security of loans guaranteed under this section or improving the viability of projects financed with loans guaranteed under this section.

(2) Eligible activities

Assistance under this subsection may be used only for the purposes of and in conjunction with projects and activities assisted under subsection (a).

(3) Applications

Applications for assistance under this subsection may be submitted only by eligible public entities, and shall be in the form and in accordance with the procedures established by the Secretary. Eligible public entities may apply for grants only in conjunction with requests for guarantees under subsection (a).

(4) Selection criteria

The Secretary shall establish criteria for awarding assistance under this subsection. Such criteria shall include—

(A) the extent of need for such assistance;

(B) the level of distress in the community to be served and in the jurisdiction applying for assistance;

(C) the quality of the plan proposed and the capacity or potential capacity of the applicant to successfully carry out the plan; and

(D) such other factors as the Secretary determines to be appropriate.

(r) Guarantee of obligations backed by loans

(1) Authority

The Secretary may, upon such terms and conditions as the Secretary considers appropriate, guarantee the timely payment of the principal of and interest on such trust certificates or other obligations as may—

(A) be offered by the Secretary or by any other offeror approved for purposes of this subsection by the Secretary; and

(B) be based on and backed by a trust or pool composed of notes or other obligations guaranteed or eligible for guarantee by the Secretary under this section.

(2) Full faith and credit

To the same extent as provided in subsection (f), the full faith and credit of the United States is pledged to the payment of all amounts that may be required to be paid under any guarantee made by the Secretary under this subsection.

(3) Subrogation

If the Secretary pays a claim under a guarantee made under this section, the Secretary shall be subrogated for all the rights of the holder of the guaranteed certificate or obligation with respect to such certificate or obligation.

(4) Effect of laws

No State or local law, and no Federal law, shall preclude or limit the exercise by the Secretary of—

(A) the power to contract with respect to public offerings and other sales of notes, trust certificates, and other obligations guaranteed under this section upon such terms and conditions as the Secretary deems appropriate;

(B) the right to enforce any such contract by any means deemed appropriate by the Secretary; and

(C) any ownership rights of the Secretary, as applicable, in notes, certificates, or other obligations guaranteed under this section, or constituting the trust or pool against which trust certificates, or other obligations guaranteed under this section, are offered.

(Pub. L. 93–383, title I, §108, Aug. 22, 1974, 88 Stat. 647; Pub. L. 95–128, title I, §108, Oct. 12, 1977, 91 Stat. 1123; Pub. L. 96–399, title I, §108, Oct. 8, 1980, 94 Stat. 1619; Pub. L. 97–35, title III, §309(i), Aug. 13, 1981, 95 Stat. 397; Pub. L. 98–181, title I [title I, §108], Nov. 30, 1983, 97 Stat. 1168; Pub. L. 98–479, title II, §§203(l)(2), 204(k)(1), Oct. 17, 1984, 98 Stat. 2231, 2233; Pub. L. 99–272, title III, §3002(a), Apr. 7, 1986, 100 Stat. 102; Pub. L. 100–242, title V, §514, Feb. 5, 1988, 101 Stat. 1930; Pub. L. 101–625, title IX, §§901(b), 910(b)–(g), Nov. 28, 1990, 104 Stat. 4385, 4389–4391; Pub. L. 102–550, title VIII, §801(b), Oct. 28, 1992, 106 Stat. 3843; Pub. L. 103–233, title II, §§231, 232(a)(1), 233, Apr. 11, 1994, 108 Stat. 366, 368; Pub. L. 104–120, §3(b), Mar. 28, 1996, 110 Stat. 835.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1437o of this title, referred to in subsec. (a)(4), was repealed by Pub. L. 101–625, title II, §289(b), Nov. 28, 1990, 104 Stat. 4128.

Title VI of the Housing Community Development Act of 1987, referred to in subsec. (a)(4), is title VI of Pub. L. 100–242, Feb. 5, 1988, 101 Stat. 1951, which was set out as a note under section 1715l of Title 12, Banks and Banking, and was repealed by Pub. L. 101–625, title II, §289(b), Nov. 28, 1990, 104 Stat. 4128.

Section 916 of the Cranston-Gonzalez National Affordable Housing Act, referred to in subsec. (a)(6), is section 916 of Pub. L. 101–625, which is set out as a note under section 5306 of this title.

This chapter, referred to in subsecs. (c) to (e), was in the original "this title", meaning title I of Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, which is classified principally to this chapter. For complete classification of title I to the Code, see Tables.

CODIFICATION

Subsec. (i) of this section amended section 711(22) of former Title 31, Money and Finance. Subsec. (i) was originally enacted as subsec. (f) of this section, and was redesignated as subsec. (i) by Pub. L. 95–128, §108(2).

November 28, 1990, referred to in subsec. (p)(1), was in the original "the date of the enactment of the Housing and Community Development Act of 1990", and was translated as meaning the date of enactment of the Cranston-Gonzalez National Affordable Housing Act, Pub. L. 101–625, which enacted subsec. (p) of this section, to reflect the probable intent of Congress and because no "Housing and Community Development Act of 1990" has been enacted.

AMENDMENTS

1996—Subsec. (k)(1). Pub. L. 104–120 substituted "$4,500,000,000" for "$3,500,000,000".

1994—Subsec. (a). Pub. L. 103–233, §231, added cls. (5) and (6).

Subsec. (q). Pub. L. 103–233, §232(a)(1), added subsec. (q).

Subsec. (r). Pub. L. 103–233, §233, added subsec. (r).

1992—Subsec. (a). Pub. L. 102–550 amended fifth sentence generally. Prior to amendment, fifth sentence read as follows: "Notwithstanding any other provision of law and subject only to the absence of qualified

applicants or proposed activities and to the authority provided in this section, to the extent approved or provided in appropriation Acts, the Secretary shall enter into commitments to guarantee notes and obligations under this section with an aggregate principal amount of $300,000,000 during fiscal year 1991 and $300,000,000 during fiscal year 1992."

1990—Subsec. (a). Pub. L. 101–625, §910(e)(1), inserted at end "Of the amount approved in any appropriation Act for guarantees under this section in any fiscal year, the Secretary shall allocate 70 percent for guarantees for metropolitan cities, urban counties, and Indian tribes and 30 percent for guarantees for units of general local government in nonentitlement areas. The Secretary may waive the percentage requirements of the preceding sentence in any fiscal year only to the extent that there is an absence of qualified applicants or proposed activities from metropolitan cities, urban counties, and Indian tribes or units of general local government in nonentitlement areas."

Pub. L. 101–625, §910(c), inserted "The Secretary may not deny a guarantee under this section on the basis of the proposed repayment period for the note or other obligation, unless the period is more than 20 years or the Secretary determines that the period causes the guarantee to constitute an unacceptable financial risk."

Pub. L. 101–625, §910(b)(2), substituted a semicolon for "; or" before "(3)" and added cl. (4).

Pub. L. 101–625, §910(b)(1)(A), substituted "eligible public entity" and "eligible public entities" for "unit of general local government" and "units of general local government", respectively, wherever appearing.

Pub. L. 101–625, §901(b), amended last sentence generally. Prior to amendment, last sentence read as follows: "Notwithstanding any other provision of law and subject only to the absence of qualified applicants or proposed activities, to the authority provided in this section, and to any funding limitation approved in appropriation Acts, the Secretary shall enter into commitments to guarantee notes and obligations under this section with an aggregate principal amount of $150,000,000 during fiscal year 1988, and $153,000,000 during fiscal year 1989."

Subsec. (b). Pub. L. 101–625, §910(d), inserted "(excluding any amount defeased under the contract entered into under subsection (d)(1)(A))" after "this section", substituted "5" for "three", and inserted reference to section 5307 of this title.

Subsec. (d). Pub. L. 101–625, §910(b)(4)(A), designated existing provisions as par. (1), redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, and added par. (2).

Subsec. (e). Pub. L. 101–625, §910(b)(4)(B), substituted "paragraphs (1)(B) and (2) of subsection (d)" for "subsection (d)(2)".

Subsec. (h). Pub. L. 101–625, §910(f), inserted at end "The Secretary may also, to the extent approved in appropriation Acts, assist the issuer of a note or other obligation guaranteed under this section in the payment of all or a portion of the principal and interest amount due under the note or other obligation, if the Secretary determines that the issuer is unable to pay the amount because of circumstances of extreme hardship beyond the control of the issuer."

Pub. L. 101–625, §910(b)(1), substituted "entity or agency" for "unit or agency" and "eligible public entity" for "unit of general local government".

Subsec. (j). Pub. L. 101–625, §910(b)(1)(A), substituted "eligible public entity" for "unit of general local government".

Subsec. (k). Pub. L. 101–625, §910(e)(2), designated existing provisions as par. (1) and added par. (2).

Subsec. (n). Pub. L. 101–625, §910(b)(3), added subsec. (n).

Subsec. (o). Pub. L. 101–625, §910(b)(5), added subsec. (o).

Subsec. (p). Pub. L. 101–625, §910(g), added subsec. (p).

1988—Subsec. (a). Pub. L. 100–242, §514(c), in first sentence inserted cl. (1) designation and added cls. (2) and (3).

Pub. L. 100–242, §514(a), in last sentence struck out "during fiscal year 1984" after "commitment" and substituted "$150,000,000 during fiscal year 1988, and $153,000,000 during fiscal year 1989" for "$225,000,000".

Subsec. (m). Pub. L. 100–242, §514(b), added subsec. (m).

1986—Subsec. (l). Pub. L. 99–272 added subsec. (l).

1984—Subsec. (g). Pub. L. 98–479, §203(l)(2), substituted "chapter 31 of title 31" for "the Second Liberty Bond Act, as now or hereafter in force" and "such chapter" for "such Act".

Subsec. (h). Pub. L. 98–479, §204(k)(1), substituted "subsection (j)" for "subsection (g)".

1983—Subsec. (a). Pub. L. 98–181 inserted provision that a guarantee under this section may be used to assist a grantee in obtaining financing only if the grantee has made efforts to obtain such financing without the use of such guarantee and cannot complete such financing consistent with the timely execution of the program plans without such guarantee, and substituted provisions requiring the Secretary to enter into commitments during fiscal year 1984 to guarantee notes and obligations under this section with an aggregate principal

amount of $225,000,000, notwithstanding any other provision of law and subject only to the absence of qualified applicants or proposed activities, for provisions prohibiting the Secretary from entering into commitments during fiscal year 1981 to guarantee under this section notes and other obligations with an aggregate principal amount in excess of $300,000,000.

1981—Subsec. (d)(2). Pub. L. 97–35 struck out "approved or" after "grant".

1980—Subsec. (a). Pub. L. 96–399, §108(1), (2), inserted provision respecting amounts as provided in appropriation Acts, and provision relating to limitation of $300,000,000 the amount the Secretary is authorized to guarantee during fiscal year 1981.

Subsec. (j). Pub. L. 96–399, §108(3), struck out "Notwithstanding any other provision of this section" before "The total amount".

1977—Subsec. (a). Pub. L. 95–128, §108(1), (3), reenacted substantially existing provisions and struck out "or assembly" after "acquisition of", included rehabilitation of real property owned by the unit of general local government, inserted provision respecting form, denominations, maturities, and conditions of notes or other obligations to be guaranteed, and struck out after parenthetical text "to serve or be used in carrying out activities which are eligible for assistance under section 5305 of this title and are identified in the application under section 5304 of this title, and with respect to which grants have been or are to be made under section 5303 of this title, but no such guarantee shall be issued in behalf of any agency designed to benefit, in or by the flotation of any issue, a private individual or corporation".

Subsec. (b). Pub. L. 95–128, §108(1), (3), added subsec. (b) and struck out prior provisions respecting: reservation and withholding of prescribed amount for purpose of paying guaranteed obligations, subject to being increased because of any unanticipated, major reduction in estimated disposition proceeds; pledge of full faith and credit of unit of general local government to the Secretary for repayment of any amount required to be paid by the United States pursuant to any guarantee; and pledge of repayment of proceeds of grants in event of failure of repayment as hereinbefore provided.

Subsecs. (c) to (e). Pub. L. 95–128, §108(3), added subsecs. (c) to (e). Former subsecs. (c) to (e) redesignated (f) to (h).

Subsecs. (f), (g). Pub. L. 95–128, §108(2), redesignated former subsecs. (c) and (d) as (f) and (g).

Subsec. (h). Pub. L. 95–128, §108(2), (4), (5), redesignated former subsec. (e) as (h) and substituted in first sentence "subsection (j)" for "subsection (g)"; substituted in first sentence "shall" for "may, at the option of the issuing unit of general local government or designated agency,"; and in second sentence "The Secretary is authorized to make, and to contract to make, grants, in such amounts as may be approved in appropriations Acts," for "In the event that taxable obligations are issued and guaranteed, the Secretary is authorized to make, and to contract to make, grants".

Subsec. (j). Pub. L. 95–128, §108(2), (6), redesignated former subsec. (g) as (j) and substituted "is guaranteed pursuant to" for "such unit or agency has elected to issue as a taxable obligation pursuant to subsection (e) of".

Subsec. (k). Pub. L. 95–128, §108(7), added subsec. (k).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–120 to be construed to have become effective Oct. 1, 1995, see section 13(a) of Pub. L. 104–120, set out as an Effective and Termination Dates of 1996 Amendments note under section 1437d of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–233 applicable with respect to any amounts made available to carry out subchapter II (§12721 et seq.) of chapter 130 of this title after Apr. 11, 1994, and any amounts made available to carry out that subchapter before that date that remain uncommitted on that date, with Secretary to issue any regulations necessary to carry out such amendment not later than end of 45-day period beginning on that date, see section 209 of Pub. L. 103–233, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–272, title III, §3002(b), Apr. 7, 1986, 100 Stat. 102, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on July 1, 1986."

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–181 applicable only to funds available for fiscal year 1984 and thereafter, see

section 110(b) of Pub. L. 98–181, as amended, set out as a note under section 5316 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–128 effective Oct. 1, 1977, see section 114 of Pub. L. 95–128, set out as a note under section 5301 of this title.

REGULATIONS

Pub. L. 101–625, title IX, §910(i), Nov. 28, 1990, 104 Stat. 4392, provided that: "To carry out the amendments made by this section [amending this section and section 5313 of this title], the Secretary of Housing and Urban Development shall—

"(1) issue proposed regulations not later than 90 days after the date of the enactment of this Act [Nov. 28, 1990]; and

"(2) issue final regulations not later than 180 days after the date of the enactment of this Act."

COMMUNITY DEVELOPMENT LOAN GUARANTEES

Pub. L. 101–625, title IX, §910(a), Nov. 28, 1990, 104 Stat. 4389, provided that:

"(1) PURPOSES.—The purposes of the amendments made by this section [amending this section and section 5313 of this title] are—

"(A) to reaffirm the commitment of the Federal Government to assist local governments in their efforts in stimulating economic and community development activities needed to combat severe economic distress and to help in promoting economic development activities needed to aid in economic recovery; and

"(B) to promote revitalization and development projects undertaken by local governments that principally benefit persons of low and moderate income, the elimination of slums and blight, and to meet urgent community needs, with special priority for projects located in areas designated as enterprise zones by the Federal Government or by any State.

"(2) OBJECTIVES.—In order to further the purpose described in paragraph (1), activities undertaken pursuant to the amendments made by this section shall be directed toward meeting the objectives set forth in sections 101(c) and 104(b)(3) of the Housing and Community Development Act of 1974 (42 U.S.C. 5301(c) and 5304(b)(3)) and the additional objectives of—

"(A) encouraging local governments to establish public-private partnerships;

"(B) preserving housing affordable for persons of low and moderate income; and

"(C) creating permanent employment opportunities, primarily for persons of low and moderate income."

ADMINISTRATIVE ACTIONS FOR PROVISION OF PRIVATE SECTOR FINANCING OF GUARANTEED LOANS

Pub. L. 99–272, title III, §3002(c), Apr. 7, 1986, 100 Stat. 102, directed the Secretary of Housing and Urban Development to take necessary administrative actions to provide by July 1, 1986, private sector financing of loans guaranteed under this section.

[1] See References in Text note below.

[2] So in original. Probably should be "an".

[3] See Codification note below.

§5309. Nondiscrimination in programs and activities

(a) Prohibited conduct

No person in the United States shall on the ground of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this chapter. Any

prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.] or with respect to an otherwise qualified handicapped individual as provided in section 794 of title 29 shall also apply to any such program or activity.

(b) Compliance procedures available to Secretary

Whenever the Secretary determines that a State or unit of general local government which is a recipient of assistance under this chapter has failed to comply with subsection (a) or (e) or an applicable regulation, he shall notify the Governor of such State or the chief executive officer of such unit of local government of the noncompliance and shall request the Governor or the chief executive officer to secure compliance. If within a reasonable period of time, not to exceed sixty days, the Governor or the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d); (3) exercise the powers and functions provided for in section 5311(a) of this title; or (4) take such other action as may be provided by law.

(c) Civil action by Attorney General

When a matter is referred to the Attorney General pursuant to subsection (b), or whenever he has reason to believe that a State government or unit of general local government is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

(d) Waiver of race discrimination prohibitions regarding assistance to Hawaiian Home Lands

The provisions of this section and section 5304(b)(2) of this title which relate to discrimination on the basis of race shall not apply to the provision of assistance by grantees under this chapter to the Hawaiian Home Lands.

(e) Equal access

(1) Definition

In this subsection, the term "youth organization" means an organization described under part B of subtitle II of title 36 that is intended to serve individuals under the age of 21 years.

(2) In general

No State or unit of general local government that has a designated open forum, limited public forum, or nonpublic forum and that is a recipient of assistance under this chapter shall deny equal access or a fair opportunity to meet to, or discriminate against, any youth organization, including the Boy Scouts of America or any group officially affiliated with the Boy Scouts of America, that wishes to conduct a meeting or otherwise participate in that designated open forum, limited public forum, or nonpublic forum.

(Pub. L. 93–383, title I, §109, Aug. 22, 1974, 88 Stat. 649; Pub. L. 97–35, title III, §306, Aug. 13, 1981, 95 Stat. 392; Pub. L. 101–625, title IX, §§911, 912(a), Nov. 28, 1990, 104 Stat. 4392; Pub. L. 109–148, div. A, title VIII, §8126(d), Dec. 30, 2005, 119 Stat. 2730; Pub. L. 109–163, div. A, title X, §1058(d), Jan. 6, 2006, 119 Stat. 3443.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b), (d), and (e)(2), was in the original "this title", meaning title I of Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, which is classified principally to this chapter. For complete classification of title I to the Code, see Tables.

The Age Discrimination Act of 1975, referred to in subsec. (a), is title III of Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 728, which is classified generally to chapter 76 (§6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (b), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. 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

2006—Subsec. (b). Pub. L. 109–163, §1058(d)(1), inserted "or (e)" after "subsection (a)" in first sentence.

Subsec. (e). Pub. L. 109–163, §1058(d)(2), added subsec. (e).

2005—Subsec. (b). Pub. L. 109–148, §8126(d)(1), which directed amendment identical to amendment by Pub. L. 109–163, §1058(d)(1), was not executed. See 2006 Amendment note above and Reconciliation of Duplicate Enactments note below.

Subsec. (e). Pub. L. 109–148, §8126(d)(2), which directed addition of subsec. (e) substantially identical to subsec. (e) added by Pub. L. 109–163, §1058(d)(2), was not executed. See 2006 Amendment note above and Reconciliation of Duplicate Enactments note below.

1990—Subsec. (a). Pub. L. 101–625, §912(a), inserted "religion," after "national origin,".

Subsec. (d). Pub. L. 101–625, §911, added subsec. (d).

1981—Subsec. (a). Pub. L. 97–35 inserted provisions respecting age discrimination.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101–625, title IX, §912(b), Nov. 28, 1990, 104 Stat. 4392, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to conduct relating to discrimination occurring after the date of the enactment of this Act [Nov. 28, 1990]."

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

RECONCILIATION OF DUPLICATE ENACTMENTS

Pub. L. 109–364, div. A, title X, §1071(f)(2), Oct. 17, 2006, 120 Stat. 2402, as amended by Pub. L. 110–181, div. A, title X, §1063(c)(10), Jan. 28, 2008, 122 Stat. 323, provided that: "In executing to section 109 of the Housing and Community Development Act of 1974 [42 U.S.C. 5309] the amendments made by section 8126(d) of Public Law 109–148 (119 Stat. 2730) and section 1058(d) of Public Law 109–163 (119 Stat. 3443), such amendments shall be executed so as to appear only once in the law as amended."

[Pub. L. 110–181, div. A, title X, §1063(c), Jan. 28, 2008, 122 Stat. 322, provided that the amendment made by section 1063(c)(10) to Pub. L. 109–364, §1071(f)(2), set out above, is effective as of Oct. 17, 2006, and as if included in Pub. L. 109–364, as enacted.]

§5310. Labor standards; rate of wages; exceptions; enforcement powers

(a) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40: *Provided*, That this section shall apply to the rehabilitation of residential property only if such property contains not less than 8 units. The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 3145 of title 40.

(b) Subsection (a) shall not apply to any individual that—

(1) performs services for which the individual volunteered;

(2)(A) does not receive compensation for such services; or

(B) is paid expenses, reasonable benefits, or a nominal fee for such services; and

(3) is not otherwise employed at any time in the construction work.

(Pub. L. 93–383, title I, §110, Aug. 22, 1974, 88 Stat. 649; Pub. L. 97–35, title III, §309(j), Aug. 13, 1981, 95 Stat. 397; Pub. L. 100–242, title V, §523, Feb. 5, 1988, 101 Stat. 1939; Pub. L. 101–625,

title IX, §955(a), Nov. 28, 1990, 104 Stat. 4420.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this title", meaning title I of Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, which is classified principally to this chapter. For complete classification of title I to the Code, see Tables.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (a), is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

In subsec. (a), "sections 3141–3144, 3146, and 3147 of title 40" substituted for "the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5)" and "section 3145 of title 40" substituted for "section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276(c))", meaning 276c, on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1990—Pub. L. 101–625 designated existing provisions as subsec. (a) and added subsec. (b).

1988—Pub. L. 100–242, which directed the substitution of "contains not less than 8 units" for "is designed for residential use of eight or more families", was executed by making the substitution for "is designed for residential use for eight or more families" as the probable intent of Congress.

1981—Pub. L. 97–35 substituted "assistance" for "grants".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–625 applicable to any volunteer services provided before, on, or after Nov. 28, 1990, except that such amendment may not be construed to require repayment of any wages paid before Nov. 28, 1990, for services provided before such date, see section 955(d) of Pub. L. 101–625, set out as a note under section 1437j of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

§5311. Remedies for noncompliance with community development requirements

(a) Notice and hearing; termination, reduction, or limitation of payments by Secretary

If the Secretary finds after reasonable notice and opportunity for hearing that a recipient of assistance under this chapter has failed to comply substantially with any provision of this chapter, the Secretary, until he is satisfied that there is no longer any such failure to comply, shall—

(1) terminate payments to the recipient under this chapter, or

(2) reduce payments to the recipient under this chapter by an amount equal to the amount of such payments which were not expended in accordance with this chapter, or

(3) limit the availability of payments under this chapter to programs, projects, or activities not affected by such failure to comply.

(b) Referral of matters to Attorney General; institution of civil action by Attorney General

(1) In lieu of, or in addition to, any action authorized by subsection (a), the Secretary may, if he has reason to believe that a recipient has failed to comply substantially with any provision of this chapter, refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted.

(2) Upon such a referral the Attorney General may bring a civil action in any United States district

court having venue thereof for such relief as may be appropriate, including an action to recover the amount of the assistance furnished under this chapter which was not expended in accordance with it, or for mandatory or injunctive relief.

(c) Petition for review of action of Secretary in Court of Appeals; filing of record of proceedings in court by Secretary; affirmance, etc., of findings of Secretary; exclusiveness of jurisdiction of court; review by Supreme Court on writ of certiorari or certification

(1) Any recipient which receives notice under subsection (a) of the termination, reduction, or limitation of payments under this chapter may, within sixty days after receiving such notice, file with the United States Court of Appeals for the circuit in which such State is located, or in the United States Court of Appeals for the District of Columbia, a petition for review of the Secretary's action. The petitioner shall forthwith transmit copies of the petition to the Secretary and the Attorney General of the United States, who shall represent the Secretary in the litigation.

(2) The Secretary shall file in the court record of the proceeding on which he based his action, as provided in section 2112 of title 28. No objection to the action of the Secretary shall be considered by the court unless such objection has been urged before the Secretary.

(3) The court shall have jurisdiction to affirm or modify the action of the Secretary or to set it aside in whole or in part. The findings of fact by the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may order additional evidence to be taken by the Secretary, and to be made part of the record. The Secretary may modify his findings of fact, or make new findings, by reason of the new evidence so taken and filed with the court, and he shall also file such modified or new findings, which findings with respect to questions of fact shall be conclusive if supported by substantial evidence on the record considered as a whole, and shall also file his recommendation, if any, for the modification or setting aside of his original action.

(4) Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28.

(Pub. L. 93–383, title I, §111, Aug. 22, 1974, 88 Stat. 650.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) to (c)(1), was in the original "this title", meaning title I of Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, which is classified principally to this chapter. For complete classification of title I to the Code, see Tables.

§5312. Use of grants for settlement of outstanding urban renewal loans of units of general local government

(a) Limitation on amounts; prerequisites

The Secretary is authorized, notwithstanding any other provision of this chapter, to apply a portion of the grants, not to exceed 20 per centum thereof without the request of the recipient, made or to be made under section 5303 of this title in any fiscal year pursuant to an allocation under section 5306 of this title to any unit of general local government toward payment of the principal of, and accrued interest on, any temporary loan made in connection with urban renewal projects under title I of the Housing Act of 1949 [42 U.S.C. 1450 et seq.] being carried out within the jurisdiction of such unit of general local government if—

(1) the Secretary determines, after consultation with the local public agency carrying out the project and the chief executive of such unit of general local government, that the project cannot be completed without additional capital grants, or

(2) the local public agency carrying out the project submits to the Secretary an appropriate

request which is concurred in by the governing body of such unit of general local government.

In determining the amounts to be applied to the payment of temporary loans, the Secretary shall make an accounting for each project taking into consideration the costs incurred or to be incurred, the estimated proceeds upon any sale or disposition of property, and the capital grants approved for the project.

(b) Approval by Secretary of financial settlement of urban renewal project

Upon application by any local public agency carrying out an urban renewal project under title I of the Housing Act of 1949 [42 U.S.C. 1450 et seq.], which application is approved by the governing body of the unit of general local government in which the project is located, the Secretary may approve a financial settlement of such project if he finds that a surplus of capital grant funds after full repayment of temporary loan indebtedness will result and may authorize the unit of general local government to use such surplus funds, without deduction or offset, in accordance with the provisions of this chapter.

(Pub. L. 93–383, title I, §112, Aug. 22, 1974, 88 Stat. 650; Pub. L. 97–35, title III, §309(k), Aug. 13, 1981, 95 Stat. 397; Pub. L. 98–181, title I [title I, §109], Nov. 30, 1983, 97 Stat. 1168; Pub. L. 98–479, title I, §101(a)(13)(A), Oct. 17, 1984, 98 Stat. 2220.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title I of Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, which is classified principally to this chapter. For complete classification of title I to the Code, see Tables.

The Housing Act of 1949, referred to in subsecs. (a) and (b), is act July 15, 1949, ch. 338, 63 Stat. 413. Title I of the Housing Act of 1949 was classified generally to subchapter II (§1450 et seq.) of chapter 8A of this title, and was omitted from the Code pursuant to section 5316 of this title which terminated authority to make grants or loans under such title I after Jan. 1, 1975. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of this title and Tables.

AMENDMENTS

1984—Subsec. (c). Pub. L. 98–479 struck out subsec. (c) which related to retention of program income and prerequisites.

1983—Subsec. (c). Pub. L. 98–181 added subsec. (c).

1981—Subsec. (a). Pub. L. 97–35 substituted "5303" for "5303(a)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–181 applicable only to funds available for fiscal year 1984 and thereafter, see section 110(b) of Pub. L. 98–181, as amended, set out as a note under section 5316 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

§5313. Reporting requirements

(a) Not later than 180 days after the close of each fiscal year in which assistance under this chapter is furnished, the Secretary shall submit to the Congress a report which shall contain—

(1) a description of the progress made in accomplishing the objectives of this chapter;

(2) a summary of the use of such funds during the preceding fiscal year;

(3) with respect to the action grants authorized under section 5318 of this title, a listing of each

unit of general local government receiving funds and the amount of such grants, as well as a brief summary of the projects funded for each such unit, the extent of financial participation by other public or private entities, and the impact on employment and economic activity of such projects during the previous fiscal year; and

(4) a description of the activities carried out under section 5308 of this title.

(b) The Secretary is authorized to require recipients of assistance under this chapter to submit to him such reports and other information as may be necessary in order for the Secretary to make the report required by subsection (a).

(Pub. L. 93–383, title I, §113, Aug. 22, 1974, 88 Stat. 651; Pub. L. 95–128, title I, §109, Oct. 12, 1977, 91 Stat. 1124; Pub. L. 97–35, title III, §309(l), Aug. 13, 1981, 95 Stat. 397; Pub. L. 101–625, title IX, §910(h), Nov. 28, 1990, 104 Stat. 4392.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title I of Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, which is classified principally to this chapter. For complete classification of title I to the Code, see Tables.

AMENDMENTS

1990—Subsec. (a)(4). Pub. L. 101–625 added par. (4).

1981—Subsec. (a)(2). Pub. L. 97–35 struck out requirement respecting approval by the Secretary.

1977—Subsec. (a)(3). Pub. L. 95–128 added par. (3).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–128 effective Oct. 1, 1977, see section 114 of Pub. L. 95–128, set out as a note under section 5301 of this title.

STUDY REGARDING AVAILABILITY OF HOUSING PROXIMATE TO PLACES OF EMPLOYMENT

Pub. L. 101–625, title IX, §919, Nov. 28, 1990, 104 Stat. 4401, directed Secretary of Housing and Urban Development to conduct a study regarding availability of housing within reasonable proximity of places of employment and to submit a report not later than expiration of 1-year period beginning on Nov. 28, 1990, to appropriate committees of Congress containing results and conclusions of such study, as well as proposed strategies to increase availability of housing for low- and moderate-income families within reasonable proximity of places of employment for working members of such families to and prevent geographical divergence of such housing and places of employment.

STUDY ON INVOLUNTARY HOUSING DISPLACEMENT; REPORT TO CONGRESS

Pub. L. 96–399, title I, §105(b), Oct. 8, 1980, 94 Stat. 1618, directed Secretary of Housing and Urban Development to continue study on involuntary displacement conducted under Pub. L. 95–557, title IX, §902, Oct. 31, 1978, 92 Stat. 2125, set out below, and transmit, not later than Mar. 30, 1981, a report to Congress containing data collected since initial report submitted under such section 902, and further recommendations on minimizing involuntary displacement and alleviating problems caused by such displacement.

ADEQUACY, EFFECTIVENESS, AND EQUITY OF FORMULA FOR ALLOCATION OF FUNDS; REPORT TO CONGRESS

Pub. L. 96–399, title I, §113, Oct. 8, 1980, 94 Stat. 1622, directed Secretary of Housing and Urban Development, not later than Jan. 1, 1983, to report to Congress with respect to adequacy, effectiveness, and

equity of formula used for allocation of funds under title I of the Housing and Community Development Act of 1974 (this chapter), with specific analysis and recommendations concerning manner in which such formula is or could be affected by data derived from 1980 decennial census.

STATEMENT OF POLICY AND STUDY ON HOUSING DISPLACEMENT

Pub. L. 95–557, title IX, §902, Oct. 31, 1978, 92 Stat. 2125, declared it to be the policy of Congress that in administration of Federal housing and development programs, involuntary displacement of persons from homes and neighborhoods should be minimized and in keeping with such stated policy, authorized Secretary of Housing and Urban Development to conduct a study on nature and extent of such displacement and, not later than Jan. 31, 1979, report to Congress on recommendations for formulation of a national policy to minimize such displacement.

STUDY ON SMALL CITIES; REPORT TO PRESIDENT AND CONGRESS; ALTERNATIVE FORMULAE

Pub. L. 95–128, title I, §113, Oct. 12, 1977, 91 Stat. 1111, directed Secretary of Housing and Urban Development to conduct a study and, not later than one year after Oct. 12, 1977, report to President and Congress recommendations on formation of a national policy on developmental needs of small cities and, among other things, include in such report alternative verifiable formulae to be used in distribution of discretionary balance funds available for allocation to such small cities under this chapter.

§5313a. Duplication of benefits

The Secretary shall establish procedures to prevent recipients from receiving any duplication of benefits and report annually to the Committees on Appropriations with regard to all steps taken to prevent fraud and abuse of funds made available under this heading including duplication of benefits.

(Pub. L. 110–329, div. B, title I, Sept. 30, 2008, 122 Stat. 3601; Pub. L. 113–76, div. L, title II, §236, Jan. 17, 2014, 128 Stat. 635.)

EDITORIAL NOTES

REFERENCES IN TEXT

This heading, referred to in text, refers to the headings "COMMUNITY PLANNING AND DEVELOPMENT" and "COMMUNITY DEVELOPMENT FUND" of title I of div. B of Pub. L. 110–329, known as the Disaster Relief and Recovery Supplemental Appropriations Act, 2008.

CODIFICATION

Section was enacted as part of the Disaster Relief and Recovery Supplemental Appropriations Act, 2008, and also as part of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, and not as part of title I of the Housing and Community Development Act of 1974 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 110–252, title III, June 30, 2008, 122 Stat. 2353; Pub. L. 113–76, div. L, title II, §236, Jan. 17, 2014, 128 Stat. 635.

Pub. L. 109–234, title II, June 15, 2006, 120 Stat. 473; Pub. L. 113–76, div. L, title II, §236, Jan. 17, 2014, 128 Stat. 635.

Pub. L. 109–148, div. B, title I, Dec. 30, 2005, 119 Stat. 2781; Pub. L. 113–76, div. L, title II, §236, Jan. 17, 2014, 128 Stat. 635.

§5314. Consultation by Secretary with other Federal departments, etc.

In carrying out the provisions of this chapter including the issuance of regulations, the Secretary

shall consult with other Federal departments and agencies administering Federal grant-in-aid programs.

(Pub. L. 93–383, title I, §114, Aug. 22, 1974, 88 Stat. 651.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title I of Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, which is classified principally to this chapter. For complete classification of title I to the Code, see Tables.

§5315. Interstate agreements or compacts; purposes

The consent of the Congress is hereby given to any two or more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative effort and mutual assistance in support of community development planning and programs carried out under this chapter as they pertain to interstate areas and to localities within such States, and to establish such agencies, joint or otherwise, as they may deem desirable for making such agreements and compacts effective.

(Pub. L. 93–383, title I, §115, Aug. 22, 1974, 88 Stat. 651.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title I of Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, which is classified principally to this chapter. For complete classification of title I to the Code, see Tables.

§5316. Transition provisions

(a) Prohibition on new grants or loans after January 1, 1975; exceptions

Except with respect to projects and programs for which funds have been previously committed, no new grants or loans shall be made after January 1, 1975, under (1) title I of the Demonstration Cities and Metropolitan Development Act of 1966 [42 U.S.C. 3301 et seq.], (2) title I of the Housing Act of 1949 [42 U.S.C. 1450 et seq.] (3) section 702 or section 703 of the Housing and Urban Development Act of 1965 [42 U.S.C. 3102 or 3103], (4) title II of the Housing Amendments of 1955 [42 U.S.C. 1491 et seq.], or (5) title VII of the Housing Act of 1961 [42 U.S.C. 1500 et seq.].

(b) Final date in fiscal year for submission of application for grant; establishment by Secretary

In the case of funds available for any fiscal year, the Secretary shall not consider any statement under section 5304(a) of this title, unless such statement is submitted on or prior to such date as the Secretary shall establish as the final date for submission of statements for that year.

(Pub. L. 93–383, title I, §116, Aug. 22, 1974, 88 Stat. 652; Pub. L. 94–375, §15(d), Aug. 3, 1976, 90 Stat. 1076; Pub. L. 96–399, title I, §111(h), Oct. 8, 1980, 94 Stat. 1622; Pub. L. 97–35, title III, §309(m), Aug. 13, 1981, 95 Stat. 397; Pub. L. 98–181, title I [title I, §110(a)], Nov. 30, 1983, 97 Stat. 1168.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Demonstration Cities and Metropolitan Development Act of 1966, referred to in subsec. (a), is Pub. L. 89–754, Nov. 3, 1966, 80 Stat. 1255. Title I of the Act was classified principally to subchapter I (§3301 et

seq.) of chapter 41 of this title, and was omitted from the Code pursuant to this section which terminated authority to make grants or loans under such title I after Jan. 1, 1975. For complete classification of this Act to the Code, see Short Title note set out under section 3331 of this title and Tables.

The Housing Act of 1949, referred to in subsec. (a), is act July 15, 1949, ch. 338, 63 Stat. 413. Title I of the Housing Act of 1949 was classified generally to subchapter II (§1450 et seq.) of chapter 8A of this title, and was omitted from the Code pursuant to this section which terminated authority to make grants or loans under such title I after Jan. 1, 1975. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of this title and Tables.

Sections 702 and 703 of the Housing and Urban Development Act of 1965 [42 U.S.C. 3102, 3103], referred to in subsec. (a), were omitted from the Code pursuant to this section which terminated the authority to make grants or loans under those sections after Jan. 1, 1975.

The Housing Amendments of 1955, referred to in subsec. (a), is act Aug. 11, 1955, ch. 783, 69 Stat. 645. Title II of the Housing Amendments of 1955 was classified generally to chapter 8B (§1491 et seq.) of this title, and was omitted from the Code pursuant to this section which terminated authority to make grants or loans under such title II after Jan. 1, 1975. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 12, Banks and Banking, and Tables.

The Housing Act of 1961, referred to in subsec. (a), is Pub. L. 87–70, June 30, 1961, 87 Stat. 149. Title VII of the Housing Act of 1961 was classified generally to chapter 8C (§1500 et seq.) of this title, and was omitted from the Code pursuant to this section which terminated authority to make grants or loans under such title VII after Jan. 1, 1975. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 12, Banks and Banking, and Tables.

CODIFICATION

Subsecs. (c), (d), and (e) of section 116 of Pub. L. 93–383 were omitted from this section. Subsec. (c) amended section 1453(b) of this title, subsec. (d) amended section 3311(b) and (c) of this title, and subsec. (e) amended section 1452b(a) and (h) of this title.

AMENDMENTS

1983—Subsec. (b). Pub. L. 98–181 substituted "prior to such date" for "prior to such date (in that fiscal year)", and "for that year" for "in that year".

1981—Subsec. (b). Pub. L. 97–35 substituted provisions relating to submission of required statement for provisions relating to submission of required application.

1980—Subsec. (b). Pub. L. 96–399, §111(h), redesignated subsec. (g) as (b) and struck out "or from a unit of general local government for a grant pursuant to section 5306(h) of this title" after "section 5306(a) of this title". Former subsec. (b), relating to deductions from grants for fiscal year 1975, was struck out.

Subsec. (f). Pub. L. 96–399, §111(h)(1), struck out subsec. (f) relating to advances for program period beginning Jan. 1, 1975.

Subsec. (g). Pub. L. 96–399, §111(h)(1), redesignated subsec. (g) as (b).

Subsec. (h). Pub. L. 96–399, §111(h)(1), struck out subsec. (h) relating to sources of funds to meet deficiency in fiscal year 1977.

1976—Subsec. (h). Pub. L. 94–375 added subsec. (h).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98–181, title I [title I, §110(b)], Nov. 30, 1983, 97 Stat. 1168, as amended by Pub. L. 98–479, title I, §101(b)(1), Oct. 17, 1984, 98 Stat. 2220, provided that: "The amendments made by this part [part A (§§101–110) of title I of Pub. L. 98–181, title I, amending this section, sections 5301 to 5308 and 5312 of this title, and provisions set out as a note under section 5305 of this title] shall apply only to funds available for fiscal year 1984 and thereafter."

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

§5317. Liquidation of superseded or inactive programs

The Secretary is authorized to transfer the assets and liabilities of any program which is superseded or inactive by reason of this chapter to the revolving fund for liquidating programs established pursuant to title II of the Independent Offices Appropriation Act, 1955 (Public Law 83–428; 68 Stat. 272, 295) [12 U.S.C. 1701g–5].

(Pub. L. 93–383, title I, §117(b), Aug. 22, 1974, 88 Stat. 653; Pub. L. 98–479, title II, §204(k)(2), Oct. 17, 1984, 98 Stat. 2233.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title I of Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, which is classified principally to this chapter. For complete classification of title I to the Code, see Tables.

AMENDMENTS

1984—Pub. L. 98–479 substituted "title II of the Independent Offices Appropriation Act, 1955 (Public Law 83–428; 68 Stat. 272, 295)" for "title II of the Independent Offices Appropriation Act of 1965 (Public Law 81–428; 68 Stat. 272, 295)".

§5318. Urban development action grants

(a) Authorization; purpose; amount

The Secretary is authorized to make urban development action grants to cities and urban counties which are experiencing severe economic distress to help stimulate economic development activity needed to aid in economic recovery. There are authorized to be appropriated to carry out this section $225,000,000 for fiscal year 1988, and $225,000,000 for fiscal year 1989. Any amount appropriated under this subsection shall remain available until expended.

(b) Eligibility of cities and urban counties; criteria and standards; regulations

(1) Urban development action grants shall be made only to cities and urban counties which have, in the determination of the Secretary, demonstrated results in providing housing for low- and moderate-income persons and in providing equal opportunity in housing and employment for low- and moderate-income persons and members of minority groups. The Secretary shall issue regulations establishing criteria in accordance with the preceding sentence and setting forth minimum standards for determining the level of economic distress of cities and urban counties for eligibility for such grants. These standards shall take into account factors such as the age of housing; the extent of poverty; the extent of population lag; growth of per capita income; and the extent of unemployment, job lag, or surplus labor. Any city that has a population of less than 50,000 persons and is not the central city of a metropolitan area, and that was eligible for fiscal year 1983 under this paragraph for assistance under this section, shall continue to be eligible for such assistance until the Secretary revises the standards for eligibility for such cities under this paragraph and includes the extent of unemployment, job lag, or labor surplus as a standard of distress for such cities. The Secretary shall make such revision as soon as practicable following November 30, 1983.

(2) A city or urban county which fails to meet the minimum standards established pursuant to paragraph (1) shall be eligible for assistance under this section if it meets the requirements of the first sentence of such paragraph and—

(A) in the case of a city with a population of fifty thousand persons or more or an urban county, contains an area (i) composed of one or more contiguous census tracts, enumeration districts, neighborhood statistics areas, or block groups, as defined by the United States Bureau of the Census, having at least a population of ten thousand persons or 10 per centum of the population of the city or urban county; (ii) in which at least 70 per centum of the residents have incomes below 80 per centum of the median income of the city or urban county; and (iii) in which at least 30 per centum of the residents have incomes below the national poverty level; or

(B) in the case of a city with a population of less than fifty thousand persons, contains an area (i) composed of one or more contiguous census tracts, enumeration districts, neighborhood statistics areas, or block groups or other areas defined by the United States Bureau of the Census or for which data certified by the United States Bureau of the Census are available having at least a population of two thousand five hundred persons or 10 per centum of the population of the city, whichever is greater; (ii) in which at least 70 per centum of the residents have incomes below 80 per centum of the median income of the city; and (iii) in which at least 30 per centum of the residents have incomes below the national poverty level.

The Secretary shall use up to, but not more than, 20 per centum of the funds appropriated for use in any fiscal year under this section for the purpose of making grants to cities and urban counties eligible under this paragraph.

(c) Applications; documentation of eligibility; proposed plan; assurance of notice and comment; assurance of consideration on historical landmarks

Applications for assistance under this section shall—

(1) in the case of an application for a grant under subsection (b)(2), include documentation of grant eligibility in accordance with the standards described in that subsection;

(2) set forth the activities for which assistance is sought, including (A) an estimate of the costs and general location of the activities; (B) a summary of the public and private resources which are expected to be made available in connection with the activities, including how the activities will take advantage of unique opportunities to attract private investment; and (C) an analysis of the economic benefits which the activities are expected to produce;

(3) contain a certification satisfactory to the Secretary that the applicant, prior to submission of its application, (A) has held public hearings to obtain the views of citizens, particularly residents of the area in which the proposed activities are to be carried out; (B) has analyzed the impact of these proposed activities on the residents, particularly those of low and moderate income, of the residential neighborhood, and on the neighborhood in which they are to be carried out; and (C) has made available the analysis described in clause (B) to any interested person or organization residing or located in the neighborhood in which the proposed activities are to be carried out; and

(4) contain a certification satisfactory to the Secretary that the applicant, prior to submission of its application, (A) has identified all properties, if any, which are included on the National Register of Historic Places and which, as determined by the applicant, will be affected by the project for which the application is made; (B) has identified all other properties, if any, which will be affected by such project and which, as determined by the applicant, may meet the criteria established by the Secretary of the Interior for inclusion on such Register, together with documentation relating to the inclusion of such properties on the Register; (C) has determined the effect, as determined by the applicant, of the project on the properties identified pursuant to clauses (A) and (B); and (D) will comply with the requirements of section 5320 of this title.

(d) Mandatory selection criteria; award of points; distribution of funds; number of competitions per year; use of distress conditions data by urban counties

(1) Except in the case of a city or urban county eligible under subsection (b)(2), the Secretary shall establish selection criteria for a national competition for grants under this section which must include—

(A) the comparative degree of economic distress among applicants, as measured (in the case of a metropolitan city or urban county) by the differences in the extent of growth lag, the extent of poverty, and the adjusted age of housing in the metropolitan city or urban county;

(B) other factors determined to be relevant by the Secretary in assessing the comparative degree of economic deterioration in cities and urban counties;

(C) the following other criteria:

(i) the extent to which the grant will stimulate economic recovery by leveraging private investment;

(ii) the number of permanent jobs to be created and their relation to the amount of grant funds

requested;

(iii) the proportion of permanent jobs accessible to lower income persons and minorities, including persons who are unemployed;

(iv) the extent to which the project will retain jobs that will be lost without the provision of a grant under this section;

(v) the extent to which the project will relieve the most pressing employment or residential needs of the applicant by—

(I) reemploying workers in a skill that has recently suffered a sharp increase in unemployment locally;

(II) retraining recently unemployed residents in new skills;

(III) providing training to increase the local pool of skilled labor; or

(IV) producing decent housing for low- and moderate-income persons in cases where such housing is in severe shortage in the area of the applicant, except that an application shall be considered to produce housing for low- and moderate-income persons under this clause only if such application proposes that (a) not less than 51 percent of all funds available for the project shall be used for dwelling units and related facilities; and (b) not less than 30 percent of all funds used for dwelling units and related facilities shall be used for dwelling units to be occupied by persons of low and moderate income, or not less than 20 percent of all dwelling units made available to occupancy using such funds shall be occupied by persons of low and moderate income, whichever results in the occupancy of more dwelling units by persons of low and moderate income;

(vi) the impact of the proposed activities on the fiscal base of the city or urban county and its relation to the amount of grant funds requested;

(vii) the extent to which State or local Government [1] funding or special economic incentives have been committed; and

(viii) the extent to which the project will have a substantial impact on physical and economic development of the city or urban county, the proposed activities are likely to be accomplished in a timely fashion with the grant amount available, and the city or urban county has demonstrated performance in housing and community development programs; and

(D) additional consideration for projects with the following characteristics:

(i) projects to be located within a city or urban county which did not receive a preliminary grant approval under this section during the 12-month period preceding the date on which applications are required to be submitted for the grant competition involved; and

(ii) twice the amount of the additional consideration provided under clause (i) for projects to be located in cities or urban counties which did not receive a preliminary grant approval during the 24-month period preceding the date on which applications under this section are required to be submitted for the grant competition involved.

If a city or urban county has submitted and has pending more than one application, the additional consideration provided by subparagraph (D) of the preceding sentence shall be available only to the project in such city or urban county which received the highest number of points under subparagraph (C) of such sentence.

(2) For the purpose of making grants with respect to areas described in subsection (b)(2), the Secretary shall establish selection criteria, which must include (A) factors determined to be relevant by the Secretary in assessing the comparative degree of economic deterioration among eligible areas, and (B) such other criteria as the Secretary may determine, including at a minimum the criteria listed in paragraph (1)(C) of this subsection.

(3) The Secretary shall award points to each application as follows:

(A) not more than 35 points on the basis of the criteria referred to in paragraph (1)(A);

(B) not more than 35 points on the basis of the criteria referred to in paragraph (1)(B);

(C) not more than 33 points on the basis of the criteria referred to in paragraph (1)(C); and
(D)(i) 1 additional point on the basis of the criterion referred to in paragraph (1)(D)(i); or
(ii) 2 additional points on the basis of the criterion referred to in paragraph (1)(D)(ii).

(4) The Secretary shall distribute grant funds under this section so that to the extent practicable during each funding cycle—

(A) 65 percent of the funds is first made available utilizing all of the criteria set forth in paragraph (1); and

(B) 35 percent of the funds is then made available solely on the basis of the factors referred to in subparagraphs (C) and (D) of paragraph (1).

(5)(A) Within 30 days of the start of each fiscal year, the Secretary shall announce the number of competitions for grants to be held in that fiscal year. The number of competitions shall be not less than two nor more than three.

(B) Each competition for grants described in any clause of subparagraph (A) shall be for an amount equal to the sum of—

(i) approximately the amount of the funds available for such grants for the fiscal year divided by the number of competitions for those funds;

(ii) any funds available for such grants in any previous competition that are not awarded; and

(iii) any funds available for such grants in any previous competition that are recaptured.

(C) Notwithstanding any other provision of this section, in each competition for grants under this section, no city or urban county may be awarded a grant or grants in an amount in excess of $10,000,000 until all cities and urban counties which submitted fundable applications have been awarded a grant. If funds are available for additional grants after each city and urban county submitting a fundable application is awarded one or more grants under the preceding sentence, then additional grants shall be made so that each city or urban county that has submitted multiple applications is awarded one additional grant in order of ranking, with no single city or urban county receiving more than one grant approval in any subsequent series of grant determinations within the same competition.

(D) All grants under this section, including grants to cities and urban counties described in subsection (b)(2), shall be awarded in accordance with subparagraph (C) so that all grants under this section are made in order of ranking.

(e) Limitations on power of Secretary to approve grants; waiver

The Secretary may not approve any grant to a city or urban county eligible under subsection (b)(2) unless—

(1) the grant will be used in connection with a project located in an area described in subsection (b)(2), except that the Secretary may waive this requirement where the Secretary determines (A) that there is no suitable site for the project within that area, (B) the project will be located directly adjacent to that area, and (C) the project will contribute substantially to the economic development of that area;

(2) the city or urban county has demonstrated to the satisfaction of the Secretary that basic services supplied by the city or urban county to the area described in subsection (b)(2) are at least equivalent, as measured by per capita expenditures, to those supplied to other areas within the city or urban county which are similar in population size and physical characteristics and which have median incomes above the median income for the city or urban county;

(3) the grant will be used in connection with a project which will directly benefit the low- and moderate-income families and individuals residing in the area described in subsection (b)(2); and

(4) the city or urban county makes available, from its own funds or from funds received from the State or under any Federal program which permits the use of financial assistance to meet the non-Federal share requirements of Federal grant-in-aid programs, an amount equal to 20 per centum of the grant to be available under this section to be used in carrying out the activities described in the application.

(f) Permissibility of consistent but unenumerated activities; report on use of repaid grant funds for economic development activities

Activities assisted under this section may include such activities, in addition to those authorized under section 5305(a) of this title, as the Secretary determines to be consistent with the purposes of this section. In any case in which the project proposes the repayment to the applicant of the grant funds, such funds shall be made available by the applicant for economic development activities that are eligible activities under this section or section 5305 of this title. The applicant shall annually provide the Secretary with a statement of the projected receipt and use of repaid grant funds during the next year together with a report acceptable to the Secretary on the use of such funds during the most recent preceding full fiscal year of the applicant.

(g) Annual review and audit; adjustments, withdrawals and reduction permitted

The Secretary shall, at least on an annual basis, make reviews and audits of recipients of grants under this section as necessary to determine the progress made in carrying out activities substantially in accordance with approved plans and timetables. The Secretary may adjust, reduce, or withdraw grant funds, or take other action as appropriate in accordance with the findings of these reviews and audits, except that funds already expended on eligible activities under this chapter shall not be recaptured or deducted from future grants made to the recipient.

(h) Limitations on grants for industrial or commercial relocations or expansions; appeal of denial or cancellation of assistance; grants to adversely affected individuals

(1) Speculative projects

No assistance may be provided under this section for projects intended to facilitate the relocation of industrial or commercial plants or facilities from one area to another, unless the Secretary finds that the relocation does not significantly and adversely affect the unemployment or economic base of the area from which the industrial or commercial plant or facility is to be relocated. The provisions of this paragraph shall apply only to projects that do not have identified intended occupants.

(2) Projects with identified intended occupants

No assistance may be provided or utilized under this section for any project with identified intended occupants that is likely to facilitate—

(A) a relocation of any operation of an industrial or commercial plant or facility or other business establishment—

(i) from any city, urban county, or identifiable community described in subsection (p), that is eligible for assistance under this section; and

(ii) to the city, urban county, or identifiable community described in subsection (p), in which the project is located; or

(B) an expansion of any such operation that results in a reduction of any such operation in any city, county, or community described in subparagraph (A)(i).

(3) Significant and adverse effect

The restrictions established in paragraph (2) shall not apply if the Secretary determines that the relocation or expansion does not significantly and adversely affect the employment or economic base of the city, county, or community from which the relocation or expansion occurs.

(4) Appeal of adverse determination

Following notice of intent to withhold, deny, or cancel assistance under paragraph (1) or (2), the Secretary shall provide a period of not less than 90 days in which the applicant can appeal to the Secretary the withholding, denial, or cancellation of assistance. Notwithstanding any other provision of this section, nothing in this section or in any legislative history related to the

enactment of this section may be construed to permit an inference or conclusion that the policy of the Congress in the urban development action grant program is to facilitate the relocation of businesses from one area to another.

(5) Assistance for individuals adversely affected by prohibited relocations

(A) Any amount withdrawn by, recaptured by, or paid to the Secretary due to a violation (or a settlement of an alleged violation) of this subsection (or of any regulation issued or contractual provision entered into to carry out this subsection) by a project with identified intended occupants shall be made available by the Secretary as a grant to the city, county, or community described in subsection (p), from which the operation of an industrial or commercial plant or facility or other business establishment relocated or in which the operation was reduced.

(B)(i) Any amount made available under this paragraph shall be used by the grantee to assist individuals who were employed by the operation involved prior to the relocation or reduction and whose employment or terms of employment were adversely affected by the relocation or reduction. The assistance shall include job training, job retraining, and job placement.

(ii) If any amount made available to a grantee under this paragraph is more than is required to provide assistance under clause (i), the grantee shall use the excess amount to carry out community development activities eligible under section 5305(a) of this title.

(C)(i) The provisions of this paragraph shall be applicable to any amount withdrawn by, recaptured by, or paid to the Secretary under this section, including any amount withdrawn, recaptured, or paid before the effective date of this paragraph.

(ii) Grants may be made under this paragraph only to the extent of amounts provided in appropriation Acts.

(6) Definition

For purposes of this subsection, the term "operation" includes any plant, equipment, facility, position, employment opportunity, production capacity, or product line.

(7) Regulations

Not later than 60 days after February 5, 1988, the Secretary shall issue such regulations as may be necessary to carry out the provisions of this subsection. Such regulations shall include specific criteria to be used by the Secretary in determining whether there is a significant and adverse effect under paragraph (3).

(i) Minimum percentage of funds to be allocated to certain noncentral cities; application by consortia of cities of less than 50,000 population

Not less than 25 per centum of the funds made available for grants under this section shall be used for cities with populations of less than fifty thousand persons which are not central cities of a metropolitan statistical area. The Secretary shall encourage cooperation by geographically proximate cities of less than 50,000 population by permitting consortia of such cities, which may also include county governments that are not urban counties, to apply for grants on behalf of a city that is otherwise eligible for assistance under this section. Any grants awarded to such consortia shall be administered in compliance with eligibility requirements applicable to individual cities.

(j) Grant contingent on factors related to non-Federal funds

A grant may be made under this section only where the Secretary determines that there is a strong probability that (1) the non-Federal investment in the project would not be made without the grant, and (2) the grant would not substitute for non-Federal funds which are otherwise available to the project.

(k) Duty of Secretary to minimize amount

In making grants under this section, the Secretary shall take such steps as the Secretary deems appropriate to assure that the amount of the grant provided is the least necessary to make the project feasible.

(l) Power of Secretary to waive requirement that town or township be closely settled

For purposes of this section, the Secretary may reduce or waive the requirement in section 5302(a)(5)(B)(ii) of this title that a town or township be closely settled.

(m) Notice to State historic preservation officer and Secretary of the Interior required with regard to affected landmark property; opportunity for comment

In the case of any application which identifies any property in accordance with subsection (c)(4)(B), the Secretary may not commit funds with respect to an approved application unless the applicant has certified to the Secretary that the appropriate State historic preservation officer and the Secretary of the Interior have been provided an opportunity to take action in accordance with the provisions of section 5320(b) of this title.

(n) Territories, tribes, and certain Hawaiian counties included in term "city"

(1) For the purposes of this section, the term "city" includes Guam, American Samoa, the Northern Mariana Islands, the Virgin Islands, and Indian tribes. Such term also includes the counties of Kauai, Maui and Hawaii in the State of Hawaii.

(2) The Secretary may not approve a grant to an Indian tribe under this section unless the tribe (A) is located on a reservation, or on former Indian reservations in Oklahoma as determined by the Secretary of the Interior, or in an Alaskan Native Village, and (B) was an eligible recipient under chapter 67 of title 31 prior to the repeal of such chapter.

(o) Special provisions for years after 1983

If no amounts are set aside under, or amounts are precluded from being appropriated for this section for fiscal years after fiscal year 1983, any amount which is or becomes available for use under this section after fiscal year 1983 shall be added to amounts appropriated under section 5303 of this title, except that amounts available to the Secretary for use under this subsection as of October 1, 1993, and amounts released to the Secretary pursuant to subsection (t) may be used to provide grants under section 5308(q) of this title..[2]

(p) Unincorporated portions of urban counties

An unincorporated portion of an urban county that is approved by the Secretary as an identifiable community for purposes of this section is eligible for a grant under subsection (b)(2) if such portion meets the eligibility requirements contained in the first sentence of subsection (b)(1) and the requirements of subsection (b)(2)(B) (applied to the population of the portion of the urban county) and if it otherwise complies with the provisions of this section.

(q) Technical assistance grants

Of the amounts appropriated for purposes of this section for any fiscal year, not more than $2,500,000 may be used by the Secretary to make technical assistance grants to States or their agencies, municipal technical advisory services operated by universities, or State associations of counties or municipalities, to enable such entities to assist units of general local government described in subsection (i) in developing, applying for assistance for, and implementing programs eligible for assistance under this section.

(r) Nondiscrimination by Secretary against type of activity or applicant

In utilizing the discretion of the Secretary when providing assistance and applying selection criteria under this section, the Secretary may not discriminate against applications on the basis of (1) the type of activity involved, whether such activity is primarily housing, industrial, or commercial; or (2) the type of applicant, whether such applicant is a city or urban county.

(s) Maximum grant amount for fiscal years 1988 and 1989

For fiscal years 1988 and 1989, the maximum grant amount for any project under this section is $10,000,000.

(t) UDAG retention program

If a grant or a portion of a grant under this section remains unexpended upon the issuance of a notice implementing this subsection, the grantee may enter into an agreement, as provided under this

subsection, with the Secretary to receive a percentage of the grant amount and relinquish all claims to the balance of the grant within 90 days of the issuance of notice implementing this subsection (or such later date as the Secretary may approve). The Secretary shall not recapture any funds obligated pursuant to this section during a period beginning on April 11, 1994, until 90 days after the issuance of a notice implementing this subsection. A grantee may receive as a grant under this subsection—

(1) 33 percent of such unexpended amounts if—

(A) the grantee agrees to expend not less than one-half of the amount received for activities authorized pursuant to section 5308(q) of this title and to expend such funds in conjunction with a loan guarantee made under section 5308 of this title at least equal to twice the amount of the funds received; and

(B)(i) the remainder of the amount received is used for economic development activities eligible under this chapter; and

(ii) except when waived by the Secretary in the case of a severely distressed jurisdiction, not more than one-half of the costs of activities under subparagraph (B) are derived from such unexpended amounts; or

(2) 25 percent of such unexpended amounts if—

(A) the grantee agrees to expend such funds for economic development activities eligible under this chapter; and

(B) except when waived by the Secretary in the case of a severely distressed jurisdiction, not more than one-half of the costs of such activities are derived from such unexpended amount.

(Pub. L. 93–383, title I, §119, as added Pub. L. 95–128, title I, §110(b), Oct. 12, 1977, 91 Stat. 1125; amended Pub. L. 95–557, title I, §103(g), (h), Oct. 31, 1978, 92 Stat. 2084; Pub. L. 96–153, title I, §§104, 105, Dec. 21, 1979, 93 Stat. 1102, 1104; Pub. L. 96–399, title I, §§110(a), (b), 117(a), Oct. 8, 1980, 94 Stat. 1619, 1623; Pub. L. 97–35, title III, §308(a), Aug. 13, 1981, 95 Stat. 392; Pub. L. 98–181, title I [title I, §121], Nov. 30, 1983, 97 Stat. 1168; Pub. L. 98–454, title VI, §601(c), Oct. 5, 1984, 98 Stat. 1736; Pub. L. 98–479, title II, §203(l)(3), Oct. 17, 1984, 98 Stat. 2231; Pub. L. 99–272, title XIV, §14001(b)(6), Apr. 7, 1986, 100 Stat. 329; Pub. L. 99–500, §101(g), Oct. 18, 1986, 100 Stat. 1783–242, and Pub. L. 99–591, §101(g), Oct. 30, 1986, 100 Stat. 3341–242; Pub. L. 100–202, §§101(f) [title I, §101], 106, Dec. 22, 1987, 101 Stat. 1329–187, 1329–193, 1329–433; Pub. L. 100–242, title V, §§501(c), 515(a)–(d), (g)(2)–(i), 516(a), Feb. 5, 1988, 101 Stat. 1923, 1930–1934; Pub. L. 100–404, title I, Aug. 19, 1988, 102 Stat. 1020; Pub. L. 100–628, title X, §1084, Nov. 7, 1988, 102 Stat. 3277; Pub. L. 103–233, title II, §232(b), (c)(1), Apr. 11, 1994, 108 Stat. 367.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (g) and (t)(1)(B)(i), (2)(A), was in the original "this title", meaning title I of Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, which is classified principally to this chapter. For complete classification of title I to the Code, see Tables.

For effective date of this paragraph, referred to in subsec. (h)(5)(C)(i), see section 516(b) of Pub. L. 100–242, set out as an Effective Date of 1988 Amendment note below.

Chapter 67 of title 31, referred to in subsec. (n)(2)(B), was repealed by Pub. L. 99–272, title XIV, §14001(a)(1), Apr. 7, 1986, 100 Stat. 327.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

Amendment of subsec. (n)(1) by Pub. L. 99–500 and 99–591 is based on provisions under the headings "Management and Administration" and "Administrative Provision" in title I of H.R. 5313 [Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1987], as incorporated by reference by section 101(g) of Pub. L. 99–500 and 99–591, and enacted into law by section 106 of Pub. L. 100–202.

AMENDMENTS

1994—Subsec. (o). Pub. L. 103–233, §232(b), inserted before period at end ", except that amounts available

to the Secretary for use under this subsection as of October 1, 1993, and amounts released to the Secretary pursuant to subsection (t) may be used to provide grants under section 5308(q) of this title."

Subsec. (t). Pub. L. 103–233, §232(c)(1), added subsec. (t).

1988—Subsec. (a). Pub. L. 100–242, §501(c), substituted "There are authorized to be appropriated to carry out this section $225,000,000 for fiscal year 1988, and $225,000,000 for fiscal year 1989. Any amount appropriated under this subsection shall remain available until expended." for "Of the total amount approved in appropriation Acts under section 5303 of this title for each of the fiscal years 1982 and 1983, not more than $500,000,000 shall be available for each of the fiscal years 1982 and 1983 for grants under this section. There are authorized to be appropriated to carry out the provisions of this section not to exceed $440,000,000 for each of the fiscal years 1984, 1985, and 1986, and any amount appropriated under this sentence shall remain available until expended."

Subsec. (d)(1). Pub. L. 100–242, §515(a), inserted dash before "(A)", indented subpars. (A) and (B), struck out "as the primary criterion," in subpar. (A) and "and" at end of subpar. (B), added subpars. (C) and (D), and struck out former subpar. (C) which read as follows: "at least the following other criteria: demonstrated performance of the city or urban county in housing and community development programs; the extent to which the grant will stimulate economic recovery by leveraging private investment; the number of permanent jobs to be created and their relation to the amount of grant funds requested; the proportion of permanent jobs accessible to lower income persons and minorities, including persons who are unemployed; the impact of the proposed activities on the fiscal base of the city or urban county and its relation to the amount of grant funds requested; the extent to which State or local government funding or special economic incentives have been committed; and the feasibility of accomplishing the proposed activities in a timely fashion within the grant amount available."

Subsec. (d)(3) to (5). Pub. L. 100–242, §515(b), added pars. (3) to (5).

Subsec. (d)(5)(C), (D). Pub. L. 100–404 added subpars. (C) and (D).

Subsec. (d)(6). Pub. L. 100–242, §515(b), (g)(2), temporarily added par. (6), see Effective Date of 1988 Amendment note below.

Subsec. (f). Pub. L. 100–628, §1084(a), substituted "5305" for "5304" after "activities under this section or section".

Pub. L. 100–242, §515(c), inserted at end "In any case in which the project proposes the repayment to the applicant of the grant funds, such funds shall be made available by the applicant for economic development activities that are eligible activities under this section or section 5304 of this title. The applicant shall annually provide the Secretary with a statement of the projected receipt and use of repaid grant funds during the next year together with a report acceptable to the Secretary on the use of such funds during the most recent preceding full fiscal year of the applicant."

Subsec. (h)(1). Pub. L. 100–242, §516(a)(1), (2), designated existing provision as par. "(1) Speculative projects" and inserted at end "The provisions of this paragraph shall apply only to projects that do not have identified intended occupants."

Subsec. (h)(2) to (7). Pub. L. 100–242, §516(a)(3), added pars. (2) to (7).

Subsec. (n)(1). Pub. L. 100–628, §1084(b), directed that subsec. (n)(1) of this section as similarly amended first by provisions made effective by section 101(g) of Pub. L. 99–500 and Pub. L. 99–591 [see 1986 Amendment note below and Codification note above] and later by section 515(i) of Pub. L. 100–242 [see below] is amended to read as if the amendment by Pub. L. 100–242 had not been enacted.

Pub. L. 100–242, §515(i), made amendment identical to Pub. L. 99–500 and 99–591. See 1986 Amendment note below.

Subsec. (r). Pub. L. 100–242, §515(d), amended subsec. (r) generally. Prior to amendment, subsec. (r) read as follows: "In providing assistance under this section, the Secretary may not discriminate among programs on the basis of the particular type of activity involved, whether such activity is primarily a neighborhood, industrial, or commercial activity."

Subsec. (s). Pub. L. 100–242, §515(h), added subsec. (s).

1987—Subsec. (n)(1). For amendment by §106 of Pub. L. 100–202, see 1986 Amendment note below.

Subsec. (n)(2)(A). Pub. L. 100–202, §101(f) [title I, §101], inserted ", or on former Indian reservations in Oklahoma as determined by the Secretary of the Interior," after "reservation".

1986—Subsec. (n)(1). Pub. L. 99–500 and 99–591, §101(g), as enacted by Pub. L. 100–202, inserted at end "Such term also includes the counties of Kauai, Maui and Hawaii in the State of Hawaii." See Codification note above.

Subsec. (n)(2)(B). Pub. L. 99–272 substituted "was an eligible recipient under chapter 67 of title 31 prior to the repeal of such chapter" for "is an eligible recipient under chapter 67 of title 31".

1984—Subsec. (n)(1). Pub. L. 98–454 inserted reference to American Samoa and the Northern Mariana

Islands.

Subsec. (n)(2). Pub. L. 98–479 substituted "chapter 67 of title 31" for "the State and Local Fiscal Assistance Act of 1972".

1983—Subsec. (a). Pub. L. 98–181, §121(a), inserted authorizations for appropriations not to exceed $440,000,000 for each of the fiscal years 1984, 1985, and 1986.

Subsec. (b)(1). Pub. L. 98–181, §121(b), substituted "the extent of unemployment, job lag, or surplus labor" for "where data are available, the extent of unemployment and job lag", and inserted provisions for continued eligibility for assistance of any city with a population of less than 50,000 persons, other than a central city of a metropolitan area, which until the Secretary revises the standards for eligibility for such cities and includes the extent of unemployment, job lag, or labor surplus as a standard of distress for such cities, and provisions requiring the Secretary to make such revision as soon as possible following Nov. 30, 1983.

Subsec. (b)(2)(A)(i), (B)(i). Pub. L. 98–181, §121(c), inserted "neighborhood statistics areas," after "enumeration districts,".

Subsec. (c)(3)(C). Pub. L. 98–181, §121(d), added cl. (C).

Subsec. (d)(1). Pub. L. 98–181, §121(e), substituted "criteria for a national competition" for "criteria" in provisions preceding cl. (A).

Subsec. (i). Pub. L. 98–181, §121(f), inserted provisions relating to applications by consortia of cities less than 50,000 population.

Subsecs. (p) to (r). Pub. L. 98–181, §121(g), added subsecs. (p) to (r).

1981—Pub. L. 97–35 substantially restructured and reorganized provisions, made changes in nomenclature and phraseology, and revised purposes, selection criteria and standards, application procedures, approval powers of Secretary, covered activities, limitations, allocation computations, funding prerequisites, amounts for grants, waivers, notice requirements, applicable definitions, and special provisions for years after 1983.

1980—Subsec. (c)(7). Pub. L. 96–399, §110(a)(1)–(3), added par. (7).

Subsec. (n). Pub. L. 96–399, §110(b), added subsec. (n).

Subsec. (o). Pub. L. 96–399, §117(a), added subsec. (o).

1979—Subsec. (b). Pub. L. 96–153, §104, designated existing provisions as par. (1) and added par. (2).

Subsec. (e). Pub. L. 96–153, §104(b), designated existing provisions as par. (1) and substituted "(1) Except in the case of a city or urban county eligible under subsection (b)(2) of this section, in establishing criteria" for "In establishing criteria" in opening sentence, redesignated existing cls. (1) to (3) as (A) to (C), and added pars. (2) and (3).

Subsecs. (l), (m). Pub. L. 96–153, §105, added subsecs. (l) and (m).

1978—Subsec. (c)(6). Pub. L. 95–557, §103(g), added par. (6).

Subsec. (e). Pub. L. 95–557, §103(h), inserted "impact of the proposed urban development action program on the residents, particularly those of low and moderate income, of the residential neighborhood, and on the neighborhood, in which the program is to be located" after "objectives of this chapter".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–233 applicable with respect to any amounts made available to carry out subchapter II (§12721 et seq.) of chapter 130 of this title after Apr. 11, 1994, and any amounts made available to carry out that subchapter before that date that remain uncommitted on that date, with Secretary to issue any regulations necessary to carry out such amendment not later than end of 45-day period beginning on that date, see section 209 of Pub. L. 103–233, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–242, title V, §515(f), (g), Feb. 5, 1988, 101 Stat. 1934, provided that:

"(f) REGULATIONS.—The Secretary of Housing and Urban Development shall issue such regulations as may be necessary to carry out the amendments made by this section [amending this section]. Such regulations shall be published for comment in the Federal Register not later than 60 days after the date of enactment of this Act [Feb. 5, 1988]. The provisions of section 119(d)(1)(D), section 119(d)(3), and section 119(d)(4) of the Housing and Community Development Act of 1974 [subsec. (d)(1)(D), (3), (4) of this section], shall take effect on the date of enactment of this Act.

"(g) APPLICABILITY.—

"(1) IN GENERAL.—The amendments made by this section [amending this section] shall be applicable to the making of urban development action grants that have not received the preliminary approval of the Secretary of Housing and Urban Development before the date on which final regulations

issued by the Secretary under subsection (f) become effective. For the fiscal year in which the amendments made by this section become applicable, such amendments shall only apply with respect to the aggregate amount awarded for such grants on or after such effective date.

"(2) SUNSET OF URBAN COUNTY COMPETITION RULE.—Effective October 1, 1989, section 119(d)(6) of the Housing and Community Development Act of 1974 [subsec. (d)(6) of this section] is repealed."

Pub. L. 100–242, title V, §516(b), Feb. 5, 1988, 101 Stat. 1936, provided that: "Except as otherwise provided in section 119(h)(5) of the Housing and Community Development Act of 1974 [subsec. (h)(5) of this section] (as added by subsection (a)), the amendments made by this section [amending this section] shall be applicable to urban development action grants that have not received the preliminary approval of the Secretary of Housing and Urban Development before the date of the enactment of this Act [Feb. 5, 1988]."

EFFECTIVE DATE OF 1986 AMENDMENTS

Pub. L. 100–202, §106, Dec. 22, 1987, 101 Stat. 1329–433, provided that the amendment made by Pub. L. 99–500 and 99–591 is effective on date of enactment [Oct. 18, 1986] of the "pertinent joint resolution" making continuing appropriations for fiscal year 1987 [Pub. L. 99–500 and 99–591].

Amendment by Pub. L. 99–272 effective Oct. 18, 1986, see section 14001(e) of Pub. L. 99–272.

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97–35, title III, §308(c), Aug. 13, 1981, 95 Stat. 396, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 5320 of this title] shall become effective on the effective date of regulations implementing such subsections. As soon as practicable, but not later than January 1, 1982, the Secretary shall issue such final rules and regulations as the Secretary determines are necessary to carry out such subsections."

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–557 effective Oct. 1, 1978, see section 104 of Pub. L. 95–557, set out as a note under section 1709 of Title 12, Banks and Banking.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 114 of Pub. L. 95–128, set out as an Effective Date of 1977 Amendment note under section 5301 of this title.

IMPLEMENTATION OF URBAN DEVELOPMENT ACTION GRANT RETENTION PROGRAM

Pub. L. 103–233, title II, §232(c)(2), Apr. 11, 1994, 108 Stat. 368, provided that: "Not later than 10 days after the date of enactment of this Act [Apr. 11, 1994], the Secretary shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by this subsection [amending this section]."

NEW TOWNS DEMONSTRATION PROGRAM FOR EMERGENCY RELIEF OF LOS ANGELES

Pub. L. 102–550, title XI, Oct. 28, 1992, 106 Stat. 3927, as amended by Pub. L. 105–362, title VII, §701(g), Nov. 10, 1998, 112 Stat. 3287, provided that:

"SEC. 1101. AUTHORITY.

"To provide for the revitalization and renewal of inner city neighborhoods in the areas of Los Angeles, California, that were damaged by the civil disturbances during April and May of 1992, and to demonstrate the effectiveness of new town developments in revitalizing and restoring depressed and underprivileged inner city neighborhoods, the Secretary of Housing and Urban Development shall, to the extent or in such amounts as are provided in appropriation Acts, make any assistance authorized under this title available under this title to units of general local government, governing boards, and eligible mortgagors in accordance with the provisions of this title.

"SEC. 1102. NEW TOWN PLAN.

"(a) REQUIREMENT.—The Secretary may make assistance available under this title only in connection with, and according to the provisions of a new town plan developed and established by a governing board under section 1107 and approved under subsection (d) of this section. In developing such plans, the governing board shall consult with representatives of the units of general local government within whose boundaries are located any portion of the new town demonstration area for the demonstration program to be carried out under such plan.

"(b) ELIGIBLE NEW TOWN DEMONSTRATION AREAS.—A new town plan under this section shall

provide for carrying out a new town development demonstration providing assistance available under this title within a new town demonstration area, which shall be a geographic area defined in the new town plan—

"(1) that is one of pervasive poverty, unemployment, and general distress;

"(2) that has an unemployment rate of not less than 1.5 times the national unemployment rate for the 2 years preceding approval of the new town plan;

"(3) that has a poverty rate of not less than 20 percent during such 2-year period;

"(4) for which not less than 70 percent of the households living in the area have incomes below 80 percent of the median income of households of the unit of general local government in which they are located;

"(5) that has a shortage of adequate jobs for residents; and

"(6) that is located—

"(A) in or near the City or County of Los Angeles, in the State of California; and

"(B) within an area for which the President, pursuant to title IV or V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5170 et seq., 5191 et seq.], declared that a major disaster or emergency existed for purposes of such Act [42 U.S.C. 5121 et seq.], as a result of the civil disturbances involving acts of violence occurring on or after April 29, 1992, and before May 6, 1992.

"(c) CONTENTS.—Each new town plan shall include the following information:

"(1) GOVERNING BOARD.—A description of the members and purposes of the governing board that developed the plan, the manner in which members of the governing board were selected, and the businesses, agencies, interests, and community ties of each member of the governing board.

"(2) NEW TOWN DEMONSTRATION AREA.—A definition and description of the new town demonstration area for the new town development demonstration to be assisted under this title.

"(3) TARGET COMMUNITY.—A description of the economic, social, racial, and ethnic characteristics of the population of the neighborhood or area in which the new town demonstration area is located.

"(4) AGREEMENTS.—Agreements that the governing board will carry out the new town demonstration program in accordance with the requirements of this title.

"(5) HOUSING UNITS.—A description of the number, size, location, cost, style, and characteristics of rental and homeownership housing units to be developed under the new town demonstration program, any financing for developing such housing, and the amount of assistance necessary under section 1105 for developing the housing under the program.

"(6) JOBS.—A description of the number, types, and duration of any new jobs that will be created in the new town demonstration area and surrounding areas as a result of the demonstration program, and of any job training activities and apprenticeship programs to be made available in connection with the program.

"(7) SOCIAL SERVICES.—A description of the social and supportive services to be made available under the demonstration program to residents of housing assisted under the demonstration program pursuant to section 1103(d) and to residents of the new town demonstration area.

"(8) SUPPLEMENTAL RESOURCES.—A description of any funds, assistance, in-kind contributions, and other resources to be made available in connection with the demonstration program, including the sources and amounts of any private capital resources and non-Federal funds required under section 1103(h).

"(9) CONTRACTORS AND DEVELOPERS.—A listing of the contractors and developers who potentially will carry out any construction and rehabilitation work for development of housing under the demonstration program and the expected costs involved in hiring such contractors and developers.

"(10) FINANCING FOR HOMEBUYERS.—A description of any mortgage lenders who have indicated that they will make financing available to families purchasing housing developed under the demonstration program through mortgages eligible for insurance under section 1104 and proposed terms of such mortgages.

"(11) COMMITMENTS.—Evidence of any commitments entered into for making any of the resources described in paragraphs (6) through (8) available in connection with the demonstration program.

"(12) PRESALE REQUIREMENTS.—A description of commitments made to purchase not less than 50 percent of the housing to be developed under the demonstration program for purchase by the occupant and to rent not less than 50 percent of the rental dwelling units to be developed under the demonstration program.

"(13) COMMUNITY DEVELOPMENT ACTIVITIES.—A description of the community development activities to be carried out with assistance under section 1106, the amount of assistance necessary under such section for such activities, and of the projected uses of such assistance.

"(d) REVIEW AND APPROVAL.—

"(1) SUBMISSION.—Not later than the expiration of the 6-month period beginning on the date of the enactment of this Act [Oct. 28, 1992], a governing board shall submit a new town plan under this section to the chief executive officers of each unit of general local government within whose boundaries is located any portion of the new town demonstration area described under the plan of the board.

"(2) APPROVAL.—For a plan to be eligible for assistance available under this title, the chief executive officer of all units of general local government to whom the new town plan is submitted shall approve the plan at a public meeting after the plan has been made publicly available for a period of not less than 30 days. A governing board may resubmit for approval any plan returned by any such chief executive officer to the governing board, and such chief executive officer may, upon returning the plan indicate any modifications necessary for approval. A new town plan may not be approved unless such chief executive officers determine that the membership of the governing board submitting the plan is constituted in accordance with section 1107 and the governing board is capable of carrying out the plan.

"(3) AMENDMENT.—An approved new town plan for the demonstration program developed by the governing board may be amended by the board by obtaining approval of the amendment in the manner provided under this subsection for approval of plans. If the chief executive officer of the unit of general local government does not approve or return the amended plan within 30 days of submission, the amended plan shall be considered to be approved for purposes of this subsection.

"SEC. 1103. NEW TOWN DEVELOPMENT DEMONSTRATION PROGRAM REQUIREMENTS.

"(a) IN GENERAL.—Each of the 2 new town development demonstration programs selected for assistance under this title under section 1102 shall be carried out, by the governing board submitting the new town plan for the demonstration program, in accordance with such plan (and any approved amendments of such plans) and shall be subject to the requirements under this section.

"(b) LOCAL PARTICIPATION.—With respect to any activities carried out under the demonstration program, the program shall give preference in awarding contracts, purchasing materials, acquiring services, and obtaining assistance or training, to contractors, businesses, developers, professionals, and other establishments located or having offices within the new town demonstration area.

"(c) HOUSING.—

"(1) NUMBER OF UNITS.—The demonstration program shall construct or renovate not less than 1,500 dwelling units in the new town demonstration area, of which not less than 60 percent shall be units available for purchase by the occupant.

"(2) AFFORDABILITY.—Units of varying sizes and costs shall be designed and developed under the demonstration program so that the program provides housing affordable to families of varying incomes not exceeding 115 percent of the median income for the area in which the new town demonstration area is located, including very low- and low-income families (as such terms are defined in section 3(b) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)]).

"(3) HOMEOWNERSHIP UNITS.—Dwelling units developed under the demonstration program for purchase by the occupant shall initially be sold at prices affordable to families eligible to purchase such units. Such units shall be available for purchase only by families having incomes not exceeding the amount specified in paragraph (2). The demonstration shall develop 2-, 3-, and 4-bedroom units for purchase.

"(4) RENTAL UNITS.—Dwelling units developed under the demonstration program that are to be available for rental shall include family-type units and single bedroom and efficiency units designed for elderly occupants. Such units shall be available for occupancy only by families who (upon initial occupancy) have incomes of (A) less than 60 percent of the median income for the area, or (B) less than $20,000. Occupant families shall pay not more than 30 percent of the family income for rent.

"(d) SOCIAL SERVICES.—The demonstration program shall provide for appropriate social and supportive services to be made available to residents of housing assisted under the demonstration program and to other residents of the new town demonstration area, which may include rental and homeownership counseling, child care, job placement, educational programs, recreational and health care facilities and programs, and other appropriate services.

"(e) JOB CREATION AND TRAINING.—The demonstration program shall provide, to the extent practicable, that activities in connection with the demonstration program, including development of housing under subsection (c) and community development activities assisted under section 1106, shall employ and provide job training opportunities for residents of the housing assisted under the demonstration program and other residents of the new town demonstration area.

"(f) FINANCING.—The demonstration program shall provide for coordination with banks, credit unions, and other mortgage lenders to make financing available to purchasers of units developed under the demonstration program through mortgages eligible for insurance under section 1104, and shall give preference

to such mortgage lenders who have offices located within or near the new town demonstration area.

"(g) SUPPORT FACILITIES.—The demonstration program shall encourage, facilitate, and provide for development of appropriate support facilities to serve residents in the housing developed under the program, including infrastructure and commercial facilities.

"(h) NON-FEDERAL FUNDS.—The governing board carrying out the demonstration program shall ensure that not less than 25 percent of the total amounts used to carry out the demonstration program is provided from non-Federal sources, including State or local government funds, any salary paid to staff to carry out the demonstration program, the value of any time, services, and materials donated to carry out the program, the value of any donated building, and the value of any lease on a building.

"SEC. 1104. FEDERAL MORTGAGE INSURANCE.

"(a) IN GENERAL.—Pursuant to title II and section 251 of the National Housing Act [12 U.S.C. 1707 et seq., 1715z–16], the Secretary shall (to the extent authority is available pursuant to subsection (d)) insure mortgages under this section involving properties upon which are located dwelling units described in section 1103(c)(3) of this Act that are developed under the new town demonstration programs carried out pursuant to this title.

"(b) MORTGAGE TERMS.—Mortgages insured under this section shall—

"(1) provide for periodic adjustments in the effective rate of interest charged, which—

"(A) for the first 5 years of the mortgage, shall be an annual rate of not more than 7 percent; and

"(B) after the expiration of such 5-year period, may increase on an annual basis, but—

"(i) shall be limited, with respect to any single interest rate increase, to not more than a 10-percent increase in the annual percentage rate; and

"(ii) may not be increased at any time to a rate greater than the rate necessary at such time to fully amortize the outstanding loan balance over the term of the mortgage; and

"(2) have a maturity of 35 years from the date of the beginning of the amortization of the mortgage.

"(c) BOARD APPROVAL.—The Secretary may provide insurance under this section for a mortgage only if the governing board for the demonstration program for the new town demonstration area in which the property subject to the mortgage is located has indicated to the Secretary approval of the mortgage in connection with the demonstration program.

"(d) INSURANCE AUTHORITY.—To the extent provided in appropriation Acts, the Secretary shall use any authority provided pursuant to section 531(b) of the National Housing Act [12 U.S.C. 1735f–9(b)] to enter into commitments to insure loans and mortgages under this section in fiscal years 1993 and 1994 with an aggregate principal amount not exceeding such sums as may be necessary to carry out the demonstration under this title. Mortgages insured under this section shall not be considered for purposes of the aggregate limitation on the number of mortgages insured under section 251 of the National Housing Act [12 U.S.C. 1715z–16] specified in subsection (c) of such section.

"SEC. 1105. SECONDARY SOFT MORTGAGE FINANCING FOR HOUSING.

"(a) IN GENERAL.—The Secretary shall, to the extent amounts are provided in appropriation Acts under subsection (e), provide assistance under this section through the governing boards carrying out the new town demonstration programs under this section to assist in the development of housing under the program.

"(b) USE.—Any assistance provided under this section shall be used only for costs in planning, developing, constructing, and rehabilitating housing under the demonstration program available for rental or purchase by the occupant. The governing board shall determine, according to the new town plan for the demonstration program, the allocation of amounts of assistance provided under this section.

"(c) AMOUNT.—The Secretary may not provide assistance under this section for the development of housing under a demonstration program in an amount exceeding $50,000 per dwelling unit assisted.

"(d) SECOND MORTGAGE.—

"(1) IN GENERAL.—Assistance under this section shall be repaid in accordance with this subsection. Repayment of the amount of any assistance provided with respect to—

"(A) any building containing rental units, or

"(B) any dwelling unit available for purchase by the occupant that is developed under a demonstration program,

shall be secured by a second mortgage held by the Secretary on the property involved.

"(2) TERMS.—During the period ending upon repayment of the assistance as provided in this subsection, any building containing rental units that is provided assistance under this section shall be used as rental housing subject to the requirements of section 1103(c)(4). During the period ending upon

repayment of the assistance as provided in this subsection, any dwelling unit made available for purchase by the occupant that is provided assistance under this section may be sold only to a family having an income not exceeding the amount specified in section 1103(c)(2).

"(3) INTEREST.—Any assistance provided under this section for a building or dwelling unit shall bear interest at a rate equivalent to the rate for the most recently marketable obligations issued by the United States Treasury have terms of 10 years. The interest on such assistance shall be required to be repaid only upon sale of the building.

"(4) DISCOUNTED REPAYMENT.—The assistance provided under this section for any building containing rental units or any dwelling unit available for purchase by the occupant shall be considered to have been repaid for purposes of this subsection if the original purchaser of the building or the dwelling unit pays to the Secretary an amount equal to 50 percent of the amount of the assistance provided under this section.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 1993 and 1994 such sums as may be necessary for providing assistance under this section.

"SEC. 1106. COMMUNITY DEVELOPMENT ASSISTANCE.

"(a) IN GENERAL.—The Secretary shall provide assistance under this section, to the extent amounts are provided in appropriation Acts under subsection (h), to units of general local government to address vital unmet needs and to promote the creation of jobs and economic development in connection with the new town demonstration programs carried out under this title.

"(b) ELIGIBLE UNITS OF GENERAL LOCAL GOVERNMENT.—Assistance may be provided under this section only to units of general local government—

"(1) within whose boundaries are located any portion of the new town demonstration areas described under the new town demonstration plans for the demonstration programs carried out under this title;

"(2) that make the certifications to the Secretary required under subsection (c); and

"(3) that will comply with a residential antidisplacement and relocation assistance plan described in subsection (d).

"(c) REQUIRED CERTIFICATIONS.—The certifications referred to in subsection (b)(2) shall be certifications that—

"(1) the assistance will be conducted and administered in conformity with the Civil Rights Act of 1964 [42 U.S.C. 2000a et seq.] and the Civil Rights Act of 1968 [see Short Title note set out under section 3601 of this title], and the unit of general local government will affirmatively further fair housing;

"(2) the projected use of funds has been developed in a manner that gives maximum feasible priority to activities which are designed to meet community development needs that have been delayed because of the lack of fiscal resources of the unit of general local government or which are designed to address conditions that pose a serious and immediate threat to the health or welfare of the community;

"(3) any projected use of funds for public services will benefit primarily low- and moderate-income families;

"(4) the unit of general local government will not attempt to recover any capital costs of public improvements assisted in whole or part under this section by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless—

"(A) funds received under this section are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under this section; or

"(B) for purposes of assessing any amount against properties owned and occupied by persons of moderate income, the grantee certifies to the Secretary that it lacks sufficient funds received under this section to comply with the requirements of subparagraph (A); and

"(5) the unit of general local government will comply with the other provisions of this title and with other applicable laws.

"(d) ANTIDISPLACEMENT AND RELOCATION PLAN.—

"(1) CONTENTS.—The residential antidisplacement and relocation assistance plan referred to in subsection (b)(3) shall, in connection with activities assisted under this section—

"(A) provide that, in the event of such displacement—

"(i) governmental agencies or private developers shall provide, within the same community, comparable replacement dwellings for the same number of occupants as could have been housed in the occupied and vacant occupiable low- and moderate-income dwelling units demolished or converted to

a use other than for housing for low- and moderate-income persons, and provide that such replacement housing may include existing housing assisted with project based assistance provided under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f];

"(ii) such comparable replacement dwellings shall be designed to remain affordable to persons of low- and moderate-income for 10 years from the time of initial occupancy;

"(iii) relocation benefits shall be provided for all low- or moderate-income persons who occupied housing demolished or converted to a use other than for low- or moderate-income housing, including reimbursement for actual and reasonable moving expenses, security deposits, credit checks, and other moving-related expenses, including any interim living costs; and in the case of displaced persons of low- and moderate-income, provide either—

"(I) compensation sufficient to ensure that, for a 5-year period, the displaced families shall not bear, after relocation, a ratio of shelter costs to income that exceeds 30 percent; or

"(II) if elected by a family, a lump-sum payment equal to the capitalized value of the benefits available under subclause (I) to permit the household to secure participation in a housing cooperative or mutual housing association; and

"(iv) persons displaced shall be relocated into comparable replacement housing that is—

"(I) decent, safe, and sanitary;

"(II) adequate in size to accommodate the occupants;

"(III) functionally equivalent; and

"(IV) in an area not subject to unreasonably adverse environmental conditions; and

"(B) provide that persons displaced shall have the right to elect, as an alternative to the benefits under this subsection, to receive benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 [42 U.S.C. 4601 et seq.] if such persons determine that it is in their best interest to do so; and

"(C) provide that where a claim for assistance under subparagraph (A)(iv) is denied by the unit of general local government, the claimant may appeal to the Secretary, and that the decision of the Secretary shall be final unless a court determines the decision was arbitrary and capricious.

"(2) EXCEPTION.—Paragraphs (1)(A)(i) and (1)(A)(ii) shall not apply in any case in which the Secretary finds, on the basis of objective data, that there is available in the area an adequate supply of habitable affordable housing for low- and moderate-income persons. A determination under this paragraph shall be final and nonreviewable.

"(e) ELIGIBLE ACTIVITIES.—Activities assisted with amounts provided under this section may include only the following activities:

"(1) ACQUISITION OF REAL PROPERTY.—The acquisition of real property (including air rights, water rights, and other interests therein) that is located within the new town demonstration area and is—

"(A) blighted, deteriorated, undeveloped, or inappropriately developed from the standpoint of sound community development and growth;

"(B) appropriate for rehabilitation activities;

"(C) appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development;

"(D) to be used for the provision of public works, facilities, and improvements eligible for assistance under this section;

"(E) to be used as a facility for coordinating and providing activities and services for high risk youth (as such term is defined in section 509A [now 517] of the Public Health Service Act [former 42 U.S.C. 290bb–23]); or

"(F) to be used for other public purposes.

"(2) CONSTRUCTION OF PUBLIC WORKS AND FACILITIES.—The acquisition, construction, rehabilitation, or installation of public works or public facilities within the new town demonstration area, including buildings for the general conduct of government and facilities for coordinating and providing activities and services for high risk youth (as such term is defined in section 509A [now 517] of the Public Health Service Act).

"(3) CLEARANCE AND REHABILITATION OF BUILDINGS.—The clearance, removal, and rehabilitation of buildings and improvements located within the new town demonstration area, including interim assistance, assistance for facilities for coordinating and providing activities and services for high risk youth (as such term is defined in section 509A [now 517] of the Public Health Service Act), and assistance to privately owned buildings and improvements.

"(4) PROVISION OF PUBLIC SERVICES AND HOUSING.—

"(A) PUBLIC SERVICES.—The provision of public services within the new town demonstration area that are concerned with job training and retraining, health care and education, crime prevention, drug abuse treatment and rehabilitation, child care, education, and recreation, which may include the provision of public health and public safety vehicles.

"(B) HOUSING ACTIVITIES.—The acquisition and rehabilitation of housing for low- and moderate-income families within the new town demonstration area, except that any grantee that uses amounts received under this section for housing activities under this subparagraph shall make not less than 15 percent of the amount used for such housing activities available only for community housing development organizations and nonprofit organizations (as such terms are defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12704]) for such activities;

"(C) LIMITATION.—Not more than 25 percent of the amount of any assistance provided under this section (including program income) to any unit of general local government may be used for activities under this paragraph.

"(5) RELOCATION ASSISTANCE.—Relocation payments and assistance for individuals, families, business, and organizations that are displaced as a result of activities assisted under this title.

"(6) PAYMENT OF ADMINISTRATIVE EXPENSES.—Payment of reasonable administrative costs associated with activities assisted under this section and any expenses of developing the new town plan under section 1102.

"(f) ALLOCATION OF ASSISTANCE.—The Secretary may not provide more than 50 percent of any amounts appropriated under this section in connection with any one of the 2 new town demonstration programs carried out under this title.

"(g) OTHER REQUIREMENTS.—The provisions of subsections (f), (g), and (h) of section 104, subsections (c) and (d) of section 105, section 107, 108, 109, and 110 of the bill, H.R. 4073, 102d Congress (as reported on March 14, 1992 [May 14, 1992, H. Rept. No. 102–524], by the Committee on Banking, Finance and Urban Affairs of the House of Representatives), shall apply to grantees receiving assistance under this section.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 1993 and 1994 such sums as may be necessary for assistance under this section.

"SEC. 1107. GOVERNING BOARDS.

"(a) PURPOSE.—For purposes of this title, a governing board shall be a board organized for the purpose of developing a new town plan under this title and carrying out a new town development demonstration under this title.

"(b) MEMBERSHIP.—Each governing board shall consist of not less than 10 members, who shall include—

"(1) residents of the area in which the new town demonstration area under the plan developed by the board is located;

"(2) owners of business in such area;

"(3) leaders or participants in community groups in such area; and

"(4) representatives of financial institutions located or having offices in such area.

"(c) ORGANIZATION.—A governing board may organize itself and conduct business in the manner that the board determines is appropriate to carry out the new town development demonstration under this title.

"SEC. 1108. REPORTS.

"Each governing board carrying out a new town development demonstration under this title shall submit to the Congress a copy of the new town plan of the governing board, upon the approval of that plan under section 1102(d).

"SEC. 1109. DEFINITIONS.

"For purposes of this title:

"(1) DEMONSTRATION PROGRAM.—The terms 'demonstration program' and 'program' mean a new town development demonstration program receiving assistance under this title, which is carried out within a new town demonstration area by a governing board.

"(2) GOVERNING BOARD.—The term 'governing board' means a board established under section 1107.

"(3) NEW TOWN DEMONSTRATION AREA.—The term 'new town demonstration area' means the area defined in a new town plan in which the new town development demonstration under the plan is to be carried out.

"(4) NEW TOWN PLAN.—The terms 'new town plan' and 'plan' mean a plan under section 1102

developed by a governing board.

"(5) UNIT OF GENERAL LOCAL GOVERNMENT.—The term 'unit of general local government' means any city, county, town, township, parish, village, or other general purpose political subdivision of the State of California."

REPORTS OF COMPTROLLER GENERAL

Pub. L. 100–242, title V, §515(e), Feb. 5, 1988, 101 Stat. 1933, which required the Comptroller General of the United States to triennially prepare and submit to Congress a comprehensive report evaluating the eligibility standards and selection criteria applicable under this section, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, item 14 on page 9 of House Document No. 103–7.

NEIGHBORHOOD DEVELOPMENT DEMONSTRATION

Pub. L. 98–181, title I [title I, §123], Nov. 30, 1983, 97 Stat. 1172, which provided for a demonstration program to determine the feasibility of supporting eligible neighborhood development activities by providing Federal matching funds to eligible neighborhood development organizations, was transferred to section 5318a of this title.

[1] *So in original. Probably should not be capitalized.*

[2] *So in original.*

§5318a. John Heinz Neighborhood Development Program

(a) Definitions

For the purposes of this section:

(1) The term "eligible neighborhood development activity" means—

(A) creating permanent jobs in the neighborhood;

(B) establishing or expanding businesses within the neighborhood;

(C) developing, rehabilitating, or managing neighborhood housing stock;

(D) developing delivery mechanisms for essential services that have lasting benefit to the neighborhood; or

(E) planning, promoting, or financing voluntary neighborhood improvement efforts.

(2) The term "eligible neighborhood development organization" means—

(A)(i) an entity organized as a private, voluntary, nonprofit corporation under the laws of the State in which it operates;

(ii) an organization that is responsible to residents of its neighborhood through a governing body, not less than 51 per centum of the members of which are residents of the area served;

(iii) an organization that has conducted business for at least one year prior to the date of application for participation;

(iv) an organization that operates within an area that—

(I) meets the requirements for Federal assistance under section 5318 of this title;

(II) is designated as an enterprise zone under Federal law;

(III) is designated as an enterprise zone under State law and recognized by the Secretary for purposes of this section as a State enterprise zone; or

(IV) is a qualified distressed community within the meaning of section 1834a(b)(1) of title 12; and

(v) an organization that conducts one or more eligible neighborhood development activities that have as their primary beneficiaries low- and moderate-income persons, as defined in section 5302(a)(20) of this title; or

(B) any facility that provides small entrepreneurial business with affordable shared support services and business development services and meets the requirements of subparagraph (A).

(3) The term "neighborhood development funding organization" means—

(A) a depository institution the accounts of which are insured pursuant to the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.] or the Federal Credit Union Act [12 U.S.C. 1751 et seq.], and any subsidiary (as such term is defined in section 3(w) of the Federal Deposit Insurance Act [12 U.S.C. 1813(w)]) thereof;

(B) a depository institution holding company and any subsidiary thereof (as such term is defined in section 3(w) of the Federal Deposit Insurance Act [12 U.S.C. 1813(w)]); or

(C) a company at least 75 percent of the common stock of which is owned by one or more insured depository institutions or depository institution holding companies.

(4) The term "Secretary" means the Secretary of Housing and Urban Development.

(b) Duties of Secretary

(1) The Secretary shall carry out, in accordance with this section, a program to support eligible neighborhood development activities by providing Federal matching funds to eligible neighborhood development organizations on the basis of the monetary support such organizations have received from individuals, businesses, and nonprofit or other organizations in their neighborhoods, and from neighborhood development funding organizations, prior to receiving assistance under this section.

(2) The Secretary shall accept applications from eligible neighborhood development organizations for participation in the program. Eligible organizations may participate in more than one year of the program, but shall be required to submit a new application and to compete in the selection process for each program year. For fiscal year 1993 and thereafter, not more than 50 percent of the grants may be for multiyear awards.

(3) From the pool of eligible neighborhood development organizations submitting applications for participation in a given program year, the Secretary shall select participating organizations in an appropriate number through a competitive selection process. To be selected, an applicant shall—

(A) have demonstrated measurable achievements in one or more of the activities specified in subsection (a)(1);

(B) specify a business plan for accomplishing one or more of the activities specified in subsection (a)(1);

(C) specify a strategy for achieving greater long term private sector support, especially in cooperation with a neighborhood development funding organization, except that an eligible neighborhood development organization shall be deemed to have the full benefit of the cooperation of a neighborhood development funding organization if the eligible neighborhood development organization—

(i) is located in an area described in subsection (a)(2)(A)(iv) that does not contain a neighborhood development funding organization; or

(ii) demonstrates to the satisfaction of the Secretary that it has been unable to obtain the cooperation of any neighborhood development funding organization in such area despite having made a good faith effort to obtain such cooperation; and

(D) specify a strategy for increasing the capacity of the organization.

(c) Criteria for awarding grants

The Secretary shall award grants under this section among the eligible neighborhood development organizations submitting applications for such grants on the basis of—

(1) the degree of economic distress of the neighborhood involved;

(2) the extent to which the proposed activities will benefit persons of low and moderate income;

(3) the extent of neighborhood participation in the proposed activities, as indicated by the proportion of the households and businesses in the neighborhood involved that are members of the eligible neighborhood development organization involved and by the extent of participation in the proposed activities by a neighborhood development funding organization that has a branch or office in the neighborhood, except that an eligible neighborhood development organization shall

be deemed to have the full benefit of the participation of a neighborhood development funding organization if the eligible neighborhood development organization—

(A) is located in an [1] neighborhood that does not contain a branch or office of a neighborhood development funding organization; or

(B) demonstrates to the satisfaction of the Secretary that it has been unable to obtain the participation of any neighborhood development funding organization that has a branch or office in the neighborhood despite having made a good faith effort to obtain such participation; and

(4) the extent of voluntary contributions available for the purpose of subsection (e)(4), except that the Secretary shall waive the requirement of this subparagraph in the case of an application submitted by a small eligible neighborhood development organization, an application involving activities in a very low-income neighborhood, or an application that is especially meritorious.

(d) Consultation with informal working group

The Secretary shall consult with an informal working group representative of eligible neighborhood organizations with respect to the implementation and evaluation of the program established in this section.

(e) Matching funds for participating organizations

(1) The Secretary shall assign each participating organization a defined program year, during which time voluntary contributions from individuals, businesses, and nonprofit or other organizations in the neighborhood, and from neighborhood development funding organizations, shall be eligible for matching.

(2) Subject to paragraph (3), at the end of each three-month period occurring during the program year, the Secretary shall pay to each participating neighborhood development organization the product of—

(A) the aggregate amount of voluntary contributions that such organization certifies to the satisfaction of the Secretary it received during such three-month period; and

(B) the matching ratio established for such test neighborhoods under paragraph (4).

(3) The Secretary shall pay not more than $50,000 under this section to any participating neighborhood development organization during a single program year, except that, if appropriations for this section exceed $3,000,000, the Secretary may pay not more than $75,000 to any participating neighborhood development organization.

(4) For purposes of paragraph (2), the Secretary shall, for each participating organization, determine an appropriate ratio by which monetary contributions made to participating neighborhood development organizations will be matched by Federal funds. The highest such ratios shall be established for neighborhoods having the smallest number of households or the greatest degree of economic distress.

(5) The Secretary shall insure that—

(A) grants and other forms of assistance may be made available under this section only if the application contains a certification by the unit of general local government within which the neighborhood to be assisted is located that such assistance is not inconsistent with the comprehensive housing affordability strategy of such unit approved under section 12705 of this title or the statement of community development activities and community development plans of the unit submitted under section 5304(m) of this title, except that the failure of a unit of general local government to respond to a request for a certification within thirty days after the request is made shall be deemed to be a certification; and

(B) eligible neighborhood development activities comply with all applicable provisions of the Civil Rights Act of 1964 [42 U.S.C. 2000a et seq.].

(6) To carry out this section, the Secretary—

(A) may issue regulations as necessary;

(B) shall utilize, to the fullest extent practicable, relevant research previously conducted by

Federal agencies, State and local governments, and private organizations and persons;

(C) shall disseminate information about the kinds of activities, forms of organizations, and fund-raising mechanisms associated with successful programs; and

(D) may use not more than 5 per centum of the funds appropriated for administrative or other expenses in connection with the program.

(f) Authorization

Of the amounts made available for assistance under section 5303 of this title, $1,000,000 for fiscal year 1993 (in addition to other amounts provided for such fiscal year) and $3,000,000 for fiscal year 1994 shall be available to carry out this section.

(g) Short title

This section may be cited as the "John Heinz Neighborhood Development Act".

(Pub. L. 98–181, title I [title I, §123], Nov. 30, 1983, 97 Stat. 1172; Pub. L. 98–479, title I, §101(b)(2), (3), Oct. 17, 1984, 98 Stat. 2220; Pub. L. 100–242, title V, §§521, 525, Feb. 5, 1988, 101 Stat. 1938, 1939; Pub. L. 101–625, title IX, §915, Nov. 28, 1990, 104 Stat. 4395; Pub. L. 102–550, title VIII, §832, Oct. 28, 1992, 106 Stat. 3852; Pub. L. 105–362, title VII, §701(d), Nov. 10, 1998, 112 Stat. 3287.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Deposit Insurance Act, referred to in subsec. (a)(3)(A), is act Sept. 21, 1950, ch. 967, §2, 64 Stat. 873, which is classified generally to chapter 16 (§1811 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of Title 12 and Tables.

The Federal Credit Union Act, referred to in subsec. (a)(3)(A), is act June 26, 1934, ch. 750, 48 Stat. 1216, which is classified generally to chapter 14 (§1751 et seq.) of Title 12. For complete classification of this Act to the Code, see section 1751 of Title 12 and Tables.

The Civil Rights Act of 1964, referred to in subsec. (e)(5)(B), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, which is classified principally to subchapters II to IX (§2000a 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.

CODIFICATION

Section was enacted as the John Heinz Neighborhood Development Act and also as part of the Housing and Urban-Rural Recovery Act of 1983, the Domestic Housing and International Recovery and Financial Stability Act, and the Supplemental Appropriations Act, 1984, and not as part of title I of the Housing and Community Development Act of 1974 which comprises this chapter.

Section was formerly set out as a note under section 5318 of this title.

AMENDMENTS

1998—Subsecs. (f) to (h). Pub. L. 105–362 redesignated subsecs. (g) and (h) as (f) and (g), respectively, and struck out former subsec. (f) which read as follows: "The Secretary shall submit a report to the Congress, not later than 3 months after the end of each fiscal year in which payments are made under this section, regarding the program under this section. The report shall contain a summary of the activities carried out under this section during such fiscal year and any findings, conclusions, and recommendations for legislation regarding the program."

1992—Pub. L. 102–550, §832(b)(1), substituted "John Heinz Neighborhood Development Program" for "Neighborhood Development Demonstration" as section catchline.

Subsec. (a)(2). Pub. L. 102–550, §832(d)(1)–(3), (4), redesignated subpars. (A) to (E) of par. (2) as cls. (i) to (v), respectively, of subpar. (A) of par. (2) and added subpar. (B).

Subsec. (a)(2)(A)(iii). Pub. L. 102–550, §832(g)(1), substituted "one year" for "three years".

Subsec. (a)(2)(A)(iv). Pub. L. 102–550, §832(e)(1), added cl. (iv) and struck out former cl. (iv) which read as follows: "an organization that operates within an area that meets the requirements for Federal assistance under section 5318 of this title; and".

Subsec. (a)(3), (4). Pub. L. 102–550, §832(e)(2), (3), added par. (3) and redesignated former par. (3) as (4).

Subsec. (b)(1). Pub. L. 102–550, §832(f)(1), inserted ", and from neighborhood development funding

organizations," after "neighborhoods".

Pub. L. 102–550, §832(b)(2), (3), struck out "demonstration" before "program" and substituted "to support eligible" for "to determine the feasibility of supporting eligible".

Subsec. (b)(2). Pub. L. 102–550, §832(b)(2), (g)(2), struck out "demonstration" before "program." and substituted "For fiscal year 1993 and thereafter, not more than 50 percent" for "Not more than 30 per centum".

Subsec. (b)(3)(B). Pub. L. 102–550, §832(f)(2)(A), struck out "and" at end.

Subsec. (b)(3)(C). Pub. L. 102–550, §832(f)(2)(B), substituted ", especially in cooperation with a neighborhood development funding organization, except that an eligible neighborhood development organization shall be deemed to have the full benefit of the cooperation of a neighborhood development funding organization if the eligible neighborhood development organization—" and cls. (i) and (ii) for period at end.

Subsec. (b)(3)(D). Pub. L. 102–550, §832(f)(2)(C), added subpar. (D).

Subsec. (c)(3). Pub. L. 102–550, §832(f)(3), inserted before semicolon "and by the extent of participation in the proposed activities by a neighborhood development funding organization that has a branch or office in the neighborhood, except that an eligible neighborhood development organization shall be deemed to have the full benefit of the participation of a neighborhood development funding organization if the eligible neighborhood development organization—" and subpars. (A) and (B).

Subsec. (e)(1). Pub. L. 102–550, §832(f)(4), inserted ", and from neighborhood development funding organizations," after "neighborhood".

Subsec. (e)(3). Pub. L. 102–550, §832(b)(4), inserted before period ", except that, if appropriations for this section exceed $3,000,000, the Secretary may pay not more than $75,000 to any participating neighborhood development organization".

Subsec. (e)(5)(A). Pub. L. 102–550, §832(c), substituted "comprehensive housing affordability strategy of such unit approved under section 12705 of this title or the statement of community development activities and community development plans of the unit submitted under section 5304(m) of this title" for "housing and community development plans of such unit".

Subsec. (e)(6)(C). Pub. L. 102–550, §832(b)(5)(A), inserted "and" after "programs;".

Subsec. (e)(6)(D), (E). Pub. L. 102–550, §832(b)(5)(B)–(D), redesignated subpar. (E) as (D), substituted "program" for "demonstration", and struck out former subpar. (D) which read as follows: "shall undertake any other activity the Secretary deems necessary to carry out this section, which shall include an evaluation and report to Congress on the demonstration and may include the performance of research, planning, and administration, either directly, or when in the Secretary's judgment such activity will be carried out more effectively, more rapidly, or at less cost, by contract or grant; and".

Subsec. (f). Pub. L. 102–550, §832(b)(6), added subsec. (f) and struck out former subsec. (f) which read as follows: "The Secretary shall submit to the Congress—

"(1) not later than three months after the end of each fiscal year in which payments are made under this section, an interim report containing a summary of the activities carried out under this section during such fiscal year and any preliminary findings or conclusions drawn from the demonstration program; and

"(2) not later than March 15 of the year after the end of the last fiscal year in which such payments are made, a final report containing a summary of all activities carried out under this section, the evaluation required in subsection (e)(6)(D) of this section and any findings, conclusions, or recommendations for legislation drawn from the demonstration program."

Subsec. (g). Pub. L. 102–550, §832(a), amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: "To the extent provided in appropriations Acts, of the amounts made available for assistance under section 5303 of this title, $2,000,000 for fiscal year 1991 and $2,000,000 for fiscal year 1992 shall be available to carry out this section."

Subsec. (h). Pub. L. 102–550, §832(b)(7), added subsec. (h).

1990—Subsec. (g). Pub. L. 101–625 amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: "There are authorized to be appropriated to carry out this section $2,000,000 for fiscal year 1988, and $2,000,000 for fiscal year 1989."

1988—Subsec. (e)(3). Pub. L. 100–242, §525, substituted "under this section" for "under this Act".

Subsec. (g). Pub. L. 100–242, §521, amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: "For purposes of carrying out this section, there are authorized to be appropriated not to exceed $2,000,000 for each of the fiscal years 1984 and 1985."

1984—Subsec. (b)(3)(A), (B). Pub. L. 98–479, §101(b)(2), substituted "subsection (a)(1)" for "subsection (a)(4)" wherever appearing.

Subsec. (c). Pub. L. 98–479, §101(b)(3), struck out "(1)" before "The Secretary shall award" and redesignated subpars. (A) to (D) as pars. (1) to (4), respectively.

[1] *So in original. Probably should be "a".*

§5319. Community participation in programs

No community shall be barred from participating in any program authorized under this chapter solely on the basis of population, except as expressly authorized by statute.

(Pub. L. 93–383, title I, §120, as added Pub. L. 95–557, title I, §103(i), Oct. 31, 1978, 92 Stat. 2084.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title I of Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, which is classified principally to this chapter. For complete classification of title I to the Code, see Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 104 of Pub. L. 95–557, set out as an Effective Date of 1978 Amendment note under section 1709 of Title 12, Banks and Banking.

§5320. Historic preservation requirements

(a) Regulations

With respect to applications for assistance under section 5318 [1] of this title, the Secretary of the Interior, after consulting with the Secretary, shall prescribe and implement regulations concerning projects funded under section 5318 [1] of this title and their relationship with division A of subtitle III and chapter 3125 of title 54.

(b) Actions by State historic preservation officer and Secretary of the Interior

In prescribing and implementing such regulations with respect to applications submitted under section 5318 of this title which identify any property pursuant to subsection (c)(4)(B) of such section, the Secretary of the Interior shall provide at least that—

(1) the appropriate State historic preservation officer (as determined in accordance with regulations prescribed by the Secretary of the Interior) shall, not later than 45 days after receiving information from the applicant relating to the identification of properties which will be affected by the project for which the application is made and which may meet the criteria established by the Secretary of the Interior for inclusion on the National Register of Historic Places (together with documentation relating to such inclusion), submit his or her comments, together with such other information considered necessary by the officer, to the applicant concerning such properties; and

(2) the Secretary of the Interior shall, not later than 45 days after receiving from the applicant the information described in paragraph (1) and the comments submitted to the applicant in accordance with paragraph (1), make a determination as to whether any of the properties affected by the project for which the application is made is eligible for inclusion on the National Register of Historic Places.

(c) Regulations by Advisory Council on Historic Preservation providing for expeditious action

The Advisory Council on Historic Preservation shall prescribe regulations providing for expeditious action by the Council in making its comments under section 306108 of title 54 in the

case of properties which are included on, or eligible for inclusion on, the National Register of Historic Places and which are affected by a project for which an application is made under section 5318 of this title.

(Pub. L. 93–383, title I, §121, as added Pub. L. 96–399, title I, §110(c), Oct. 8, 1980, 94 Stat. 1620; amended Pub. L. 97–35, title III, §308(b), Aug. 13, 1981, 95 Stat. 396; Pub. L. 113–287, §5(k)(4), Dec. 19, 2014, 128 Stat. 3270.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 5318 of this title, referred to in subsec. (a), probably should be a reference to section 119 of the Housing and Community Development Act of 1974, Pub. L. 93–383, title I, §119, as added Pub. L. 95–128, title I, §110(b), Oct. 12, 1977, 91 Stat. 1125, which is classified to section 5318 of this title.

AMENDMENTS

2014—Subsec. (a). Pub. L. 113–287, §5(k)(4)(A), amended subsec. (a) generally. Prior to amendment, text read as follows: "With respect to applications for assistance under section 5318 of this title, the Secretary of the Interior, after consulting with the Secretary, shall prescribe and implement regulations concerning projects funded under section 5318 of this title and their relationship with—

"(1) 'An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes', approved October 14, 1966, as amended; and

"(2) 'An Act to provide for the preservation of historical and archaeological data (including relics and specimens) which might otherwise be lost as a result of the construction of a dam', approved June 27, 1960, as amended."

Subsec. (c). Pub. L. 113–287, §5(k)(4)(B), substituted "section 306108 of title 54" for "section 106 of the Act referred to in subsection (a)(1)".

1981—Subsec. (b). Pub. L. 97–35 substituted "subsection (c)(4)(B)" for "subsection (c)(7)(B)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective on effective date of regulations implementing such amendments, see section 308(c) of Pub. L. 97–35, set out as a note under section 5318 of this title.

[1] *See References in Text note below.*

§5321. Suspension of requirements for disaster areas

For funds designated under this chapter by a recipient to address the damage in an area for which the President has declared a disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5170 et seq.], the Secretary may suspend all requirements for purposes of assistance under section 5306 of this title for that area, except for those related to public notice of funding availability, nondiscrimination, fair housing, labor standards, environmental standards, and requirements that activities benefit persons of low- and moderate-income.

(Pub. L. 93–383, title I, §122, as added Pub. L. 103–233, title II, §234, Apr. 11, 1994, 108 Stat. 369.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title I of Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, which is classified principally to this chapter. For complete classification of title I to the Code, see Tables.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in text, is Pub. L.

93–288, May 22, 1974, 88 Stat. 143. Title IV of the Act is classified generally to subchapter IV (§5170 et seq.) of chapter 68 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable with respect to any amounts made available to carry out subchapter II (§12721 et seq.) of chapter 130 of this title after Apr. 11, 1994, and any amounts made available to carry out that subchapter before that date that remain uncommitted on that date, with Secretary to issue any regulations necessary to carry out this section not later than end of 45-day period beginning on that date, see section 209 of Pub. L. 103–233, set out as an Effective Date of 1994 Amendment note under section 5301 of this title.

§5322. Funds made available for administrative costs without regard to particular disaster appropriation

Amounts made available for administrative costs for activities authorized under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) related to disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, and mitigation in the most impacted and distressed areas under this Act or any future Act, and amounts previously provided under section 420 of division L of Public Law 114–113, section 145 of division C of Public Law 114–223, section 192 of division C of Public Law 114–223 (as added by section 101(3) of division A of Public Law 114–254), section 421 of division K of Public Law 115–31, and under the heading "Department of Housing and Urban Development—Community Planning and Development—Community Development Fund" of division B of Public Law 115–56, Public Law 115–123, and Public Law 115–254, shall be available for eligible administrative costs of the grantee related to any disaster relief funding identified in this section without regard to the particular disaster appropriation from which such funds originated.

(Pub. L. 116–20, title XI, §1101(b), June 6, 2019, 133 Stat. 900.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Housing and Community Development Act of 1974, referred to in text, is Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633. Title I of the Act is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

Section 420 of division L of Public Law 114–113, referred to in text, is section 420 of Pub. L. 114–113, div. L, title IV, Dec. 18, 2015, 129 Stat. 2907, which is not classified to the Code.

Section 145 of division C of Public Law 114–223, referred to in text, is section 145 of Pub. L. 114–223, div. C, Sept. 29, 2016, 130 Stat. 916, which is not classified to the Code.

Section 192 of division C of Public Law 114–223 (as added by section 101(3) of division A of Public Law 114–254), referred to in text, is section 192 of Pub. L. 114–223, div. C, as added by Pub. L. 114–254, div. A, §101(3), Dec. 10, 2016, 130 Stat. 1019, which is not classified to the Code.

Section 421 of division K of Public Law 115–31, referred to in text, is section 421 of Pub. L. 115–31, div. K, title IV, May 5, 2017, 131 Stat. 796, which is not classified to the Code.

The heading "Department of Housing and Urban Development—Community Planning and Development—Community Development Fund" of division B of Public Law 115–56, referred to in text, can be found at Pub. L. 115–56, div. B, Sept. 8, 2017, 131 Stat. 1137. Provisions under the heading are not classified to the Code.

Public Law 115–123, referred to in text, is Pub. L. 115–123, Feb. 9, 2018, 132 Stat. 64, known as the Bipartisan Budget Act of 2018. For complete classification of this Act to the Code, see Short Title of 2018 Amendment note set out under section 1305 of this title and Tables.

Public Law 115–254, referred to in text, is Pub. L. 115–254, Oct. 5, 2018, 132 Stat. 3186, known as the FAA Reauthorization Act of 2018. For complete classification of this Act to the Code, see Short Title of 2018

Amendment note set out under section 40101 of Title 49, Transportation, and Tables.

CODIFICATION

Section was enacted as part of the Additional Supplemental Appropriations for Disaster Relief Act, 2019, and not as part of title I of the Housing and Community Development Act of 1974 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SIMILAR PROVISIONS

Pub. L. 117–43, div. B, title VIII, Sept. 30, 2021, 135 Stat. 370, provided in part: "That a State, unit of general local government, or Indian tribe may use up to 5 percent of its allocation for administrative costs related to a major disaster under this heading [Department of Housing and Urban Development—Community Planning and Development—Community Development Fund] in this Act [div. B of Pub. L. 117–43, see Tables for classification] and for the same purposes in prior and future Acts and such amounts shall be available for any eligible administrative costs without regard to a particular disaster".

CHAPTER 70—MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS

Sec.

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§5401. Findings and purposes

(a) Findings

Congress finds that—

(1) manufactured housing plays a vital role in meeting the housing needs of the Nation; and

(2) manufactured homes provide a significant resource for affordable homeownership and rental housing accessible to all Americans.

(b) Purposes

The purposes of this chapter are—

(1) to protect the quality, durability, safety, and affordability of manufactured homes;

(2) to facilitate the availability of affordable manufactured homes and to increase homeownership for all Americans;

(3) to provide for the establishment of practical, uniform, and, to the extent possible, performance-based Federal construction standards for manufactured homes;

(4) to encourage innovative and cost-effective construction techniques for manufactured homes;

(5) to protect residents of manufactured homes with respect to personal injuries and the amount of insurance costs and property damages in manufactured housing, consistent with the other purposes of this section;

(6) to establish a balanced consensus process for the development, revision, and interpretation of Federal construction and safety standards for manufactured homes and related regulations for the enforcement of such standards;

(7) to ensure uniform and effective enforcement of Federal construction and safety standards for manufactured homes; and

(8) to ensure that the public interest in, and need for, affordable manufactured housing is duly considered in all determinations relating to the Federal standards and their enforcement.

(Pub. L. 93–383, title VI, §602, Aug. 22, 1974, 88 Stat. 700; Pub. L. 96–399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641; Pub. L. 97–35, title III, §339B(c), Aug. 13, 1981, 95 Stat. 417; Pub. L. 106–569, title VI, §602, Dec. 27, 2000, 114 Stat. 2997.)

EDITORIAL NOTES

AMENDMENTS

2000—Pub. L. 106–569 amended section catchline and text generally. Prior to amendment, text read as follows: "The Congress declares that the purposes of this chapter are to reduce the number of personal injuries and deaths and the amount of insurance costs and property damage resulting from manufactured home accidents and to improve the quality and durability of manufactured homes. Therefore, the Congress determines that it is necessary to establish Federal construction and safety standards for manufactured homes and to authorize manufactured home safety research and development."

1980—Pub. L. 96–399 substituted "manufactured home" for "mobile home" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–569, title VI, §612, Dec. 27, 2000, 114 Stat. 3012, provided that: "The amendments made by this title [see Short Title of 2000 Amendment note below] shall take effect on the date of the enactment of this Act [Dec. 27, 2000], except that the amendments shall have no effect on any order or interpretative bulletin that is issued under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 et seq.) and published as a proposed rule pursuant to section 553 of title 5, United States Code, on or before that date of the enactment."

EFFECTIVE DATE

Pub. L. 93–383, title VI, §627, formerly §628, Aug. 22, 1974, 88 Stat. 714, renumbered §627, Pub. L. 106–569, title VI, §611(2), Dec. 27, 2000, 114 Stat. 3012, provided that: "The provisions of this title [enacting this chapter and provisions set out as a note under this section] shall take effect upon the expiration of 180 days following the date of enactment of this title [Aug. 22, 1974]."

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–569, title VI, §601(a), Dec. 27, 2000, 114 Stat. 2997, provided that: "This title [amending this section and sections 5402 to 5404, 5406, 5407, 5409, 5412 to 5415, 5419, 5422, and 5426 of this title, repealing section 5425 of this title, and enacting and amending provisions set out as notes under this section] may be cited as the 'Manufactured Housing Improvement Act of 2000'."

SHORT TITLE

Pub. L. 93–383, title VI, §601, Aug. 22, 1974, 88 Stat. 700, as amended by Pub. L. 96–399, title III, §308(c)(5), Oct. 8, 1980, 94 Stat. 1641, provided that: "This title [enacting this chapter and provisions set out as a note under this section] may be cited as the 'National Manufactured Housing Construction and Safety Standards Act of 1974'."

SAVINGS PROVISIONS

Pub. L. 106–569, title VI, §613, Dec. 27, 2000, 114 Stat. 3012, provided that:

"(a) STANDARDS AND REGULATIONS.—The Federal manufactured home construction and safety standards (as such term is defined in section 603 of the National Manufactured Housing Construction and Safety Standards Act of 1974 [42 U.S.C. 5402]) and all regulations pertaining thereto in effect on the day before the date of the enactment of this Act [Dec. 27, 2000] shall apply until the effective date of a standard or regulation modifying or superseding the existing standard or regulation that is promulgated under subsection (a) or (b) of section 604 of the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended by this title [42 U.S.C. 5403(a), (b)].

"(b) CONTRACTS.—Any contract awarded pursuant to a Request for Proposal issued before the date of the enactment of this Act [Dec. 27, 2000] shall remain in effect until the earlier of—

"(1) the expiration of the 2-year period beginning on the date of the enactment of this Act; or

"(2) the expiration of the contract term."

§5402. Definitions

As used in this chapter, the term—

(1) "manufactured home construction" means all activities relating to the assembly and manufacture of a manufactured home including but not limited to those relating to durability, quality, and safety;

(2) "retailer" means any person engaged in the sale, leasing, or distribution of new manufactured homes primarily to persons who in good faith purchase or lease a manufactured home for purposes other than resale;

(3) "defect" includes any defect in the performance, construction, components, or material of a manufactured home that renders the home or any part thereof not fit for the ordinary use for which it was intended;

(4) "distributor" means any person engaged in the sale and distribution of manufactured homes for resale;

(5) "manufacturer" means any person engaged in manufacturing or assembling manufactured homes, including any person engaged in importing manufactured homes for resale;

(6) "manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary and complies with the

standards established under this chapter; and except that such term shall not include any self-propelled recreational vehicle;

(7) "Federal manufactured home construction and safety standard" means a reasonable standard for the construction, design, and performance of a manufactured home which meets the needs of the public including the need for quality, durability, and safety;

(8) "manufactured home safety" means the performance of a manufactured home in such a manner that the public is protected against any unreasonable risk of the occurrence of accidents due to the design or construction of such manufactured home, or any unreasonable risk of death or injury to the user or to the public if such accidents do occur;

(9) "imminent safety hazard" means an imminent and unreasonable risk of death or severe personal injury;

(10) "purchaser" means the first person purchasing a manufactured home in good faith for purposes other than resale;

(11) "Secretary" means the Secretary of Housing and Urban Development;

(12) "State" includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa;

(13) "United States district courts" means the Federal district courts of the United States and the United States courts of the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa;

(14) "administering organization" means the recognized, voluntary, private sector, consensus standards body with specific experience in developing model residential building codes and standards involving all disciplines regarding construction and safety that administers the consensus standards through a development process;

(15) "consensus committee" means the committee established under section 5403(a)(3) of this title;

(16) "consensus standards development process" means the process by which additions, revisions, and interpretations to the Federal manufactured home construction and safety standards and enforcement regulations shall be developed and recommended to the Secretary by the consensus committee;

(17) "primary inspection agency" means a State agency or private organization that has been approved by the Secretary to act as a design approval primary inspection agency or a production inspection primary inspection agency, or both;

(18) "design approval primary inspection agency" means a State agency or private organization that has been approved by the Secretary to evaluate and either approve or disapprove manufactured home designs and quality control procedures;

(19) "installation standards" means reasonable specifications for the installation of a manufactured home, at the place of occupancy, to ensure proper siting, the joining of all sections of the home, and the installation of stabilization, support, or anchoring systems;

(20) "monitoring" means the process of periodic review of the primary inspection agencies, by the Secretary or by a State agency under an approved State plan pursuant to section 5422 of this title, in accordance with regulations promulgated under this chapter, giving due consideration to the recommendations of the consensus committee under section 5403(b) of this title, which process shall be for the purpose of ensuring that the primary inspection agencies are discharging their duties under this chapter; and

(21) "production inspection primary inspection agency" means a State agency or private organization that has been approved by the Secretary to evaluate the ability of manufactured home manufacturing plants to comply with approved quality control procedures and with the Federal manufactured home construction and safety standards promulgated hereunder, including the inspection of homes in the plant.

(Pub. L. 93–383, title VI, §603, Aug. 22, 1974, 88 Stat. 700; Pub. L. 96–399, title III, §308(c)(4), (d), Oct. 8, 1980, 94 Stat. 1641; Pub. L. 97–35, title III, §339B(c), Aug. 13, 1981, 95 Stat. 417; Pub. L. 105–276, title V, §599A(a), Oct. 21, 1998, 112 Stat. 2660; Pub. L. 106–569, title VI, §603(a), Dec. 27, 2000, 114 Stat. 2998.)

EDITORIAL NOTES

REFERENCES IN TEXT

For definition of Canal Zone, referred to in pars. (12) and (13), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

CODIFICATION

References to "mobile homes", wherever appearing in text, changed to "manufactured homes" in view of the amendment of title VI of the Housing and Community Development Act of 1974 (this chapter) by section 308(c)(4) of Pub. L. 96–399 requiring the substitution of "manufactured home" for "mobile home" wherever appearing in title VI of the Housing and Community Development Act of 1974, and section 339B(c) of Pub. L. 97–35 (set out as a note under section 1703 of Title 12, Banks and Banking) providing that the terms "mobile home" and "manufactured home" shall be deemed to include the terms "mobile homes" and "manufactured homes", respectively.

AMENDMENTS

2000—Par. (2). Pub. L. 106–569, §603(a)(1), substituted "retailer" for "dealer".

Pars. (14) to (21). Pub. L. 106–569, §603(a)(2)–(4), added pars. (14) to (21).

1998—Par. (6). Pub. L. 105–276 inserted before semicolon at end "; and except that such term shall not include any self-propelled recreational vehicle".

1980—Pars. (1), (2), (3). Pub. L. 96–399, §308(c)(4), substituted "manufactured home" for "mobile home" wherever appearing.

Par. (6). Pub. L. 96–399, §308(c)(4), (d), substituted "manufactured home" for "mobile home", substituted "in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet" for "is eight body feet or more in width and is thirty-two body feet or more in length", and inserted exception relating to inclusion of any structure meeting all requirements of this paragraph except size and with respect to which a certification is voluntarily filed and standards complied with.

Pars. (7), (8), (10). Pub. L. 96–399, §308(c)(4), substituted "manufactured home" for "mobile home" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–569 effective Dec. 27, 2000, except that amendment has no effect on any order or interpretative bulletin issued under this chapter and published as a proposed rule pursuant to 5 U.S.C. 553 on or before Dec. 27, 2000, see section 612 of Pub. L. 106–569, set out as a note under section 5401 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–276, title V, §599A(b), Oct. 21, 1998, 112 Stat. 2660, provided that: "The amendment made by this section [amending this section] is made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998]."

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§5403. Construction and safety standards

(a) Establishment

(1) Authority

The Secretary shall establish, by order, appropriate Federal manufactured home construction and safety standards, each of which—

(A) shall—

(i) be reasonable and practical;

(ii) meet high standards of protection consistent with the purposes of this chapter; and

(iii) be performance-based and objectively stated, unless clearly inappropriate; and

(B) except as provided in subsection (b), shall be established in accordance with the consensus standards development process.

(2) Consensus standards and regulatory development process

(A) Initial agreement

Not later than 180 days after December 27, 2000, the Secretary shall enter into a contract with an administering organization. The contractual agreement shall—

(i) terminate on the date on which a contract is entered into under subparagraph (B); and

(ii) require the administering organization to—

(I) recommend the initial members of the consensus committee under paragraph (3);

(II) administer the consensus standards development process until the termination of that agreement; and

(III) administer the consensus development and interpretation process for procedural and enforcement regulations and regulations specifying the permissible scope and conduct of monitoring until the termination of that agreement.

(B) Competitively procured contract

Upon the expiration of the 4-year period beginning on the date on which all members of the consensus committee are appointed under paragraph (3), the Secretary shall, using competitive procedures (as such term is defined in section 132 of title 41), enter into a competitively awarded contract with an administering organization. The administering organization shall administer the consensus process for the development and interpretation of the Federal standards, the procedural and enforcement regulations, and regulations specifying the permissible scope and conduct of monitoring, in accordance with this chapter.

(C) Performance review

The Secretary—

(i) shall periodically review the performance of the administering organization; and

(ii) may replace the administering organization with another qualified technical or building code organization, pursuant to competitive procedures, if the Secretary determines in writing that the administering organization is not fulfilling the terms of the agreement or contract to which the administering organization is subject or upon the expiration of the agreement or contract.

(3) Consensus committee

(A) Purpose

There is established a committee to be known as the "consensus committee", which shall, in accordance with this chapter—

(i) provide periodic recommendations to the Secretary to adopt, revise, and interpret the Federal manufactured housing construction and safety standards in accordance with this subsection;

(ii) provide periodic recommendations to the Secretary to adopt, revise, and interpret the procedural and enforcement regulations, including regulations specifying the permissible scope and conduct of monitoring in accordance with subsection (b);

(iii) be organized and carry out its business in a manner that guarantees a fair opportunity for the expression and consideration of various positions and for public participation; and

(iv) be deemed to be an advisory committee not composed of Federal employees.

(B) Membership

The consensus committee shall be composed of—

(i) twenty-one voting members appointed by the Secretary, after consideration of the recommendations of the administering organization, from among individuals who are qualified by background and experience to participate in the work of the consensus committee; and

(ii) one nonvoting member appointed by the Secretary to represent the Secretary on the consensus committee.

(C) Disapproval

The Secretary shall state, in writing, the reasons for failing to appoint any individual recommended under paragraph (2)(A)(ii)(I).

(D) Selection procedures and requirements

Each member of the consensus committee shall be appointed in accordance with selection procedures, which shall be based on the procedures for consensus committees promulgated by the American National Standards Institute (or successor organization), except that the American National Standards Institute interest categories shall be modified for purposes of this paragraph to ensure equal representation on the consensus committee of the following interest categories:

(i) Producers

Seven producers or retailers of manufactured housing.

(ii) Users

Seven persons representing consumer interests, such as consumer organizations, recognized consumer leaders, and owners who are residents of manufactured homes.

(iii) General interest and public officials

Seven general interest and public official members.

(E) Balancing of interests

(i) In general

In order to achieve a proper balance of interests on the consensus committee, the Secretary, in appointing the members of the consensus committee—

(I) shall ensure that all directly and materially affected interests have the opportunity for fair and equitable participation without dominance by any single interest; and

(II) may reject the appointment of any one or more individuals in order to ensure that there is not dominance by any single interest.

(ii) Dominance defined

In this subparagraph, the term "dominance" means a position or exercise of dominant authority, leadership, or influence by reason of superior leverage, strength, or representation.

(F) Additional qualifications

(i) Financial independence

No individual appointed under subparagraph (D)(ii) shall have, and three of the individuals appointed under subparagraph (D)(iii) shall not have—

(I) a significant financial interest in any segment of the manufactured housing industry; or

(II) a significant relationship to any person engaged in the manufactured housing industry.

(ii) Post-employment ban

Each individual described in clause (i) shall be subject to a ban disallowing compensation from the manufactured housing industry during the period of, and during the 1-year following, the membership of the individual on the consensus committee.

(G) Meetings

(i) Notice; open to public

The consensus committee shall provide advance notice of each meeting of the consensus committee to the Secretary and cause to be published in the Federal Register advance notice of each such meeting. All meetings of the consensus committee shall be open to the public.

(ii) Reimbursement

Members of the consensus committee in attendance at meetings of the consensus committee shall be reimbursed for their actual expenses as authorized by section 5703 of title 5 for persons employed intermittently in Government service.

(H) Administration

The consensus committee and the administering organization shall—

(i) operate in conformance with the procedures established by the American National Standards Institute for the development and coordination of American National Standards; and

(ii) apply to the American National Standards Institute and take such other actions as may be necessary to obtain accreditation from the American National Standards Institute.

(I) Staff and technical support

The administering organization shall, upon the request of the consensus committee—

(i) provide reasonable staff resources to the consensus committee; and

(ii) furnish technical support in a timely manner to any of the interest categories described in subparagraph (D) represented on the consensus committee, if—

(I) the support is necessary to ensure the informed participation of the consensus committee members; and

(II) the costs of providing the support are reasonable.

(J) Date of initial appointments

The initial appointments of all the members of the consensus committee shall be completed not later than 90 days after the date on which a contractual agreement under paragraph (2)(A) is entered into with the administering organization.

(4) Revisions of standards

(A) In general

Beginning on the date on which all members of the consensus committee are appointed under paragraph (3), the consensus committee shall, not less than once during each 2-year period—

(i) consider revisions to the Federal manufactured home construction and safety standards; and

(ii) submit proposed revised standards, if approved in a vote of the consensus committee by two-thirds of the members, to the Secretary in the form of a proposed rule, including an economic analysis.

(B) Publication of proposed revised standards

(i) Publication by the Secretary

The consensus committee shall provide a proposed revised standard under subparagraph (A)(ii) to the Secretary who shall, not later than 30 days after receipt, cause such proposed revised standard to be published in the Federal Register for notice and comment in accordance with section 553 of title 5. Unless clause (ii) applies, the Secretary shall provide an opportunity for public comment on such proposed revised standard in accordance with such section 553 and any such comments shall be submitted directly to the consensus committee, without delay.

(ii) Publication of rejected proposed revised standards

If the Secretary rejects the proposed revised standard, the Secretary shall cause to be published in the Federal Register the rejected proposed revised standard, the reasons for

rejection, and any recommended modifications set forth.

(C) Presentation of public comments; publication of recommended revisions

(i) Presentation

Any public comments, views, and objections to a proposed revised standard published under subparagraph (B) shall be presented by the Secretary to the consensus committee upon their receipt and in the manner received, in accordance with procedures established by the American National Standards Institute.

(ii) Publication by the Secretary

The consensus committee shall provide to the Secretary any revision proposed by the consensus committee, which the Secretary shall, not later than 30 calendar days after receipt, cause to be published in the Federal Register a notice of the recommended revisions of the consensus committee to the standards, a notice of the submission of the recommended revisions to the Secretary, and a description of the circumstances under which the proposed revised standards could become effective.

(iii) Publication of rejected proposed revised standards

If the Secretary rejects the proposed revised standard, the Secretary shall cause to be published in the Federal Register the rejected proposed revised standard, the reasons for rejection, and any recommended modifications set forth.

(5) Review by the Secretary

(A) In general

The Secretary shall either adopt, modify, or reject a standard, as submitted by the consensus committee under paragraph (4)(A).

(B) Timing

Not later than 12 months after the date on which a standard is submitted to the Secretary by the consensus committee, the Secretary shall take action regarding such standard under subparagraph (C).

(C) Procedures

If the Secretary—

(i) adopts a standard recommended by the consensus committee, the Secretary shall—

(I) issue a final order without further rulemaking; and

(II) cause the final order to be published in the Federal Register;

(ii) determines that any standard should be rejected, the Secretary shall—

(I) reject the standard; and

(II) cause to be published in the Federal Register a notice to that effect, together with the reason or reasons for rejecting the proposed standard; or

(iii) determines that a standard recommended by the consensus committee should be modified, the Secretary shall—

(I) cause to be published in the Federal Register the proposed modified standard, together with an explanation of the reason or reasons for the determination of the Secretary; and

(II) provide an opportunity for public comment in accordance with section 553 of title 5.

(D) Final order

Any final standard under this paragraph shall become effective pursuant to subsection (c).

(6) Failure to act

If the Secretary fails to take final action under paragraph (5) and to cause notice of the action to be published in the Federal Register before the expiration of the 12-month period beginning on the

date on which the proposed revised standard is submitted to the Secretary under paragraph (4)(A)—

(A) the Secretary shall appear in person before the appropriate housing and appropriations subcommittees and committees of the House of Representatives and the Senate (referred to in this paragraph as the "committees") on a date or dates to be specified by the committees, but in no event later than 30 days after the expiration of that 12-month period, and shall state before the committees the reasons for failing to take final action as required under paragraph (5); and

(B) if the Secretary does not appear in person as required under subparagraph (A), the Secretary shall thereafter, and until such time as the Secretary does appear as required under subparagraph (A), be prohibited from expending any funds collected under authority of this title in an amount greater than that collected and expended in the fiscal year immediately preceding December 27, 2000, indexed for inflation as determined by the Congressional Budget Office.

(b) Other orders

(1) Regulations

The Secretary may issue procedural and enforcement regulations and revisions to existing regulations as necessary to implement the provisions of this chapter. The consensus committee may submit to the Secretary proposed procedural and enforcement regulations and recommendations for the revision of such regulations.

(2) Interpretative bulletins

The Secretary may issue interpretative bulletins to clarify the meaning of any Federal manufactured home construction and safety standard or procedural and enforcement regulation. The consensus committee may submit to the Secretary proposed interpretative bulletins to clarify the meaning of any Federal manufactured home construction and safety standard or procedural and enforcement regulation.

(3) Review by consensus committee

Before issuing a procedural or enforcement regulation or an interpretative bulletin—

(A) the Secretary shall—

(i) submit the proposed procedural or enforcement regulation or interpretative bulletin to the consensus committee; and

(ii) provide the consensus committee with a period of 120 days to submit written comments to the Secretary on the proposed procedural or enforcement regulation or the interpretative bulletin; and

(B) if the Secretary rejects any significant comment provided by the consensus committee under subparagraph (A), the Secretary shall provide a written explanation of the reasons for the rejection to the consensus committee; and

(C) following compliance with subparagraphs (A) and (B), the Secretary shall—

(i) cause the proposed regulation or interpretative bulletin and the consensus committee's written comments, along with the Secretary's response thereto, to be published in the Federal Register; and

(ii) provide an opportunity for public comment in accordance with section 553 of title 5.

(4) Required action

Not later than 120 days after the date on which the Secretary receives a proposed regulation or interpretative bulletin submitted by the consensus committee, the Secretary shall—

(A) approve the proposal and cause the proposed regulation or interpretative bulletin to be published for public comment in accordance with section 553 of title 5; or

(B) reject the proposed regulation or interpretative bulletin and—

(i) provide to the consensus committee a written explanation of the reasons for rejection; and

(ii) cause to be published in the Federal Register the rejected proposed regulation or

interpretive bulletin, the reasons for rejection, and any recommended modifications set forth.

(5) Authority to act and emergency

If the Secretary determines, in writing, that such action is necessary to address an issue on which the Secretary determines that the consensus committee has not made a timely recommendation following a request by the Secretary, or in order to respond to an emergency that jeopardizes the public health or safety, the Secretary may issue an order that is not developed under the procedures set forth in subsection (a) or in this subsection, if the Secretary—

(A) provides to the consensus committee a written description and sets forth the reasons why action is necessary and all supporting documentation; and

(B) issues the order after notice and an opportunity for public comment in accordance with section 553 of title 5, and causes the order to be published in the Federal Register.

(6) Changes

Any statement of policies, practices, or procedures relating to construction and safety standards, regulations, inspections, monitoring, or other enforcement activities that constitutes a statement of general or particular applicability to implement, interpret, or prescribe law or policy by the Secretary is subject to subsection (a) or this subsection. Any change adopted in violation of subsection (a) or this subsection is void.

(7) Transition

Until the date on which the consensus committee is appointed pursuant to subsection (a)(3), the Secretary may issue proposed orders, pursuant to notice and comment in accordance with section 553 of title 5 that are not developed under the procedures set forth in this section for new and revised standards.

(c) Effective date of orders establishing standards

Each order establishing a Federal manufactured home construction and safety standard shall specify the date such standard is to take effect, which shall not be sooner than one hundred and eighty days or later than one year after the date such order is issued, unless the Secretary finds, for good cause shown, that an earlier or later effective date is in the public interest, and publishes his reasons for such finding.

(d) Supremacy of Federal standards

Whenever a Federal manufactured home construction and safety standard established under this chapter is in effect, no State or political subdivision of a State shall have any authority either to establish, or to continue in effect, with respect to any manufactured home covered, any standard regarding the construction or safety applicable to the same aspect of performance of such manufactured home which is not identical to the Federal manufactured home construction and safety standard. Federal preemption under this subsection shall be broadly and liberally construed to ensure that disparate State or local requirements or standards do not affect the uniformity and comprehensiveness of the standards promulgated under this section nor the Federal superintendence of the manufactured housing industry as established by this chapter. Subject to section 5404 of this title, there is reserved to each State the right to establish standards for the stabilizing and support systems of manufactured homes sited within that State, and for the foundations on which manufactured homes sited within that State are installed, and the right to enforce compliance with such standards, except that such standards shall be consistent with the purposes of this chapter and shall be consistent with the design of the manufacturer.

(e) Considerations in establishing and interpreting standards and regulations

The consensus committee, in recommending standards, regulations, and interpretations, and the Secretary, in establishing standards or regulations or issuing interpretations under this section, shall—

(1) consider relevant available manufactured home construction and safety data, including the results of the research, development, testing, and evaluation activities conducted pursuant to this chapter, and those activities conducted by private organizations and other governmental agencies

to determine how to best protect the public;

(2) consult with such State or interstate agencies (including legislative committees) as he deems appropriate;

(3) consider whether any such proposed standard is reasonable for the particular type of manufactured home or for the geographic region for which it is prescribed;

(4) consider the probable effect of such standard on the cost of the manufactured home to the public; and

(5) consider the extent to which any such standard will contribute to carrying out the purposes of this chapter.

(f) Coverage; exclusion

The Secretary shall exclude from the coverage of this chapter any structure which the manufacturer certifies, in a form prescribed by the Secretary, to be:

(1) designed only for erection or installation on a site-built permanent foundation;

(2) not designed to be moved once so erected or installed;

(3) designed and manufactured to comply with a nationally recognized model building code or an equivalent local code, or with a State or local modular building code recognized as generally equivalent to building codes for site-built housing, or with minimum property standards adopted by the Secretary pursuant to title II of the National Housing Act [12 U.S.C. 1707 et seq.]; and

(4) to the manufacturer's knowledge is not intended to be used other than on a site-built permanent foundation.

(g) Manufactured housing construction and safety standards

(1) The Federal manufactured home construction and safety standards established by the Secretary under this section shall include preemptive energy conservation standards in accordance with this subsection.

(2) The energy conservation standards established under this subsection shall be cost-effective energy conservation performance standards designed to ensure the lowest total of construction and operating costs.

(3) The energy conservation standards established under this subsection shall take into consideration the design and factory construction techniques of manufactured homes and shall provide for alternative practices that result in net estimated energy consumption equal to or less than the specified standards.

(h) New performance standards for hardboard siding

The Secretary shall develop a new standard for hardboard panel siding on manufactured housing taking into account durability, longevity, consumer's costs for maintenance and any other relevant information pursuant to subsection (e). The Secretary shall consult with the National Manufactured Home Advisory Council and the National Commission on Manufactured Housing in establishing the new standard. The new performance standard developed shall ensure the durability of hardboard sidings for at least a normal life of a mortgage with minimum maintenance required. Not later than 180 days from October 28, 1992, the Secretary shall update the standards for hardboard siding.

(Pub. L. 93–383, title VI, §604, Aug. 22, 1974, 88 Stat. 701; Pub. L. 95–128, title IX, §902(a), Oct. 12, 1977, 91 Stat. 1149; Pub. L. 96–399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641; Pub. L. 98–479, title II, §204(l), Oct. 17, 1984, 98 Stat. 2233; Pub. L. 100–242, title V, §568, Feb. 5, 1988, 101 Stat. 1948; Pub. L. 102–550, title IX, §907, Oct. 28, 1992, 106 Stat. 3873; Pub. L. 106–569, title VI, §604, Dec. 27, 2000, 114 Stat. 2999.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (f)(3), is act June 27, 1934, ch. 847, 48 Stat. 1246. Title II of the National Housing Act is classified principally to subchapter II (§1707 et seq.) of chapter 13 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and

Tables.

CODIFICATION

In subsec. (a)(2)(B), "section 132 of title 41" substituted for "section 4 of the Office of Federal Procurement Policy Act" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–569, §604(1), added subsec. (a) and struck out former subsec. (a) which read as follows: "The Secretary, after consultation with the Consumer Product Safety Commission, shall establish by order appropriate Federal manufactured home construction and safety standards. Each such Federal manufactured home standard shall be reasonable and shall meet the highest standards of protection, taking into account existing State and local laws relating to manufactured home safety and construction."

Subsec. (b). Pub. L. 106–569, §604(1), added subsec. (b) and struck out former subsec. (b) which read as follows: "All orders issued under this section shall be issued after notice and an opportunity for interested persons to participate are provided in accordance with the provisions of section 553 of title 5."

Subsec. (d). Pub. L. 106–569, §604(2), inserted at end "Federal preemption under this subsection shall be broadly and liberally construed to ensure that disparate State or local requirements or standards do not affect the uniformity and comprehensiveness of the standards promulgated under this section nor the Federal superintendence of the manufactured housing industry as established by this chapter. Subject to section 5404 of this title, there is reserved to each State the right to establish standards for the stabilizing and support systems of manufactured homes sited within that State, and for the foundations on which manufactured homes sited within that State are installed, and the right to enforce compliance with such standards, except that such standards shall be consistent with the purposes of this chapter and shall be consistent with the design of the manufacturer."

Subsec. (e). Pub. L. 106–569, §604(3), (4), redesignated subsec. (f) as (e), inserted heading, substituted "The consensus committee, in recommending standards, regulations, and interpretations, and the Secretary, in establishing standards or regulations or issuing interpretations under this section, shall—" for "In establishing standards under this section, the Secretary shall—" in introductory provisions, and struck out former subsec. (e) which read as follows: "The Secretary may by order amend or revoke any Federal manufactured home construction or safety standard established under this section. Such order shall specify the date on which such amendment or revocation is to take effect, which shall not be sooner than one hundred and eighty days or later than one year from the date the order is issued, unless the Secretary finds, for good cause shown, that an earlier or later date is in the public interest, and publishes his reasons for such finding."

Subsec. (f). Pub. L. 106–569, §604(7), redesignated subsec. (h) as (f). Former subsec. (f) redesignated (e).

Subsec. (g). Pub. L. 106–569, §604(5), (7), redesignated subsec. (i) as (g) and struck out former subsec. (g) which read as follows: "The Secretary shall issue an order establishing initial Federal manufactured home construction and safety standards not later than one year after August 22, 1974."

Subsec. (h). Pub. L. 106–569, §604(7), redesignated subsec. (j) as (h). Former subsec. (h) redesignated (f).

Subsec. (i). Pub. L. 106–569, §604(7), redesignated subsec. (i) as (g).

Subsec. (j). Pub. L. 106–569, §604(6), (7), substituted "subsection (e)" for "subsection (f)" and redesignated subsec. (j) as (h).

1992—Subsec. (j). Pub. L. 102–550 added subsec. (j).

1988—Subsec. (i). Pub. L. 100–242 added subsec. (i).

1984—Subsec. (e). Pub. L. 98–479 substituted "that" for "than" before "an earlier or later date".

1980—Subsecs. (a), (c) to (g). Pub. L. 96–399 substituted "manufactured home" for "mobile home" wherever appearing.

1977—Subsec. (h). Pub. L. 95–128 added subsec. (h).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–569 effective Dec. 27, 2000, except that amendment has no effect on any order or interpretative bulletin issued under this chapter and published as a proposed rule pursuant to 5 U.S.C. 553 on or before Dec. 27, 2000, see section 612 of Pub. L. 106–569, set out as a note under section 5401 of this title.

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93–383, set out as a note under section 5401 of this title.

EXCEPTION TO FEDERAL PREEMPTION FOR THERMAL INSULATION AND ENERGY EFFICIENCY STANDARDS

Pub. L. 102–486, title I, §104(c), Oct. 24, 1992, 106 Stat. 2792, provided that: "If the Secretary of Housing and Urban Development has not issued, within 1 year after the date of the enactment of this Act [Oct. 24, 1992], final regulations pursuant to section 604 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5403) that establish thermal insulation and energy efficiency standards for manufactured housing that take effect before January 1, 1995, then States may establish thermal insulation and energy efficiency standards for manufactured housing if such standards are at least as stringent as thermal performance standards for manufactured housing contained in the Second Public Review Draft of BSR/ASHRAE 90.2P entitled 'Energy Efficient Design of Low-Rise Residential Buildings' and all public reviews of Independent Substantive Changes to such document that have been approved on or before the date of the enactment of this Act."

§5404. Manufactured home installation

(a) Provision of installation design and instructions

A manufacturer shall provide with each manufactured home, design and instructions for the installation of the manufactured home that have been approved by a design approval primary inspection agency. After establishment of model standards under subsection (b)(2), a design approval primary inspection agency may not give such approval unless a design and instruction provides equal or greater protection than the protection provided under such model standards.

(b) Model manufactured home installation standards

(1) Proposed model standards

Not later than 18 months after the date on which the initial appointments of all the members of the consensus committee are completed, the consensus committee shall develop and submit to the Secretary proposed model manufactured home installation standards, which shall, to the maximum extent practicable, taking into account the factors described in section 5403(e) of this title, be consistent with—

(A) the manufactured home designs that have been approved by a design approval primary inspection agency; and

(B) the designs and instructions for the installation of manufactured homes provided by manufacturers under subsection (a).

(2) Establishment of model standards

Not later than 12 months after receiving the proposed model standards submitted under paragraph (1), the Secretary shall develop and establish model manufactured home installation standards, which shall, to the maximum extent practicable, taking into account the factors described in section 5403(e) of this title, be consistent with—

(A) the manufactured home designs that have been approved by a design approval primary inspection agency; and

(B) the designs and instructions for the installation of manufactured homes provided by manufacturers under subsection (a).

(3) Factors for consideration

(A) Consensus committee

In developing the proposed model standards under paragraph (1), the consensus committee shall consider the factors described in section 5403(e) of this title.

(B) Secretary

In developing and establishing the model standards under paragraph (2), the Secretary shall consider the factors described in section 5403(e) of this title.

(4) Issuance

The model manufactured home installation standards shall be issued after notice and an opportunity for public comment in accordance with section 553 of title 5.

(c) Manufactured home installation programs

(1) Protection of manufactured housing residents during initial period

During the 5-year period beginning on December 27, 2000, no State or manufacturer may establish or implement any installation standards that, in the determination of the Secretary, provide less protection to the residents of manufactured homes than the protection provided by the installation standards in effect with respect to the State or manufacturer, as applicable, on December 27, 2000.

(2) Installation standards

(A) Establishment of installation program

Not later than the expiration of the 5-year period described in paragraph (1), the Secretary shall establish an installation program that meets the requirements of paragraph (3) for the enforcement of installation standards in each State described in subparagraph (B) of this paragraph.

(B) Implementation of installation program

Beginning on the expiration of the 5-year period described in paragraph (1), the Secretary shall implement the installation program established under subparagraph (A) in each State that does not have an installation program established by State law that meets the requirements of paragraph (3).

(C) Contracting out of implementation

In carrying out subparagraph (B), the Secretary may contract with an appropriate agent to implement the installation program established under that subparagraph, except that such agent shall not be a person or entity other than a government, nor an affiliate or subsidiary of such a person or entity, that has entered into a contract with the Secretary to implement any other regulatory program under this chapter.

(3) Requirements

An installation program meets the requirements of this paragraph if it is a program regulating the installation of manufactured homes that includes—

(A) installation standards that, in the determination of the Secretary, provide protection to the residents of manufactured homes that equals or exceeds the protection provided to those residents by—

(i) the model manufactured home installation standards established by the Secretary under subsection (b)(2); or

(ii) the designs and instructions provided by manufacturers under subsection (a), if the Secretary determines that such designs and instructions provide protection to the residents of manufactured homes that equals or exceeds the protection provided by the model manufactured home installation standards established by the Secretary under subsection (b)(2);

(B) the training and licensing of manufactured home installers; and

(C) inspection of the installation of manufactured homes.

(Pub. L. 93–383, title VI, §605, Aug. 22, 1974, 88 Stat. 702; Pub. L. 96–399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641; Pub. L. 106–569, title VI, §605(a), Dec. 27, 2000, 114 Stat. 3006.)

EDITORIAL NOTES

AMENDMENTS

2000—Pub. L. 106–569 amended section catchline and text generally, substituting provisions relating to manufactured home installation for provisions relating to National Manufactured Home Advisory Council.

1980—Subsecs. (a) to (c). Pub. L. 96–399 substituted "Manufactured Home" for "Mobile Home" and "manufactured home" for "mobile home" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–569 effective Dec. 27, 2000, except that amendment has no effect on any order or interpretative bulletin issued under this chapter and published as a proposed rule pursuant to 5 U.S.C. 553 on or before Dec. 27, 2000, see section 612 of Pub. L. 106–569, set out as a note under section 5401 of this title.

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§5405. Judicial review of orders establishing standards; petition; additional evidence before Secretary; certified copy of transcript

(a)(1) In a case of actual controversy as to the validity of any order under section 5403 of this title, any person who may be adversely affected by such order when it is effective may at any time prior to the sixtieth day after such order is issued file a petition with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for judicial review of such order. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based his order, as provided in section 2112 of title 28.

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary, and to be adduced upon the hearing, in such manner and upon such terms and conditions as to the court may seem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

(3) Upon the filing of the petition referred to in paragraph (1) of this subsection, the court shall have jurisdiction to review the order in accordance with the provisions of sections 701 through 706 of title 5, and to grant appropriate relief.

(4) The judgment of the court affirming or setting aside, in whole or in part, any such order of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(5) Any action instituted under this subsection shall survive, notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(6) The remedies provided for in this subsection shall be in addition to and not in substitution for any other remedies provided by law.

(b) A certified copy of the transcript of the record and proceedings under this section shall be furnished by the Secretary to any interested party at his request and payment of the costs thereof, and shall be admissible in any criminal, exclusion of imports, or other proceeding arising under or in respect of this chapter, irrespective of whether proceedings with respect to the order have previously been initiated or become final under subsection (a).

(Pub. L. 93–383, title VI, §606, Aug. 22, 1974, 88 Stat. 702.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§5406. Submission of cost or other information by manufacturer

(a) Purpose of submission; detail of information

Whenever any manufacturer is opposed to any action of the Secretary under section 5403 of this title or under any other provision of this chapter on the grounds of increased cost or for other reasons, the manufacturer shall submit to the Secretary such cost and other information (in such detail as the Secretary may by rule or order prescribe) as may be necessary in order to properly evaluate the manufacturer's statement. The Secretary shall submit such cost and other information to the consensus committee for evaluation.

(b) Conditions upon availability to public of submitted information

Such information shall be available to the public unless the manufacturer establishes that it contains a trade secret or that disclosure of any portion of such information would put the manufacturer at a substantial competitive disadvantage. Notice of the availability of such information shall be published promptly in the Federal Register. If the Secretary determines that any portion of such information contains a trade secret or that the disclosure of any portion of such information would put the manufacturer at a substantial competitive disadvantage, such portion may be disclosed to the public only in such manner as to preserve the confidentiality of such trade secret or in such combined or summary form so as not to disclose the identity of any individual manufacturer, except that any such information may be disclosed to other officers or employees concerned with carrying out this chapter or when relevant in any proceeding under this chapter. Nothing in this subsection shall authorize the withholding of information by the Secretary or any officer or employee under his control from the duly authorized committees of the Congress.

(c) "Cost information" defined

For purposes of this section, "cost information" means information with respect to alleged cost increases resulting from action by the Secretary, in such a form as to permit the public, the consensus committee, and the Secretary to make an informed judgment on the validity of the manufacturer's statements. Such term includes both the manufacturer's cost and the cost to retail purchasers.

(d) Power of Secretary to obtain or require submission of information under other provisions unaffected

Nothing in this section shall be construed to restrict the authority of the Secretary to obtain or require submission of information under any other provision of this chapter.

(Pub. L. 93–383, title VI, §607, Aug. 22, 1974, 88 Stat. 703; Pub. L. 96–399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641; Pub. L. 106–569, title VI, §606, Dec. 27, 2000, 114 Stat. 3009.)

EDITORIAL NOTES

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–569, §606(1), inserted "to the Secretary" after "manufacturer shall submit" and inserted at end "The Secretary shall submit such cost and other information to the consensus committee for evaluation."

Subsec. (c). Pub. L. 106–569, §606(3), redesignated subsec. (d) as (c) and struck out former subsec. (c) which read as follows: "If the Secretary proposes to establish, amend, or revoke a Federal manufactured home construction and safety standard under section 5403 of this title on the basis of information submitted pursuant to subsection (a) of this section, he shall publish a notice of such proposed action, together with the reasons

therefor, in the Federal Register at least thirty days in advance of making a final determination, in order to allow interested parties an opportunity to comment."

Subsec. (d). Pub. L. 106–569, §606(3), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Pub. L. 106–569, §606(2), inserted ", the consensus committee," after "permit the public".

Subsec. (e). Pub. L. 106–569, §606(3), redesignated subsec. (e) as (d).

1980—Subsec. (c). Pub. L. 96–399 substituted "manufactured home" for "mobile home".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–569 effective Dec. 27, 2000, except that amendment has no effect on any order or interpretative bulletin issued under this chapter and published as a proposed rule pursuant to 5 U.S.C. 553 on or before Dec. 27, 2000, see section 612 of Pub. L. 106–569, set out as a note under section 5401 of this title.

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§5407. Research, testing, development, and training by Secretary

(a) Scope

The Secretary shall conduct research, testing, development, and training necessary to carry out the purposes of this chapter, including, but not limited to—

(1) collecting data from any source for the purpose of determining the relationship between manufactured home performance characteristics and (A) accidents involving manufactured homes, and (B) the occurrence of death, personal injury, or damage resulting from such accidents;

(2) procuring (by negotiation or otherwise) experimental and other manufactured homes for research and testing purposes;

(3) selling or otherwise disposing of test manufactured homes and reimbursing the proceeds of such sale or disposal into the current appropriation available for the purpose of carrying out this chapter;

(4) encouraging the government-sponsored housing entities to actively develop and implement secondary market securitization programs for the FHA manufactured home loans and those of other loan programs, as appropriate, thereby promoting the availability of affordable manufactured homes to increase homeownership for all people in the United States; and

(5) reviewing the programs for FHA manufactured home loans and developing any changes to such programs to promote the affordability of manufactured homes, including changes in loan terms, amortization periods, regulations, and procedures.

(b) Contracts and grants with States, interstate agencies, and independent institutions

The Secretary is authorized to conduct research, testing, development, and training as authorized to be carried out by subsection (a) of this section by contracting for or making grants for the conduct of such research, testing, development, and training to States, interstate agencies, and independent institutions.

(c) Definitions

For purposes of this section, the following definitions shall apply:

(1) Government-sponsored housing entities

The term "government-sponsored housing entities" means the Government National Mortgage Association of the Department of Housing and Urban Development, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation.

(2) FHA manufactured home loan

The term "FHA manufactured home loan" means a loan that—

(A) is insured under title I of the National Housing Act [12 U.S.C. 1702 et seq.] and is made for the purpose of financing alterations, repairs, or improvements on or in connection with an existing manufactured home, the purchase of a manufactured home, the purchase of a manufactured home and a lot on which to place the home, or the purchase only of a lot on which to place a manufactured home; or

(B) is otherwise insured under the National Housing Act [12 U.S.C. 1701 et seq.] and made for or in connection with a manufactured home.

(Pub. L. 93–383, title VI, §608, Aug. 22, 1974, 88 Stat. 704; Pub. L. 96–399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641; Pub. L. 97–35, title III, §339B(c), Aug. 13, 1981, 95 Stat. 417; Pub. L. 106–569, title VI, §607, Dec. 27, 2000, 114 Stat. 3009.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (c)(2), is act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to chapter 13 (§1701 et seq.) of Title 12, Banks and Banking. Title I of the Act is classified generally to subchapter I (§1702 et seq.) of chapter 13 of Title 12. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

CODIFICATION

References to "mobile homes", wherever appearing in subsec. (a)(1) to (3), changed to "manufactured homes" in view of the amendment of title VI of the Housing and Community Development Act of 1974 (this chapter) by section 308(c)(4) of Pub. L. 96–399 requiring the substitution of "manufactured home" for "mobile home" wherever appearing in title VI of the Housing and Community Development Act of 1974, and section 339B(c) of Pub. L. 97–35 (set out as a note under section 1703 of Title 12, Banks and Banking) providing that the terms "mobile home" and "manufactured home" shall be deemed to include the terms "mobile homes" and "manufactured homes", respectively.

AMENDMENTS

2000—Subsec. (a)(4), (5). Pub. L. 106–569, §607(a), added pars. (4) and (5).
Subsec. (c). Pub. L. 106–569, §607(b), added subsec. (c).
1980—Subsec. (a)(1). Pub. L. 96–399 substituted "manufactured home" for "mobile home".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–569 effective Dec. 27, 2000, except that amendment has no effect on any order or interpretative bulletin issued under this chapter and published as a proposed rule pursuant to 5 U.S.C. 553 on or before Dec. 27, 2000, see section 612 of Pub. L. 106–569, set out as a note under section 5401 of this title.

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§5408. Cooperation by Secretary with public and private agencies

The Secretary is authorized to advise, assist, and cooperate with other Federal agencies and with State and other interested public and private agencies, in the planning and development of—

(1) manufactured home construction and safety standards; and

(2) methods for inspecting and testing to determine compliance with manufactured home standards.

(Pub. L. 93–383, title VI, §609, Aug. 22, 1974, 88 Stat. 704; Pub. L. 96–399, title III, §308(c)(4),

Oct. 8, 1980, 94 Stat. 1641.)

EDITORIAL NOTES

AMENDMENTS

1980—Pub. L. 96–399 substituted "manufactured home" for "mobile home" in two places.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§5409. Prohibited acts; exemptions

(a) No person shall—

(1) make use of any means of transportation or communication affecting interstate or foreign commerce or the mails to manufacture for sale, lease, sell, offer for sale or lease, or introduce or deliver, or import into the United States, any manufactured home which is manufactured on or after the effective date of any applicable Federal manufactured home construction and safety standard under this chapter and which does not comply with such standard, except as provided in subsection (b), where such manufacture, lease, sale, offer for sale or lease, introduction, delivery, or importation affects commerce;

(2) fail or refuse to permit access to or copying of records, or fail to make reports or provide information, or fail or refuse to permit entry or inspection, as required under section 5413 of this title;

(3) fail to furnish notification of any defect as required by section 5414 of this title;

(4) fail to issue a certification required by section 5415 of this title, or issue a certification to the effect that a manufactured home conforms to all applicable Federal manufactured home construction and safety standards, if such person in the exercise of due care has reason to know that such certification is false or misleading in a material respect;

(5) fail to comply with a final order issued by the Secretary under this chapter;

(6) issue a certification pursuant to subsection (h) of section 5403 of this title, if such person in the exercise of due care has reason to know that such certification is false or misleading in a material respect; or

(7) after the expiration of the period specified in section 5404(c)(2)(B) of this title, fail to comply with the requirements for the installation program required by section 5404 of this title in any State that has not adopted and implemented a State installation program.

(b)(1) Paragraph (1) of subsection (a) shall not apply to the sale, the offer for sale, or the introduction or delivery for introduction in interstate commerce of any manufactured home after the first purchase of it in good faith for purposes other than resale.

(2) For purposes of section 5410 of this title, paragraph (1) of subsection (a) shall not apply to any person who establishes that he did not have reason to know in the exercise of due care that such manufactured home is not in conformity with applicable Federal manufactured home construction and safety standards, or to any person who, prior to such first purchase, holds a certificate issued by the manufacturer or importer of such manufactured home to the effect that such manufactured home conforms to all applicable Federal manufactured home construction and safety standards, unless such person knows that such manufactured home does not so conform.

(3) A manufactured home offered for importation in violation of paragraph (1) of subsection (a) shall be refused admission into the United States under joint regulations issued by the Secretary of the Treasury and the Secretary, except that the Secretary of the Treasury and the Secretary may, by such regulations, provide for authorizing the importation of such manufactured home into the United

States upon such terms and conditions (including the furnishing of a bond) as may appear to them appropriate to insure that any such manufactured home will be brought into conformity with any applicable Federal manufactured home construction or safety standard prescribed under this chapter, or will be exported from, or forfeited to, the United States.

(4) The Secretary of the Treasury and the Secretary may, by joint regulations, permit the importation of any manufactured home after the first purchase of it in good faith for purposes other than resale.

(5) Paragraph (1) of subsection (a) shall not apply in the case of a manufactured home intended solely for export, and so labeled or tagged on the manufactured home itself and on the outside of the container, if any, in which it is to be exported.

(c) Compliance with any Federal manufactured home construction or safety standard issued under this chapter does not exempt any person from any liability under common law.

(Pub. L. 93–383, title VI, §610, Aug. 22, 1974, 88 Stat. 704; Pub. L. 95–128, title IX, §902(b), Oct. 12, 1977, 91 Stat. 1149; Pub. L. 96–399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641; Pub. L. 106–569, title VI, §608, Dec. 27, 2000, 114 Stat. 3009.)

EDITORIAL NOTES

AMENDMENTS

2000—Subsec. (a)(7). Pub. L. 106–569 added par. (7).

1980—Subsecs. (a)(1), (4), (b)(1) to (5), (c). Pub. L. 96–399 substituted "manufactured home" for "mobile home" wherever appearing.

1977—Subsec. (a)(6). Pub. L. 95–128 added par. (6).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–569 effective Dec. 27, 2000, except that amendment has no effect on any order or interpretative bulletin issued under this chapter and published as a proposed rule pursuant to 5 U.S.C. 553 on or before Dec. 27, 2000, see section 612 of Pub. L. 106–569, set out as a note under section 5401 of this title.

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§5410. Civil and criminal penalties

(a) Whoever violates any provision of section 5409 of this title, or any regulation or final order issued thereunder, shall be liable to the United States for a civil penalty of not to exceed $1,000 for each such violation. Each violation of a provision of section 5409 of this title, or any regulation or order issued thereunder shall constitute, a separate violation with respect to each manufactured home or with respect to each failure or refusal to allow or perform an act required thereby, except that the maximum civil penalty may not exceed $1,000,000 for any related series of violations occurring within one year from the date of the first violation.

(b) An individual or a director, officer, or agent of a corporation who knowingly and willfully violates section 5409 of this title in a manner which threatens the health or safety of any purchaser shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(Pub. L. 93–383, title VI, §611, Aug. 22, 1974, 88 Stat. 705; Pub. L. 96–399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641.)

EDITORIAL NOTES

AMENDMENTS

1980—Subsec. (a). Pub. L. 96–399 substituted "manufactured home" for "mobile home".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§5411. Injunctive relief

(a) Jurisdiction; petition of United States attorney or Attorney General; notice by Secretary to affected persons to present views

The United States district courts shall have jurisdiction, for cause shown and subject to the provisions of rule 65(a) and (b) of the Federal Rules of Civil Procedure, to restrain violations of this chapter, or to restrain the sale, offer for sale, or the importation into the United States, of any manufactured home which is determined, prior to the first purchase of such manufactured home in good faith for purposes other than resale, not to conform to applicable Federal manufactured home construction and safety standards prescribed pursuant to this chapter or to contain a defect which constitutes an imminent safety hazard, upon petition by the appropriate United States attorney or the Attorney General on behalf of the United States. Whenever practicable, the Secretary shall give notice to any person against whom an action for injunctive relief is contemplated and afford him an opportunity to present his views and the failure to give such notice and afford such opportunity shall not preclude the granting of appropriate relief.

(b) Criminal contempt proceedings; conduct of trial

In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, which violation also constitutes a violation of this chapter, trial shall be by the court or, upon demand of the accused, by a jury. Such trial shall be conducted in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

(c) Venue

Actions under subsection (a) of this section and section 5410 of this title may be brought in the district wherein any act or transaction constituting the violation occurred, or in the district wherein the defendant is found or is an inhabitant or transacts business, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found.

(d) Subpenas

In any action brought by the United States under subsection (a) of this section or section 5410 of this title, subpenas by the United States for witnesses who are required to attend at United States district court may run into any other district.

(e) Designation by manufacturer of agent for service of administrative and judicial processes, etc.; filing and amendment of designation; failure to make designation

It shall be the duty of every manufacturer offering a manufactured home for importation into the United States to designate in writing an agent upon whom service of all administrative and judicial processes, notices, orders, decisions, and requirements may be made for and on behalf of such manufacturer, and to file such designation with the Secretary, which designation may from time to time be changed by like writing, similarly filed. Service of all administrative and judicial processes, notices, orders, decisions, and requirements may be made upon such manufacturer by service upon such designated agent at his office or usual place of residence with like effect as if made personally upon such manufacturer, and in default of such designation of such agent, service of process or any

notice, order, requirement, or decision in any proceeding before the Secretary or in any judicial proceeding pursuant to this chapter may be made by mailing such process, notice, order, requirement, or decision to the Secretary by registered or certified mail.

(Pub. L. 93–383, title VI, §612, Aug. 22, 1974, 88 Stat. 705; Pub. L. 96–399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641.)

EDITORIAL NOTES

REFERENCES IN TEXT

Rule 65 of the Federal Rules of Civil Procedure, referred to in subsec. (a), is set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 42 of the Federal Rules of Criminal Procedure, referred to in subsec. (b), is set out in the Appendix to Title 18, Crimes and Criminal Procedure.

AMENDMENTS

1980—Subsecs. (a), (e). Pub. L. 96–399 substituted "manufactured home" for "mobile home" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§5412. Noncompliance with standards or defective nature of manufactured home; administrative or judicial determination; repurchase by manufacturer or repair by distributor or retailer; reimbursement of expenses, etc., by manufacturer; injunctive relief against manufacturer for failure to comply; jurisdiction and venue; damages; period of limitation

(a) If the Secretary or a court of appropriate jurisdiction determines that any manufactured home does not conform to applicable Federal manufactured home construction and safety standards, or that it contains a defect which constitutes an imminent safety hazard, after the sale of such manufactured home by a manufacturer to a distributor or a retailer and prior to the sale of such manufactured home by such distributor or retailer to a purchaser—

(1) the manufacturer shall immediately repurchase such manufactured home from such distributor or retailer at the price paid by such distributor or retailer, plus all transportation charges involved and a reasonable reimbursement of not less than 1 per centum per month of such price paid prorated from the date of receipt by certified mail of notice of such nonconformance to the date of repurchase by the manufacturer; or

(2) the manufacturer, at his own expense, shall immediately furnish the purchasing distributor or retailer the required conforming part or parts or equipment for installation by the distributor or retailer on or in such manufactured home, and for the installation involved the manufacturer shall reimburse such distributor or retailer for the reasonable value of such installation plus a reasonable reimbursement of not less than 1 per centum per month of the manufacturer's or distributor's selling price prorated from the date of receipt by certified mail of notice of such nonconformance to the date such vehicle is brought into conformance with applicable Federal standards, so long as the distributor or retailer proceeds with reasonable diligence with the installation after the required part or equipment is received.

The value of such reasonable reimbursements as specified in paragraphs (1) and (2) of this subsection shall be fixed by mutual agreement of the parties, or, failing such agreement, by the court

pursuant to the provisions of subsection (b).

(b) If any manufacturer fails to comply with the requirements of subsection (a), then the distributor or retailer, as the case may be, to whom such manufactured home has been sold may bring an action seeking a court injunction compelling compliance with such requirements on the part of such manufacturer. Such action may be brought in any district court in the United States in the district in which such manufacturer resides, or is found, or has an agent, without regard to the amount in controversy, and the person bringing the action shall also be entitled to recover any damage sustained by him, as well as all court costs plus reasonable attorneys' fees. Any action brought pursuant to this section shall be forever barred unless commenced within three years after the cause of action shall have accrued.

(Pub. L. 93–383, title VI, §613, Aug. 22, 1974, 88 Stat. 706; Pub. L. 96–399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641; Pub. L. 106–569, title VI, §603(b)(1), Dec. 27, 2000, 114 Stat. 2999.)

EDITORIAL NOTES

AMENDMENTS

2000—Subsecs. (a), (b). Pub. L. 106–569 substituted "retailer" for "dealer" wherever appearing.

1980—Subsecs. (a), (b). Pub. L. 96–399 substituted "manufactured home" for "mobile home" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–569 effective Dec. 27, 2000, except that amendment has no effect on any order or interpretative bulletin issued under this chapter and published as a proposed rule pursuant to 5 U.S.C. 553 on or before Dec. 27, 2000, see section 612 of Pub. L. 106–569, set out as a note under section 5401 of this title.

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§5413. Inspections and investigations for promulgation or enforcement of standards or execution of other duties

(a) Authority of Secretary; results furnished to Attorney General and Secretary of the Treasury for appropriate action

The Secretary is authorized to conduct such inspections and investigations as may be necessary to promulgate or enforce Federal manufactured home construction and safety standards established under this chapter or otherwise to carry out his duties under this chapter. He shall furnish the Attorney General and, when appropriate, the Secretary of the Treasury any information obtained indicating noncompliance with such standards for appropriate action.

(b) Designation by Secretary of persons to enter and inspect factories, etc.; presentation of credentials; reasonableness and scope of inspection

(1) For purposes of enforcement of this chapter, persons duly designated by the Secretary, upon presenting appropriate credentials to the owner, operator, or agent in charge, are authorized—

(A) to enter, at reasonable times and without advance notice, any factory, warehouse, or establishment in which manufactured homes are manufactured, stored, or held, for sale; and

(B) to inspect, at reasonable times and within reasonable limits and in a reasonable manner, any such factory, warehouse, or establishment, and to inspect such books, papers, records, and documents as are set forth in subsection (c). Each such inspection shall be commenced and completed with reasonable promptness.

(2) The Secretary is authorized to contract with State and local governments and private inspection organizations to carry out his functions under this subsection.

(c) Powers of Secretary

For the purpose of carrying out the provisions of this chapter, the Secretary is authorized—

(1) to hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records, as the Secretary or such officer or employee deems advisable. Witnesses summoned pursuant to this subsection shall be paid the same fees and mileage that are paid witnesses in the courts of the United States;

(2) to examine and copy any documentary evidence of any person having materials or information relevant to any function of the Secretary under this chapter;

(3) to require, by general or special orders, any person to file, in such form as the Secretary may prescribe, reports or answers in writing to specific questions relating to any function of the Secretary under this chapter. Such reports and answers shall be made under oath or otherwise, and shall be filed with the Secretary within such reasonable period as the Secretary may prescribe;

(4) to request from any Federal agency any information he deems necessary to carry out his functions under this chapter, and each such agency is authorized and directed to cooperate with the Secretary and to furnish such information upon request made by the Secretary, and the head of any Federal agency is authorized to detail, on a reimbursable basis, any personnel of such agency to assist in carrying out the duties of the Secretary under this chapter; and

(5) to make available to the public any information which may indicate the existence of a defect which relates to manufactured home construction or safety or of the failure of a manufactured home to comply with applicable manufactured home construction and safety standards. The Secretary shall disclose so much of other information obtained under this subsection to the public as he determines will assist in carrying out this chapter; but he shall not (under the authority of this sentence) make available or disclosure to the public any information which contains or relates to a trade secret or any information the disclosure of which would put the person furnishing such information at a substantial competitive disadvantage, unless he determines that it is necessary to carry out the purpose of this chapter.

(d) Refusal to obey subpena or order of Secretary; order of compliance by district court; failure to obey order of compliance punishable as contempt

Any of the district courts of the United States within the jurisdiction of which an inquiry is carried on may, in the case of contumacy or refusal to obey a subpena or order of the Secretary issued under paragraph (1) or paragraph (3) of subsection (c) of this section, issue an order requiring compliance therewith; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(e) Submission by manufacturer of building plans for manufactured homes; certification by manufacturer of conformity of building plans to standards

Each manufacturer of manufactured homes shall submit the building plans for every model of such manufactured homes to the Secretary or his designee for the purpose of inspection under this section. The manufacturer must certify that each such building plan meets the Federal construction and safety standards in force at that time before the model involved is produced.

(f) Records, reports and information from manufacturers, distributors and retailers of manufactured homes; inspection and examination of relevant books, papers, records and documents by designated person

Each manufacturer, distributor, and retailer of manufactured homes shall establish and maintain such records, make such reports, and provide such information as the Secretary may reasonably require to enable him to determine whether such manufacturer, distributor, or retailer has acted or is acting in compliance with this chapter and Federal manufactured home construction and safety

standards prescribed pursuant to this chapter and shall, upon request of a person duly designated by the Secretary, permit such person to inspect appropriate books, papers, records, and documents relevant to determining whether such manufacturer, distributor, or retailer has acted or is acting in compliance with this chapter and manufactured home construction and safety standards prescribed pursuant to this chapter.

(g) Performance and technical data from manufacturer; persons required to receive notification of data

Each manufacturer of manufactured homes shall provide to the Secretary such performance data and other technical data related to performance and safety as may be required to carry out the purposes of this chapter. These shall include records of tests and test results which the Secretary may require to be performed. The Secretary is authorized to require the manufacturer to give notification of such performance and technical data to—

(1) each prospective purchaser of a manufactured home before its first sale for purposes other than resale, at each location where any such manufacturer's manufactured homes are offered for sale by a person with whom such manufacturer has a contractual, proprietary, or other legal relationship and in a manner determined by the Secretary to be appropriate, which may include, but is not limited to, printed matter (A) available for retention by such prospective purchaser, and (B) sent by mail to such prospective purchaser upon his request; and

(2) the first person who purchases a manufactured home for purposes other than resale, at the time of such purchase or in printed matter placed in the manufactured home.

(h) Disclosure of confidential information and trade secrets

All information reported to or otherwise obtained by the Secretary or his representative pursuant to subsection (b), (c), (f), or (g) which contains or relates to a trade secret, or which, if disclosed, would put the person furnishing such information at a substantial competitive disadvantage, shall be considered confidential, except that such information may be disclosed to other officers or employees concerned with carrying out this chapter or when relevant in any proceeding under this chapter. Nothing in this section shall authorize the withholding of information by the Secretary or any officer or employee under his control from the duly authorized committees of the Congress.

(Pub. L. 93–383, title VI, §614, Aug. 22, 1974, 88 Stat. 707; Pub. L. 96–399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641; Pub. L. 97–35, title III, §339B(c), Aug. 13, 1981, 95 Stat. 417; Pub. L. 106–569, title VI, §603(b)(2), Dec. 27, 2000, 114 Stat. 2999.)

EDITORIAL NOTES

CODIFICATION

References to "mobile homes", wherever appearing in text, changed to "manufactured homes" in view of the amendment of title VI of the Housing and Community Development Act of 1974 (this chapter) by section 308(c)(4) of Pub. L. 96–399 requiring the substitution of "manufactured home" for "mobile home" wherever appearing in title VI of the Housing and Community Development Act of 1974, and section 339B(c) of Pub. L. 97–35 (set out as a note under section 1703 of Title 12, Banks and Banking) providing that the terms "mobile home" and "manufactured home" shall be deemed to include the terms "mobile homes" and "manufactured homes", respectively.

AMENDMENTS

2000—Subsec. (f). Pub. L. 106–569 substituted "retailer" for "dealer" wherever appearing.

1980—Subsecs. (a), (c)(5), (f), (g). Pub. L. 96–399 substituted "manufactured home" for "mobile home" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–569 effective Dec. 27, 2000, except that amendment has no effect on any order or interpretative bulletin issued under this chapter and published as a proposed rule pursuant to 5 U.S.C. 553

on or before Dec. 27, 2000, see section 612 of Pub. L. 106–569, set out as a note under section 5401 of this title.

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§5414. Notification and correction of defects by manufacturer

(a) Notice to purchaser within reasonable time after discovery of defect

Every manufacturer of manufactured homes shall furnish notification of any defect in any manufactured home produced by such manufacturer which he determines, in good faith, relates to a Federal manufactured home construction or safety standard or contains a defect which constitutes an imminent safety hazard to the purchaser of such manufactured home, within a reasonable time after such manufacturer has discovered such defect.

(b) Notification by mail

The notification required by subsection (a) shall be accomplished—

(1) by mail to the first purchaser (not including any retailer or distributor of such manufacturer) of the manufactured home containing the defect, and to any subsequent purchaser to whom any warranty on such manufactured home has been transferred;

(2) by mail to any other person who is a registered owner of such manufactured home and whose name and address has been ascertained pursuant to procedures established under subsection (f); and

(3) by mail or other more expeditious means to the retailer or retailers of such manufacturer to whom such manufactured home was delivered.

(c) Form and requisites of notification

The notification required by subsection (a) shall contain a clear description of such defect or failure to comply, an evaluation of the risk to manufactured home occupants' safety reasonably related to such defect, and a statement of the measures needed to repair the defect. The notification shall also inform the owner whether the defect is a construction or safety defect which the manufacturer will have corrected at no cost to the owner of the manufactured home under subsection (g) or otherwise, or is a defect which must be corrected at the expense of the owner.

(d) Copy to Secretary of all notices, bulletins, and communications sent by manufacturer to retailers and purchasers concerning defects; disclosure to public by Secretary

Every manufacturer of manufactured homes shall furnish to the Secretary a true or representative copy of all notices, bulletins, and other communications to the retailers of such manufacturer or purchasers of manufactured homes of such manufacturer regarding any defect in any such manufactured home produced by such manufacturer. The Secretary shall disclose to the public so much of the information contained in such notices or other information obtained under section 5413 of this title as he deems will assist in carrying out the purposes of this chapter, but he shall not disclose any information which contains or relates to a trade secret, or which, if disclosed, would put such manufacturer at a substantial competitive disadvantage, unless he determines that it is necessary to carry out the purposes of this chapter.

(e) Notice by Secretary to manufacturers of noncompliance with standards or defective nature of manufactured home; contents of notice; presentation by manufacturer of views; notice to purchasers of defects

If the Secretary determines that any manufactured home—

(1) does not comply with an applicable Federal manufactured home construction and safety standard prescribed pursuant to section 5403 of this title; or

(2) contains a defect which constitutes an imminent safety hazard,

then he shall immediately notify the manufacturer of such manufactured home of such defect or failure to comply. The notice shall contain the findings of the Secretary and shall include all information upon which the findings are based. The Secretary shall afford such manufacturer an opportunity to present his views and evidence in support thereof, to establish that there is no failure of compliance. If after such presentation by the manufacturer the Secretary determines that such manufactured home does not comply with applicable Federal manufactured home construction or safety standards, or contains a defect which constitutes an imminent safety hazard, the Secretary shall direct the manufacturer to furnish the notification specified in subsections (a) and (b) of this section.

(f) Maintenance by manufacturers of record of names and addresses of first purchasers of manufactured homes; procedures for ascertaining names and addresses of subsequent purchasers; establishment and reasonableness of procedures for maintaining records

Every manufacturer of manufactured homes shall maintain a record of the name and address of the first purchaser of each manufactured home (for purposes other than resale), and, to the maximum extent feasible, shall maintain procedures for ascertaining the name and address of any subsequent purchaser thereof and shall maintain a record of names and addresses so ascertained. Such records shall be kept for each home produced by a manufacturer. The Secretary may establish by order procedures to be followed by manufacturers in establishing and maintaining such records, including procedures to be followed by distributors and retailers to assist manufacturers to secure the information required by this subsection. Such procedures shall be reasonable for the particular type of manufactured home for which they are prescribed.

(g) Correction of defects by manufacturer; conditions; procedures; contract or legal rights of purchasers or other persons unaffected

A manufacturer required to furnish notification of a defect under subsection (a) or (e) shall also bring the manufactured home into compliance with applicable standards and correct the defect or have the defect corrected within a reasonable period of time at no expense to the owner, but only if—

(1) the defect presents an unreasonable risk of injury or death to occupants of the affected manufactured home or homes;

(2) the defect can be related to an error in design or assembly of the manufactured home by the manufacturer.

The Secretary may direct the manufacturer to make such corrections after providing an opportunity for oral and written presentation of views by interested persons. Nothing in this section shall limit the rights of the purchaser or any other person under any contract or applicable law.

(h) Submission to Secretary by manufacturer of plan for notifying owners of defects and repair of defects; approval of manufacturer's remedy plan; effectuation and implementation of remedy plan

The manufacturer shall submit his plan for notifying owners of the defect and for repairing such defect (if required under subsection (g)) to the Secretary for his approval before implementing such plan. Whenever a manufacturer is required under subsection (g) to correct a defect, the Secretary shall approve with or without modification, after consultation with the manufacturer of the manufactured home involved, such manufacturer's remedy plan including the date when, and the method by which, the notification and remedy required pursuant to this section shall be effectuated. Such date shall be the earliest practicable one but shall not be more than sixty days after the date of discovery or determination of the defect or failure to comply, unless the Secretary grants an extension of such period for good cause shown and publishes a notice of such extension in the Federal Register. Such manufacturer is bound to implement such remedy plan as approved by the Secretary.

(i) Defective or inadequately repaired manufactured homes; replacement with new or equivalent home or refund of purchase price

Where a defect or failure to comply in a manufactured home cannot be adequately repaired within

sixty days from the date of discovery or determination of the defect, the Secretary may require that the manufactured home be replaced with a new or equivalent home without charge, or that the purchase price be refunded in full, less a reasonable allowance for depreciation based on actual use if the home has been in the possession of the owner for more than one year.

(Pub. L. 93–383, title VI, §615, Aug. 22, 1974, 88 Stat. 709; Pub. L. 96–399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641; Pub. L. 97–35, title III, §339B(c), Aug. 13, 1981, 95 Stat. 417; Pub. L. 106–569, title VI, §603(b)(3), Dec. 27, 2000, 114 Stat. 2999.)

EDITORIAL NOTES

CODIFICATION

References to "mobile homes", wherever appearing in text, changed to "manufactured homes" in view of the amendment of title VI of the Housing and Community Development Act of 1974 (this chapter) by section 308(c)(4) of Pub. L. 96–399 requiring the substitution of "manufactured home" for "mobile home" wherever appearing in title VI of the Housing and Community Development Act of 1974, and section 339B(c) of Pub. L. 97–35 (set out as a note under section 1703 of Title 12, Banks and Banking) providing that the terms "mobile home" and "manufactured home" shall be deemed to include the terms "mobile homes" and "manufactured homes", respectively.

AMENDMENTS

2000—Subsec. (b)(1). Pub. L. 106–569, §603(b)(3)(A), substituted "retailer" for "dealer".

Subsec. (b)(3). Pub. L. 106–569, §603(b)(3)(B), substituted "retailer or retailers" for "dealer or dealers".

Subsecs. (d), (f). Pub. L. 106–569, §603(b)(3)(C), substituted "retailers" for "dealers ".

1980—Subsecs. (a) to (i). Pub. L. 96–399 substituted "manufactured home" for "mobile home" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–569 effective Dec. 27, 2000, except that amendment has no effect on any order or interpretative bulletin issued under this chapter and published as a proposed rule pursuant to 5 U.S.C. 553 on or before Dec. 27, 2000, see section 612 of Pub. L. 106–569, set out as a note under section 5401 of this title.

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§5415. Certification by manufacturer of conformity of manufactured home with standards; form and placement of certification

Every manufacturer of manufactured homes shall furnish to the distributor or retailer at the time of delivery of each such manufactured home produced by such manufacturer certification that such manufactured home conforms to all applicable Federal construction and safety standards. Such certification shall be in the form of a label or tag permanently affixed to each such manufactured home.

(Pub. L. 93–383, title VI, §616, Aug. 22, 1974, 88 Stat. 711; Pub. L. 96–399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641; Pub. L. 97–35, title III, §339B(c), Aug. 13, 1981, 95 Stat. 417; Pub. L. 106–569, title VI, §603(b)(4), Dec. 27, 2000, 114 Stat. 2999.)

EDITORIAL NOTES

CODIFICATION

References to "mobile homes", wherever appearing in text, changed to "manufactured homes" in view of

the amendment of title VI of the Housing and Community Development Act of 1974 (this chapter) by section 308(c)(4) of Pub. L. 96–399 requiring the substitution of "manufactured home" for "mobile home" wherever appearing in title VI of the Housing and Community Development Act of 1974, and section 339B(c) of Pub. L. 97–35 (set out as a note under section 1703 of Title 12, Banks and Banking) providing that the terms "mobile home" and "manufactured home" shall be deemed to include the terms "mobile homes" and "manufactured homes", respectively.

AMENDMENTS

2000—Pub. L. 106–569 substituted "retailer" for "dealer".

1980—Pub. L. 96–399 substituted "manufactured home" for "mobile home" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–569 effective Dec. 27, 2000, except that amendment has no effect on any order or interpretative bulletin issued under this chapter and published as a proposed rule pursuant to 5 U.S.C. 553 on or before Dec. 27, 2000, see section 612 of Pub. L. 106–569, set out as a note under section 5401 of this title.

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§5416. Consumer's manual; contents

The Secretary shall develop guidelines for a consumer's manual to be provided to manufactured home purchasers by the manufacturer. These manuals should identify and explain the purchasers' responsibilities for operation, maintenance, and repair of their manufactured homes.

(Pub. L. 93–383, title VI, §617, Aug. 22, 1974, 88 Stat. 711; Pub. L. 96–399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641; Pub. L. 97–35, title III, §339B(c), Aug. 13, 1981, 95 Stat. 417.)

EDITORIAL NOTES

CODIFICATION

References to "mobile homes", wherever appearing in text, changed to "manufactured homes" in view of the amendment of title VI of the Housing and Community Development Act of 1974 (this chapter) by section 308(c)(4) of Pub. L. 96–399 requiring the substitution of "manufactured home" for "mobile home" wherever appearing in title VI of the Housing and Community Development Act of 1974, and section 339B(c) of Pub. L. 97–35 (set out as a note under section 1703 of Title 12, Banks and Banking) providing that the terms "mobile home" and "manufactured home" shall be deemed to include the terms "mobile homes" and "manufactured homes", respectively.

AMENDMENTS

1980—Pub. L. 96–399 substituted "manufactured home" for "mobile home".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§5417. Effect upon antitrust laws

Nothing contained in this chapter shall be deemed to exempt from the antitrust laws of the United

States any conduct that would otherwise be unlawful under such laws, or to prohibit under the antitrust laws of the United States any conduct that would be lawful under such laws. As used in this section, the term "antitrust laws" includes, but is not limited to, the Act of July 2, 1890, as amended; the Act of October 14, 1914, as amended; the Federal Trade Commission Act (15 U.S.C. 41 et seq.); and sections 73 and 74 of the Act of August 27, 1894, as amended.

(Pub. L. 93–383, title VI, §618, Aug. 22, 1974, 88 Stat. 711.)

EDITORIAL NOTES

REFERENCES IN TEXT

Act of July 2, 1890, as amended, referred to in text, is act July 2, 1890, ch. 647, 26 Stat. 209, known as the Sherman Act, which is classified to sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables.

Act of October 14, 1914, as amended, referred to in text, is act Oct. 15, 1914, ch. 323, 38 Stat. 730, known as the Clayton Act which is classified generally to sections 12, 13, 14 to 19, 21, and 22 to 27 of Title 15, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables.

The Federal Trade Commission Act, referred to in text, is act Sept. 26, 1914, ch. 311, 38 Stat. 717, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of Title 15. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

Sections 73 and 74 of the Act of August 27, 1894, referred to in text, are classified to sections 8 and 9 of Title 15.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§5418. Use of services, research and testing facilities of public agencies and independent laboratories

The Secretary, in exercising the authority under this chapter, shall utilize the services, research and testing facilities of public agencies and independent testing laboratories to the maximum extent practicable in order to avoid duplication.

(Pub. L. 93–383, title VI, §619, Aug. 22, 1974, 88 Stat. 711.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§5419. Authority to collect fee

(a) In general

In carrying out inspections under this chapter, in developing standards and regulations pursuant to section 5403 of this title, and in facilitating the acceptance of the affordability and availability of manufactured housing within the Department, the Secretary may—

(1) establish and collect from manufactured home manufacturers a reasonable fee, as may be necessary to offset the expenses incurred by the Secretary in connection with carrying out the responsibilities of the Secretary under this chapter, including—

(A) conducting inspections and monitoring;

(B) providing funding to States for the administration and implementation of approved State plans under section 5422 of this title, including reasonable funding for cooperative educational and training programs designed to facilitate uniform enforcement under this chapter, which funds may be paid directly to the States or may be paid or provided to any person or entity designated to receive and disburse such funds by cooperative agreements among participating States, provided that such person or entity is not otherwise an agent of the Secretary under this chapter;

(C) providing the funding for a noncareer administrator within the Department to administer the manufactured housing program;

(D) providing the funding for salaries and expenses of employees of the Department to carry out the manufactured housing program;

(E) administering the consensus committee as set forth in section 5403 of this title;

(F) facilitating the acceptance of the quality, durability, safety, and affordability of manufactured housing within the Department; and

(G) the administration and enforcement of the installation standards authorized by section 5404 of this title in States in which the Secretary is required to implement an installation program after the expiration of the 5-year period set forth in section 5404(c)(2)(B) of this title, and the administration and enforcement of a dispute resolution program described in section 5422(c)(12) of this title in States in which the Secretary is required to implement such a program after the expiration of the 5-year period set forth in section 5422(g)(2) of this title; and

(2) subject to subsection (e), use amounts from any fee collected under paragraph (1) of this subsection to pay expenses referred to in that paragraph, which shall be exempt and separate from any limitations on the Department regarding full-time equivalent positions and travel.

(b) Contractors

In using amounts from any fee collected under this section, the Secretary shall ensure that separate and independent contractors are retained to carry out monitoring and inspection work and any other work that may be delegated to a contractor under this chapter.

(c) Prohibited use

No amount from any fee collected under this section may be used for any purpose or activity not specifically authorized by this chapter, unless such activity was already engaged in by the Secretary prior to December 27, 2000.

(d) Modification

Beginning on December 27, 2000, the amount of any fee collected under this section may only be modified—

(1) as specifically authorized in advance in an annual appropriations Act; and

(2) pursuant to rulemaking in accordance with section 553 of title 5.

(e) Appropriation and deposit of fees

(1) In general

There is established in the Treasury of the United States a fund to be known as the "Manufactured Housing Fees Trust Fund" for deposit of amounts from any fee collected under this section. Such amounts shall be held in trust for use only as provided in this chapter.

(2) Appropriation

Amounts from any fee collected under this section shall be available for expenditure only to the extent approved in advance in an annual appropriations Act. Any change in the expenditure of such amounts shall be specifically authorized in advance in an annual appropriations Act.

(3) Payments to States

On and after the effective date of the Manufactured Housing Improvement Act of 2000, the

Secretary shall continue to fund the States having approved State plans in the amounts which are not less than the allocated amounts, based on the fee distribution system in effect on the day before such effective date.

(Pub. L. 93–383, title VI, §620, Aug. 22, 1974, 88 Stat. 712; Pub. L. 96–153, title III, §320, Dec. 21, 1979, 93 Stat. 1119; Pub. L. 96–399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641; Pub. L. 106–569, title VI, §609, Dec. 27, 2000, 114 Stat. 3010.)

EDITORIAL NOTES

REFERENCES IN TEXT

For the effective date of the Manufactured Housing Improvement Act of 2000, referred to in subsec. (e)(3), see section 612 of Pub. L. 106–569, set out as an Effective Date of 2000 Amendment note under section 5401 of this title.

AMENDMENTS

2000—Pub. L. 106–569 amended section catchline and text generally. Prior to amendment, text read as follows: "In carrying out the inspections required under this chapter, the Secretary may establish and impose on manufactured home manufacturers, distributors, and dealers such reasonable fees as may be necessary to offset the expenses incurred by him in conducting such inspections, and the Secretary may use any fees so collected to pay expenses incurred in connection with such inspections, except that this section shall not apply in any State which has in effect a State plan under section 5422 of this title."

1980—Pub. L. 96–399 substituted "manufactured home" for "mobile home".

1979—Pub. L. 96–153 substituted "conducting such inspections, and the Secretary may use any fees so collected to pay expenses incurred in connection with such inspections, except" for "conducting such inspections, except".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–569 effective Dec. 27, 2000, except that amendment has no effect on any order or interpretative bulletin issued under this chapter and published as a proposed rule pursuant to 5 U.S.C. 553 on or before Dec. 27, 2000, see section 612 of Pub. L. 106–569, set out as a note under section 5401 of this title.

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93–383, set out as a note under section 5401 of this title.

FINAL RULEMAKING ON MANUFACTURED HOUSING PAYMENTS

Pub. L. 116–94, div. H, title II, Dec. 20, 2019, 133 Stat. 2994, provided in part: "That the Secretary of Housing and Urban Development shall issue a final rule to complete rulemaking initiated by the proposed rule entitled 'Manufactured Housing Program: Minimum Payments to the States' published in the Federal Register on December 16, 2016 (81 Fed. Reg. 91083)".

MANUFACTURED HOUSING

Pub. L. 107–18, §1, July 5, 2001, 115 Stat. 152, provided that:

"(a) AVAILABILITY OF FEES.—Notwithstanding section 620(e)(2) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5419(e)(2)), any fees collected under that Act, including any fees collected before the date of enactment of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701 note) [Dec. 27, 2000] and remaining unobligated on the date of enactment of this Act [July 5, 2001], shall be available for expenditure to offset the expenses incurred by the Secretary under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 et seq.), otherwise in accordance with section 620 of that Act.

"(b) DURATION.—The authority for the use of fees provided for in subsection (a) shall remain in effect during the period beginning in fiscal year 2001 and ending on the effective date of the first appropriations Act referred to in section 620(e)(2) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5419(e)(2)) that is enacted with respect to a fiscal year after fiscal year 2001."

§5420. Failure to report violations; penalties

Any person, other than an officer or employee of the United States, or a person exercising inspection functions under a State plan pursuant to section 5422 of this title, who knowingly and willfully fails to report a violation of any construction or safety standard established under section 5403 of this title may be fined up to $1,000 or imprisoned for up to one year, or both.

(Pub. L. 93–383, title VI, §621, Aug. 22, 1974, 88 Stat. 712.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§5421. Prohibition on waiver of rights

The rights afforded manufactured home purchasers under this chapter may not be waived, and any provision of a contract or agreement entered into after August 22, 1974, to the contrary shall be void.

(Pub. L. 93–383, title VI, §622, Aug. 22, 1974, 88 Stat. 712; Pub. L. 96–399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641.)

EDITORIAL NOTES

AMENDMENTS

1980—Pub. L. 96–399 substituted "manufactured home" for "mobile home".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§5422. State enforcement

(a) Jurisdiction of State agency or court under State law

Nothing in this chapter shall prevent any State agency or court from asserting jurisdiction under State law over any manufactured home construction or safety issue with respect to which no Federal manufactured home construction and safety standard has been established pursuant to the provisions of section 5403 of this title.

(b) Assumption of responsibility for enforcement of Federal standards; submission of enforcement plan to Secretary

Any State which, at any time, desires to assume responsibility for enforcement of manufactured home safety and construction standards relating to any issue with respect to which a Federal standard has been established under section 5403 of this title, shall submit to the Secretary a State plan for enforcement of such standards.

(c) Criteria for approval of State plan by Secretary

The Secretary shall approve the plan submitted by a State under subsection (b), or any modification thereof, if such plan in his judgment—

(1) designates a State agency or agencies as the agency or agencies responsible for

administering the plan throughout the State;

(2) provides for the enforcement of manufactured home safety and construction standards promulgated under section 5403 of this title;

(3) provides for a right of entry and inspection of all factories, warehouses, or establishments in such State in which manufactured homes are manufactured and for the review of plans, in a manner which is identical to that provided in section 5413 of this title;

(4) provides for the imposition of the civil and criminal penalties under section 5410 of this title;

(5) provides for the notification and correction procedures under section 5414 of this title;

(6) provides for the payment of inspection fees by manufacturers in amounts adequate to cover the costs of inspections;

(7) contains satisfactory assurances that the State agency or agencies have or will have the legal authority and qualified personnel necessary for the enforcement of such standards;

(8) give satisfactory assurances that such State will devote adequate funds to the administration and enforcement of such standards;

(9) requires manufacturers, distributors, and retailers in such State to make reports to the Secretary in the same manner and to the same extent as if the State plan were not in effect;

(10) provides that the State agency or agencies will make such reports to the Secretary in such form and containing such information as the Secretary shall from time to time require;

(11) with respect to any State plan submitted on or after the expiration of the 5-year period beginning on December 27, 2000, provides for an installation program established by State law that meets the requirements of section 5404(c)(3) of this title;

(12) with respect to any State plan submitted on or after the expiration of the 5-year period beginning on December 27, 2000, provides for a dispute resolution program for the timely resolution of disputes between manufacturers, retailers, and installers of manufactured homes regarding responsibility, and for the issuance of appropriate orders, for the correction or repair of defects in manufactured homes that are reported during the 1-year period beginning on the date of installation; and

(13) complies with such other requirements as the Secretary may by regulation prescribe for the enforcement of this chapter.

(d) Notice and hearing prior to rejection by Secretary of State plan

If the Secretary rejects a plan submitted under subsection (b), he shall afford the State submitting the plan due notice and opportunity for a hearing before so doing.

(e) Discretionary enforcement by Secretary of standards in State having approved plan

After the Secretary approves a State plan submitted under subsection (b), he may, but shall not be required to, exercise his authority under this chapter with respect to enforcement of manufactured home construction and safety standards in the State involved.

(f) Annual evaluation by Secretary of execution of State plan; basis of evaluation; submission of evaluation and data to Congress; determination by Secretary of improper administration, etc., of State plan; procedure; effect of determination

The Secretary shall, on the basis of reports submitted by the designated State agency and his own inspections, make a continuing evaluation of the manner in which each State having a plan approved under this section is carrying out such plan. Such evaluation shall be made by the Secretary at least annually for each State, and the results of such evaluation and the inspection reports on which it is based shall be promptly submitted to the appropriate committees of the Congress. Whenever the Secretary finds, after affording due notice and opportunity for a hearing, that in the administration of the State plan there is a failure to comply substantially with any provision of the State plan or that the State plan has become inadequate, he shall notify the State agency or agencies of his withdrawal of approval of such plan. Upon receipt of such notice by such State agency or agencies such plan shall

cease to be in effect, but the State may retain jurisdiction in any case commenced before the withdrawal of the plan in order to enforce manufactured home standards under the plan whenever the issues involved do not relate to the reasons for the withdrawal of the plan.

(g) Enforcement of dispute resolution standards

(1) Establishment of dispute resolution program

Not later than the expiration of the 5-year period beginning on December 27, 2000, the Secretary shall establish a dispute resolution program that meets the requirements of subsection (c)(12) for dispute resolution in each State described in paragraph (2) of this subsection. The order establishing the dispute resolution program shall be issued after notice and opportunity for public comment in accordance with section 553 of title 5.

(2) Implementation of dispute resolution program

Beginning on the expiration of the 5-year period described in paragraph (1), the Secretary shall implement the dispute resolution program established under paragraph (1) in each State that has not established a dispute resolution program that meets the requirements of subsection (c)(12).

(3) Contracting out of implementation

In carrying out paragraph (2), the Secretary may contract with an appropriate agent to implement the dispute resolution program established under paragraph (2), except that such agent shall not be a person or entity other than a government, nor an affiliate or subsidiary of such a person or entity, that has entered into a contract with the Secretary to implement any other regulatory program under this chapter.

(Pub. L. 93–383, title VI, §623, Aug. 22, 1974, 88 Stat. 712; Pub. L. 96–399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641; Pub. L. 97–35, title III, §339B(c), Aug. 13, 1981, 95 Stat. 417; Pub. L. 106–569, title VI, §§603(b)(5), 605(b), 610, Dec. 27, 2000, 114 Stat. 2999, 3008, 3011.)

EDITORIAL NOTES

CODIFICATION

Reference to "mobile homes", appearing in subsec. (c)(3), changed to "manufactured homes" in view of the amendment of title VI of the Housing and Community Development Act of 1974 (this chapter) by section 308(c)(4) of Pub. L. 96–399 requiring the substitution of "manufactured home" for "mobile home" wherever appearing in title VI of the Housing and Community Development Act of 1974, and section 339B(c) of Pub. L. 97–35 (set out as a note under section 1703 of Title 12, Banks and Banking) providing that the terms "mobile home" and "manufactured home" shall be deemed to include the terms "mobile homes" and "manufactured homes", respectively.

AMENDMENTS

2000—Subsec. (c)(9). Pub. L. 106–569, §603(b)(5), substituted "retailers" for "dealers".
Subsec. (c)(11). Pub. L. 106–569, §605(b)(1), (3), added par. (11). Former par. (11) redesignated (13).
Subsec. (c)(12). Pub. L. 106–569, §610(1), added par. (12).
Subsec. (c)(13). Pub. L. 106–569, §605(b)(2), redesignated par. (11) as (13).
Subsec. (g). Pub. L. 106–569, §610(2), added subsec. (g).
1980—Subsecs. (a), (b), (c)(2), (e), (f). Pub. L. 96–399 substituted "manufactured home" for "mobile home" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–569 effective Dec. 27, 2000, except that amendment has no effect on any order or interpretative bulletin issued under this chapter and published as a proposed rule pursuant to 5 U.S.C. 553 on or before Dec. 27, 2000, see section 612 of Pub. L. 106–569, set out as a note under section 5401 of this title.

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§5423. Grants to States

(a) Purposes

The Secretary is authorized to make grants to the States which have designated a State agency under section 5422 of this title to assist them—

(1) in identifying their needs and responsibilities in the area of manufactured home construction and safety standards; or

(2) in developing State plans under section 5422 of this title.

(b) Designation by Governor of State agency for receipt of grant

The Governor of each State shall designate the appropriate State agency for receipt of any grant made by the Secretary under this section.

(c) Submission of application by State agency to Secretary; review by Secretary

Any State agency designated by the Governor of a State desiring a grant under this section shall submit an application therefor to the Secretary. The Secretary shall review and either accept or reject such application.

(d) Amount of Federal share; equality of distribution of funds

The Federal share for each State grant under subsection (a) of this section may not exceed 90 per centum of the total cost to the State in identifying its needs and developing its plan. In the event the Federal share for all States under such subsection is not the same, the differences among the States shall be established on the basis of objective criteria.

(Pub. L. 93–383, title VI, §624, Aug. 22, 1974, 88 Stat. 713; Pub. L. 96–399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641.)

EDITORIAL NOTES

AMENDMENTS

1980—Subsec. (a)(1). Pub. L. 96–399 substituted "manufactured home" for "mobile home".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§5424. Rules and regulations

The Secretary is authorized to issue, amend, and revoke such rules and regulations as he deems necessary to carry out this chapter.

(Pub. L. 93–383, title VI, §625, Aug. 22, 1974, 88 Stat. 713.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93–383, set out as a note under section 5401 of this title.

REGULATIONS AND PROCEDURES WITH REGARD TO MANUFACTURED HOMES

Pub. L. 96–399, title III, §308(c)(7), Oct. 8, 1980, 94 Stat. 1641, provided that: "In adopting regulations and procedures in accordance with this subsection [see Tables for classification] the Secretary of Housing and Urban Development shall have discretion to take actions in a manner which he deems necessary to insure that the public is fully aware of the distinctions between the various types of factory-built housing."

§5425. Repealed. Pub. L. 106–569, title VI, §611(1), Dec. 27, 2000, 114 Stat. 3012

Section, Pub. L. 93–383, title VI, §626, Aug. 22, 1974, 88 Stat. 714; Pub. L. 95–557, title IX, §901, Oct. 31, 1978, 92 Stat. 2124; Pub. L. 96–399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641; Pub. L. 97–35, title III, §339B(c), Aug. 13, 1981, 95 Stat. 417, related to reports to Congress.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 27, 2000, except that repeal has no effect on any order or interpretative bulletin issued under this chapter and published as a proposed rule pursuant to 5 U.S.C. 553 on or before Dec. 27, 2000, see section 612 of Pub. L. 106–569, set out as an Effective Date of 2000 Amendment note under section 5401 of this title.

§5426. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this chapter.

(Pub. L. 93–383, title VI, §626, formerly §627, Aug. 22, 1974, 88 Stat. 714; renumbered §626, Pub. L. 106–569, title VI, §611(2), Dec. 27, 2000, 114 Stat. 3012.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 626 of Pub. L. 93–383 was classified to section 5425 of this title, prior to repeal by Pub. L. 106–569.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93–383, set out as a note under section 5401 of this title.

CHAPTER 71—SOLAR ENERGY

SUBCHAPTER I—HEATING AND COOLING

Sec.

5501. Congressional findings and declaration of policy.
5502. Definitions.
5503. Development and demonstration of solar heating systems for use in residential dwellings.
5504. Development and demonstration of combined solar heating and cooling systems for use in residential dwellings.
5504a, 5505. Repealed or Omitted.
5506. Test procedures and definitive performance criteria for solar heating and combined solar heating and cooling components and systems and suitable dwellings;

determination, consultation and publication in Federal Register.
5507. Arrangements with Federal agencies for development and demonstration of solar heating and combined heating and cooling systems for commercial buildings.
5508. Program of applied research by Secretary of Energy for improvement and development of heating systems for commercial application; transmission of results to Secretary and Administrator.
5509. Supervision of systems and programs by Secretary.
5510. Dissemination of information to promote practical use of solar heating and cooling technologies.
5511. Federally assisted or federally constructed housing.
5511a. Solar Assistance Financing Entity.
5512. Small business concerns' opportunities to participate in programs.
5513. Priorities and criteria of demonstration programs.
5514. Regulations.
5515. Use of publicly assisted housing by Secretary in demonstrations.
5516. Transfer of functions.
5517. Authorization of appropriations.
SUBCHAPTER II—RESEARCH, DEVELOPMENT, AND DEMONSTRATION
5551 to 5556. Repealed.
5556a. Solar photovoltaic energy systems studies and acquisitions by Secretary of Energy; scope, contents, and submission dates for reports; acquisition authority and requirements; authorization of appropriations.
5557 to 5566. Repealed.
SUBCHAPTER III—SOLAR PHOTOVOLTAIC ENERGY RESEARCH, DEVELOPMENT AND DEMONSTRATION
5581 to 5594. Repealed.

SUBCHAPTER I—HEATING AND COOLING

§5501. Congressional findings and declaration of policy

(a) The Congress hereby finds that—

(1) the current imbalance between supply and demand for fuels and energy is likely to persist for some time;

(2) the early demonstration of the feasibility of using solar energy for the heating and cooling of buildings could help to relieve the demand upon present fuel and energy supplies;

(3) the technologies for solar heating are close to the point of commercial application in the United States;

(4) the technologies for combined solar heating and cooling still require research, development, testing and demonstration, but no insoluble technical problem is now foreseen in achieving commercial use of such technologies;

(5) the early development and export of viable solar heating equipment and combined solar heating and cooling equipment, consistent with the established preeminence of the United States in the field of high technology products, can make a valuable contribution to our balance of trade;

(6) the widespread use of solar energy in place of conventional methods for the heating and cooling of buildings would have a significantly beneficial effect upon the environment;

(7) the mass production and use of solar heating and cooling equipment will help to eliminate the dependence of the United States upon foreign energy sources and promote the national defense;

(8) the widespread introduction of low-cost solar energy will be beneficial to consumers in a

period of rapidly rising fuel cost;

(9) innovation and creativity in the development of solar heating and combined solar heating and cooling components and systems can be fostered through encouraging direct contact between the manufacturers of such systems and the architects, engineers, developers, contractors, and other persons interested in installing such systems in buildings;

(10) evaluation of the performance and reliability of solar heating and combined solar heating and cooling technologies can be expedited by testing under carefully controlled conditions; and

(11) commercial application of solar heating and combined solar heating and cooling technologies can be expedited by early commercial demonstration under practical conditions.

(b) It is therefore declared to be the policy of the United States and the purpose of this subchapter to provide for the demonstration within a three-year period of the practical use of solar heating technology, and to provide for the development and demonstration within a five-year period of the practical use of combined heating and cooling technology.

(Pub. L. 93–409, §2, Sept. 3, 1974, 88 Stat. 1069.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–590, §1, Nov. 4, 1978, 92 Stat. 2513, provided that Pub. L. 95–590 (enacting subchapter III of this chapter) could be cited as the "Solar Photovoltaic Energy Research, Development, and Demonstration Act of 1978", prior to repeal by Pub. L. 116–260, div. Z, title III, §3006(f), Dec. 27, 2020, 134 Stat. 2513.

SHORT TITLE

Pub. L. 93–473, §1, Oct. 26, 1974, 88 Stat. 1431, provided that Pub. L. 93–473 (enacting subchapter II of this chapter) could be cited as the "Solar Energy Research, Development, and Demonstration Act of 1974", prior to repeal by Pub. L. 116–260, div. Z, title III, §3006(e)(1), Dec. 27, 2020, 134 Stat. 2513.

Pub. L. 93–409, §1, Sept. 3, 1974, 88 Stat. 1069, provided: "That this Act [enacting this subchapter and amending section 2473 of this title] may be cited as the 'Solar Heating and Cooling Demonstration Act of 1974'."

§5502. Definitions

For purposes of this subchapter—

(1) the term "solar heating", with respect to any building, means the use of solar energy to meet such portion of the total heating needs of such building (including hot water), or such portion of the needs of such building for hot water (where its remaining heating needs are met by other methods), as may be required under performance criteria prescribed by the Secretary of Housing and Urban Development utilizing the services of the Director of the National Institute of Standards and Technology, and in consultation with the Secretary of Energy, and the Administrator of the National Aeronautics and Space Administration;

(2) the terms "solar heating and cooling" and "combined solar heating and cooling", with respect to any building, mean the use of solar energy to provide both such portion of the total heating needs of such building (including hot water) and such portion of the total cooling needs of such building, or such portion of the needs of such building for hot water (where its remaining heating needs are met by other methods) and such portion of the total cooling needs of a building, as may be required under performance criteria prescribed by the Secretary of Housing and Urban Development utilizing the services of the Director of the National Institute of Standards and Technology, and in consultation with the Secretary of Energy, and the Administrator of the National Aeronautics and Space Administration, and such term includes cooling by means of nocturnal heat radiation, by evaporation, or by other methods of meeting peakload energy requirements at nonpeakload times;

(3) the term "residential dwellings" includes previously occupied and new single family and

multifamily dwellings, mobile homes, and publicly assisted housing owned by a private sponsor or a State or local housing authority not covered by section 5515 of this title;

(4) the term "Administrator" means the Administrator of the National Aeronautics and Space Administration;

(5) the term "Secretary" means the Secretary of Housing and Urban Development; and

(6) Omitted.

(Pub. L. 93–409, §3, Sept. 3, 1974, 88 Stat. 1070; Pub. L. 93–438, title I, §104(f), title III, §301(h), Oct. 11, 1974, 88 Stat. 1238, 1250; Pub. L. 95–91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607; Pub. L. 100–418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433.)

EDITORIAL NOTES

CODIFICATION

Par. (6) of this section, which defined the term "Director" as meaning the Director of the National Science Foundation, was omitted because of the transfer of functions from the National Science Foundation to the Secretary of Energy and the substitution of "Secretary of Energy" for "Director" wherever appearing in this subchapter. See Transfer of Functions note set out below.

AMENDMENTS

1988—Pars. (1), (2). Pub. L. 100–418 substituted "National Institute of Standards and Technology" for "National Bureau of Standards".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Secretary of Energy" substituted for "Director of the National Science Foundation" in pars. (1) and (2) pursuant to sections 104(f) and 301(h) of Pub. L. 93–438, which are classified to sections 5814(f) and 5871(h) of this title and which transferred functions of National Science Foundation relating to or utilized in connection with solar heating and cooling development to Administrator of Energy Research and Development Administration, and pursuant to sections 301(a), 703, and 707 of Pub. L. 95–91, which are classified to sections 7151(a), 7293, and 7297 of this title and which terminated Energy Research and Development Administration and transferred its functions and functions of Administrator thereof (with certain exceptions) to Secretary of Energy.

§5503. Development and demonstration of solar heating systems for use in residential dwellings

(a) Functions of Administrator and Secretary

The Administrator and the Secretary shall promptly initiate and carry out a program, as provided in this section, for the development and demonstration of solar heating systems (including collectors, controls, and thermal storage) for use in residential dwellings.

(b) Time for determination, prescription and publishing of interim performance criteria; selection of designs for suitable dwellings

(1) Within 120 days after September 3, 1974, the Secretary, utilizing the services of the Director of the National Institute of Standards and Technology and in consultation with the Administrator and the Secretary of Energy, shall determine, prescribe, and publish—

(A) interim performance criteria for solar heating components and systems to be used in residential dwellings, and

(B) interim performance criteria (relating to suitability for solar heating) for such dwellings themselves,

taking into account in each instance climatic variations existing between different geographic

areas.

(2) As soon as possible after the publication of the performance criteria prescribed under paragraph (1), the Secretary, in consultation with the Director of the National Institute of Standards and Technology and the Administrator, will select on the basis of open competition a number of designs for various types of residential dwellings suitable for and adapted to the installation of solar heating systems meeting the performance criteria prescribed under paragraph (1)(A).

(c) Contracts and grants for development of heating systems for commercial production and residential use; contracts for procurement of heating systems and components

The Administrator, in accordance with the applicable provisions of subchapter II of chapter 201 of title 51 and under program guidelines established jointly by the Administrator and the Secretary, shall, after consultation with the Secretary—

(1) enter into such contracts and grants as may be necessary or appropriate for the development (for commercial production and residential use) of solar heating systems meeting the performance criteria prescribed under subsection (b)(1)(A) (including any further planning and design which may be required to conform with the specifications set forth in such criteria); and

(2) enter into contracts with a number of persons or firms for the procurement of solar heating components and systems meeting such performance criteria (including adequate numbers of spare and replacement parts for such systems).

(d) Installation of heating systems; operation during demonstration period; title and ownership of dwellings and systems; agreement of owner to observe and monitor system for five years; reports by owner

The Secretary shall (1) arrange for the installation of solar heating systems procured by the Administrator under subsection (c)(2) in a substantial number of residential dwellings and (2) provide for the satisfactory operation of such installations during the demonstration period. Title to and ownership of any dwellings constructed hereunder and of solar heating systems installed hereunder may be conveyed to purchasers or owners of such dwellings under terms and conditions prescribed by the Secretary, including an express agreement that any such purchaser or owner shall, in such manner and form and on such terms and conditions as the Secretary may prescribe, observe and monitor (or permit the Secretary to observe and monitor) the performance and operation of such system for a period of five years, and that such purchaser or owner (including any subsequent owner and occupant of the property who also makes such an agreement) shall regularly furnish the Secretary with such reports thereon as the agreement may require.

(e) Installation of heating systems by Secretary of Defense in dwellings located on Federal or federally administered property

The Secretary of Defense shall arrange for the installation of solar heating systems procured by the Administrator under subsection (c)(2) in a substantial number of residential dwellings which are located on Federal or federally administered property where the performance and operation of such systems can be regularly and effectively observed and monitored by designated Federal personnel.

(f) Coordination of activities to assure a realistic and effective demonstration

The Secretary and the Secretary of Defense, and officials responsible for administering Federal or federally administered property, shall coordinate their activities under this section to assure that solar heating systems are installed in a substantial number of residential dwellings and in a sufficient number of different geographic areas under varying climatic conditions to constitute a realistic and effective demonstration in support of the objectives of this subchapter.

(Pub. L. 93–409, §5, Sept. 3, 1974, 88 Stat. 1070; Pub. L. 93–438, title I, §104(f), title III, §301(h), Oct. 11, 1974, 88 Stat. 1238, 1250; Pub. L. 95–91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607; Pub. L. 100–418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433.)

EDITORIAL NOTES

CODIFICATION

In subsec. (c), "subchapter II of chapter 201 of title 51" substituted for "title II of the National Aeronautics and Space Act of 1958" on authority of Pub. L. 111–314, §5(e), Dec. 18, 2010, 124 Stat. 3443, which Act enacted Title 51, National and Commercial Space Programs.

AMENDMENTS

1988—Subsec. (b)(1), (2). Pub. L. 100–418 substituted "National Institute of Standards and Technology" for "National Bureau of Standards".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Secretary of Energy" substituted for "Director", meaning Director of National Science Foundation, in subsec. (b)(1) pursuant to sections 104(f) and 301(h) of Pub. L. 93–438, which are classified to sections 5814(f) and 5871(h) of this title and which transferred functions of National Science Foundation relating to or utilized in connection with solar heating and cooling development to Administrator of Energy Research and Development Administration, and pursuant to sections 301(a), 703, and 707 of Pub. L. 95–91, which are classified to sections 7151(a), 7293, and 7297 of this title and which terminated Energy Research and Development Administration and transferred its functions and functions of Administrator thereof (with certain exceptions) to Secretary of Energy.

§5504. Development and demonstration of combined solar heating and cooling systems for use in residential dwellings

(a) Functions of Administrator and Secretary

The Administrator and the Secretary shall promptly initiate and carry out a program, as provided in this section, for the development and demonstration of combined solar heating and cooling systems (including collectors, controls, and thermal storage) for use in residential dwellings.

(b) Time for determination, prescription and publishing of interim performance criteria; selection of designs for suitable dwellings

(1) As soon as possible after September 3, 1974, the Secretary, utilizing the services of the Director of the National Institute of Standards and Technology and in consultation with the Administrator and the Secretary of Energy, shall determine, prescribe, and publish—

(A) interim performance criteria for combined solar heating and cooling components and systems to be used in residential dwellings, and

(B) interim performance criteria (relating to suitability for solar heating and cooling) for such dwellings themselves,

taking into account in each instance climatic variations existing between different geographic areas.

(2) As soon as possible after the publication of the performance criteria prescribed under paragraph (1) (and if possible before the completion of the research and development provided for in subsection (c)), the Secretary, in consultation with the Director of the National Institute of Standards and Technology and the Administrator, will select on the basis of open competition a number of designs for various types of residential dwellings suitable for and adapted to the installation of combined solar heating and cooling systems meeting the performance criteria prescribed under paragraph (1)(A).

(c) Program of research, development and testing to provide additional technological resources for development and commercial application of combined systems

During the period immediately following the publication of performance criteria under subsection (b)(1), the Administrator, in coordination with the Secretary of Energy, shall undertake and conduct with respect to solar heating and cooling a program of research, development, and testing designed to

provide the additional technological resources necessary for the development and commercial application of combined solar heating and cooling systems as contemplated by the program under this section.

(d) Contracts and grants for development of combined systems for commercial production and residential use; contracts for procurement of combined systems

The Administrator, in accordance with the applicable provisions of subchapter II of chapter 201 of title 51 and under program guidelines established jointly by the Administrator and the Secretary, and at the earliest possible time during or immediately after the period specified in subsection (c), shall, after consultation with the Secretary—

(1) enter into such contracts and grants as may be necessary or appropriate for the development (for commercial production and residential use) of combined solar heating and cooling systems meeting the performance criteria prescribed under subsection (b)(1)(A) (including any further planning and design which may be required to conform with the specifications set forth in such criteria or to reflect the results of the activities conducted under subsection (c)); and

(2) enter into contracts with a number of persons or firms for the procurement of combined solar heating and cooling systems meeting such performance criteria (including adequate numbers of spare and replacement parts for such systems).

(e) Installation of combined systems; operation during demonstration period; title and ownership of dwellings and systems; agreement of owner to observe and monitor system; reports by owner

The Secretary shall (1) arrange for the installation of combined solar heating and cooling systems procured by the Administrator under subsection (d)(2) in a substantial number of residential dwellings and (2) provide for the satisfactory operation of such installations during the demonstration period. Title to and ownership of any dwellings constructed hereunder and of combined solar heating and cooling systems installed hereunder may be conveyed to purchasers or owners of such dwellings under terms and conditions prescribed by the Secretary, including an express agreement that any such purchaser or owner shall, in such manner and form and on such terms and conditions as the Secretary may prescribe, observe and monitor (or permit the Secretary to observe and monitor) the performance and operation of such system for a period of five years, and that such purchaser or owner (including any subsequent owner and occupant of the property who also makes such an agreement) shall regularly furnish the Secretary with such reports thereon as the agreement may require.

(f) Installation of combined systems by Secretary of Defense in dwellings located on Federal or federally administered property

The Secretary of Defense shall arrange for the installation of combined solar heating and cooling systems procured by the Administrator under subsection (d)(2) in a substantial number of residential dwellings which are located on Federal or federally administered property where the performance and operation of such systems can be regularly and effectively observed and monitored by designated Federal personnel.

(g) Coordination of activities to assure a realistic and effective demonstration

The Secretary and the Secretary of Defense, and officials responsible for administering Federal or federally administered property, shall coordinate their activities under this section to assure that combined solar heating and cooling systems are installed in a substantial number of residential dwellings and in a sufficient number of geographic areas under varying climatic conditions to constitute a realistic and effective demonstration in support of the objectives of this subchapter.

(Pub. L. 93–409, §6, Sept. 3, 1974, 88 Stat. 1072; Pub. L. 93–438, title I, §104(f), title III, §301(h), Oct. 11, 1974, 88 Stat. 1238, 1250; Pub. L. 95–91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607; Pub. L. 100–418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433.)

EDITORIAL NOTES

CODIFICATION

In subsec. (d), "subchapter II of chapter 201 of title 51" substituted for "title II of the National Aeronautics and Space Act of 1958" on authority of Pub. L. 111–314, §5(e), Dec. 18, 2010, 124 Stat. 3443, which Act enacted Title 51, National and Commercial Space Programs.

AMENDMENTS

1988—Subsec. (b)(1), (2). Pub. L. 100–418 substituted "National Institute of Standards and Technology" for "National Bureau of Standards".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Secretary of Energy" substituted for "Director", meaning Director of National Science Foundation, in subsecs. (b)(1) and (c) pursuant to sections 104(f) and 301(h) of Pub. L. 93–438, which are classified to sections 5814(f) and 5871(h) of this title and which transferred functions of National Science Foundation relating to or utilized in connection with solar heating and cooling development to Administrator of Energy Research and Development Administration, and pursuant to sections 301(a), 703, and 707 of Pub. L. 95–91, which are classified to sections 7151(a), 7293, and 7297 of this title and which terminated Energy Research and Development Administration and transferred its functions and functions of Administrator thereof (with certain exceptions) to Secretary of Energy.

§5504a. Repealed. Pub. L. 96–125, title VIII, §804(b), Nov. 26, 1979, 93 Stat. 948

Section, Pub. L. 95–356, title VIII, §804, Sept. 8, 1978, 92 Stat. 585, related to use of solar energy systems in military construction projects.

§5505. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 93–409, §7, Sept. 3, 1974, 88 Stat. 1073, authorized and directed Administrator and Secretary to prepare a comprehensive plan for conduct of development and demonstration activities under section 5503 and 5504, such plan to be transmitted to President and Congress within 120 days after Sept. 3, 1974.

§5506. Test procedures and definitive performance criteria for solar heating and combined solar heating and cooling components and systems and suitable dwellings; determination, consultation and publication in Federal Register

As soon as feasible, and utilizing data available from the demonstration programs under sections 5503 and 5504 of this title, the Secretary, utilizing the services of the Director of the National Institute of Standards and Technology and in consultation with the Administrator and the Secretary of Energy shall determine, prescribe, and publish in the Federal Register in accordance with the applicable provisions regarding rulemaking prescribed by section 553 of title 5,

(1) definitive performance criteria for solar heating and combined solar heating and cooling components and systems to be used in residential dwellings, taking into account climatic variations existing between different geographic areas;

(2) definitive performance criteria (relating to suitability for solar heating and for combined solar heating and cooling) for such dwellings, taking into account climatic variations existing between different geographic areas; and

(3) procedures whereby manufacturers of solar heating and combined solar heating and cooling

components and systems shall have their products tested in order to provide certification that such products conform to the performance criteria established under paragraph (1).

(Pub. L. 93–409, §8, Sept. 3, 1974, 88 Stat. 1073; Pub. L. 93–438, title I, §104(f), title III, §301(h), Oct. 11, 1974, 88 Stat. 1238, 1250; Pub. L. 95–91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607; Pub. L. 100–418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433.)

EDITORIAL NOTES

AMENDMENTS

1988—Pub. L. 100–418 substituted "National Institute of Standards and Technology" for "National Bureau of Standards".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Secretary of Energy" substituted in text for "Director", meaning Director of National Science Foundation, pursuant to sections 104(f) and 301(h) of Pub. L. 93–438, which are classified to sections 5814(f) and 5871(h) of this title and which transferred functions of National Science Foundation relating to or utilized in connection with solar heating and cooling development to Administrator of Energy Research and Development Administration, and pursuant to sections 301(a), 703, and 707 of Pub. L. 95–91, which are classified to sections 7151(a), 7293, and 7297 of this title and which terminated Energy Research and Development Administration and transferred its functions and functions of Administrator thereof (with certain exceptions) to Secretary of Energy.

§5507. Arrangements with Federal agencies for development and demonstration of solar heating and combined heating and cooling systems for commercial buildings

The Administrator, in consultation with the Secretary, the Secretary of Energy, the Administrator of General Services, and the Director of the National Institute of Standards and Technology and concurrently with the conduct of the programs under sections 5503 and 5504 of this title, shall enter into arrangements with appropriate Federal agencies to carry out such projects and activities (including demonstration projects) with respect to apartment buildings, office buildings, factories, crop-drying facilities and other agricultural structures, public buildings (including schools and colleges), and other non-residential, commercial, or industrial buildings, taking into account the special needs of and individual differences in such buildings based upon size, function, and other relevant factors, as may be appropriate for the early development and demonstration of solar heating and combined solar heating and cooling systems suitable and effective for use in such buildings.

(Pub. L. 93–409, §9, Sept. 3, 1974, 88 Stat. 1074; Pub. L. 93–438, title I, §104(f), title III, §301(h), Oct. 11, 1974, 88 Stat. 1238, 1250; Pub. L. 95–91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607; Pub. L. 100–418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433.)

EDITORIAL NOTES

AMENDMENTS

1988—Pub. L. 100–418 substituted "National Institute of Standards and Technology" for "National Bureau of Standards".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Secretary of Energy" substituted in text for "Director", meaning Director of National Science Foundation,

pursuant to sections 104(f) and 301(h) of Pub. L. 93–438, which are classified to sections 5814(f) and 5871(h) of this title and which transferred functions of National Science Foundation relating to or utilized in connection with solar heating and cooling development to Administrator of Energy Research and Development Administration, and pursuant to sections 301(a), 703, and 707 of Pub. L. 95–91, which are classified to sections 7151(a), 7293, and 7297 of this title and which terminated Energy Research and Development Administration and transferred its functions and functions of Administrator thereof (with certain exceptions) to Secretary of Energy.

§5508. Program of applied research by Secretary of Energy for improvement and development of heating systems for commercial application; transmission of results to Secretary and Administrator

(a) The Secretary of Energy shall conduct a program of applied research relevant to (1) the improvement of solar heating components and systems and (2) the development and commercial application of combined solar heating and cooling components and systems as contemplated by the programs under this subchapter.

(b) The Secretary of Energy shall apprise the Secretary and the Administrator on a continuing basis of the results of the programs being conducted in accordance with subsection (a), and the Secretary and the Administrator shall insure that such results, where appropriate, are incorporated into the development and demonstration programs established by this subchapter.

(Pub. L. 93–409, §10, Sept. 3, 1974, 88 Stat. 1074; Pub. L. 93–438, title I, §104(f), title III, §301(h), Oct. 11, 1974, 88 Stat. 1238, 1250; Pub. L. 95–91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Secretary of Energy" substituted in text for "Director", meaning Director of National Science Foundation, pursuant to sections 104(f) and 301(h) of Pub. L. 93–438, which are classified to sections 5814(f) and 5871(h) of this title and which transferred functions of National Science Foundation relating to or utilized in connection with solar heating and cooling development to Administrator of Energy Research and Development Administration, and pursuant to sections 301(a), 703, and 707 of Pub. L. 95–91, which are classified to sections 7151(a), 7293, and 7297 of this title and which terminated Energy Research and Development Administration and transferred its functions and functions of Administrator thereof (with certain exceptions) to Secretary of Energy.

§5509. Supervision of systems and programs by Secretary

(a) Monitoring of performance; collection and evaluation of data; studies and investigation; reports to Congress

The Secretary, utilizing the services of the Director of the National Institute of Standards and Technology and in coordination with such other Government agencies as may be appropriate, shall—

(1) monitor the performance and operation of solar heating and combined solar heating and cooling systems installed in residential dwellings under this subchapter;

(2) collect and evaluate data and information on the performance and operation of solar heating and combined solar heating and cooling systems installed in residential dwellings under this subchapter; and

(3) from time to time, carrying out such studies and investigations and take such other actions, including the submission of special reports to the Congress when appropriate, as may be necessary to assure that the programs for which the Secretary is responsible under this subchapter effectively carry out the policy of this subchapter.

(b) Cooperation with scientific, technical, and professional societies and industry

representatives in development of performance criteria and test procedures

In the development of the performance criteria and test procedures required under sections 5503, 5504, and 5506 of this title, the Secretary shall work closely with the appropriate scientific, technical, and professional societies and industry representatives to insure the best possible use of available expertise in this area.

(c) Continued liaison with building and related industries and scientific and technical communities

The Secretary shall also maintain continuing liaison with the building industry and related industries and interests, and with the scientific and technical community during and after the period of the programs carried out under this subchapter, in order to assure that the projected benefits of such programs are and will continue to be realized.

(Pub. L. 93–409, §11, Sept. 3, 1974, 88 Stat. 1074; Pub. L. 100–418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433.)

EDITORIAL NOTES

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–418 substituted "National Institute of Standards and Technology" for "National Bureau of Standards".

§5510. Dissemination of information to promote practical use of solar heating and cooling technologies

(a) Coordination by Secretary with other Federal agencies in dissemination to Federal, State, and local authorities, etc.

The Secretary shall take all possible steps to assure that full and complete information with respect to the demonstrations and other activities conducted under this subchapter is made available to Federal, State, and local authorities, the building industry and related segments of the economy, the scientific and technical community, and the public at large, both during and after the close of the programs under this subchapter, with the objective of promoting and facilitating to the maximum extent feasible the early and widespread practical use of solar energy for the heating and cooling of buildings throughout the United States. In accordance with regulations prescribed under section 5514 of this title such information shall be disseminated on a coordinated basis by the Secretary, the Administrator, the Director of the National Institute of Standards and Technology, the Secretary of Energy, the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, and other appropriate Federal offices and agencies.

(b) Studies, investigations and modifications of building codes, zoning ordinances, etc., to promote use of solar energy in buildings

In addition, the Secretary shall—

(1) study and investigate the effect of building codes, zoning ordinances, tax regulations, and other laws, codes, ordinances, and practices upon the practical use of solar energy for the heating and cooling of buildings;

(2) determine the extent to which such laws, codes, ordinances, and practices should be changed to permit or facilitate such use, and the methods by which any such changes may best be brought about; and

(3) study the necessity of a program of incentives to accelerate the commercial application of solar heating and cooling technology.

(c) Establishment and operation of Solar Heating and Cooling Information Data Bank; retrieval and dissemination services; compilation of information for use by governmental agencies, nonprofit organizations and private persons; utilization of existing information

(1) In carrying out his functions under subsections (a) and (b) the Secretary, utilizing the capabilities of the National Aeronautics and Space Administration, the Department of Commerce, and the Secretary of Energy to the maximum extent possible, shall establish and operate a Solar Heating and Cooling Information Data Bank (hereinafter in this subsection referred to as the "bank") for the purpose of collecting, reviewing, processing, and disseminating solar heating and cooling information and data in a timely and accurate manner in support of the objectives of this subchapter.

(2) Information and data compiled in the bank shall include—

(A) technical information (including reports, journal articles, dissertions,[1] monographs, and project descriptions) on solar energy research, development, and applications;

(B) technical information on the design, construction, and maintenance of buildings compatible with solar heating and cooling concepts;

(C) physical and chemical properties of the materials required for solar heating and cooling;

(D) climatic conditions in appropriate areas of the United States, including those areas where the demonstrations are to be located; and

(E) engineering performance of devices utilized in solar heating and cooling or to be employed in the demonstrations.

(3) In accordance with regulations prescribed under section 5514 of this title, the Secretary shall provide retrieval and dissemination services to cover the solar heating and cooling information described under paragraph (2) for—

(A) Federal, State, and local government organizations that are active in the area of energy resources (and their contractors);

(B) universities, colleges, and other nonprofit organizations; and

(C) private persons, upon request, in appropriate cases.

(4) In carrying out his functions under this subsection, the Secretary shall utilize, when feasible, the existing data base of scientific and technical information in Federal agencies, adding to such data base any information described in paragraph (2) which does not already reside in such base.

(d) Annual reports to President and Congress by officers and agencies; contents; special annual report by Secretary

Each Federal officer and agency having functions under this subchapter shall include in his or its annual report to the President and the Congress a full and complete description of his or its activities (current and projected) under this subchapter, along with his or its recommendations for legislative, administrative, or other action to improve the programs under this subchapter or to achieve the objectives of this subchapter more promptly and effectively. In addition, the Secretary shall submit annually to the President and the Congress a special report summarizing in appropriate detail all of the activities (current and projected) of the various Federal officers and agencies having functions under this subchapter, with the objective of presenting a comprehensive overall view of such programs.

(Pub. L. 93–409, §12, Sept. 3, 1974, 88 Stat. 1075; Pub. L. 93–438, title I, §104(f), title III, §301(h), Oct. 11, 1974, 88 Stat. 1238, 1250; Pub. L. 95–91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607; Pub. L. 100–418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433; Pub. L. 106–113, div. B, §1000(a)(9) [title IV, §4732(b)(21)], Nov. 29, 1999, 113 Stat. 1536, 1501A–585.)

EDITORIAL NOTES

AMENDMENTS

1999—Subsec. (a). Pub. L. 106–113 substituted "Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office" for "Commissioner of the Patent Office".

1988—Subsec. (a). Pub. L. 100–418 substituted "National Institute of Standards and Technology" for "National Bureau of Standards".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, §4731] of Pub. L. 106–113, set out as a note under section 1 of Title 35, Patents.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which a report required under subsec. (d) of this section is listed in item 12 on page 102), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

TRANSFER OF FUNCTIONS

"Secretary of Energy" substituted for "Director", meaning Director of National Science Foundation, in subsec. (a) and for "National Science Foundation" in subsec. (c) pursuant to sections 104(f) and 301(h) of Pub. L. 93–438, which are classified to sections 5814(f) and 5871(h) of this title and which transferred functions of National Science Foundation relating to or utilized in connection with solar heating and cooling development to Administrator of Energy Research and Development Administration, and pursuant to sections 301(a), 703, and 707 of Pub. L. 95–91, which are classified to sections 7151(a), 7293, and 7297 of this title and which terminated Energy Research and Development Administration and transferred its functions and functions of Administrator thereof (with certain exceptions) to Secretary of Energy.

[1] So in original. Probably should be "dissertations,".

§5511. Federally assisted or federally constructed housing

(a) Maximum dollar amount of federally assisted mortgage loan or maximum per unit or other cost or floor area limitation of federally constructed housing

(1) In determining the maximum dollar amount of any federally assisted mortgage loan (as defined in subsection (b)) or the maximum per unit or other cost or floor area limitation of any federally constructed housing (as defined in subsection (c)), where the law establishing the program under which the loan is made or the housing is constructed specifies such maximum per unit or other cost on floor area limitation and the structure involved is furnished with solar heating or combined solar heating and cooling equipment under the demonstration program established by section 5503, 5504, or 5507 of this title, the maximum amount or cost or floor area limitation so specified which is applicable to such structure shall be deemed to be increased by the amount by which (as determined by the Secretary or the Secretary of Defense, as appropriate) the price or cost or floor area limitation of the structure including such solar heating or combined solar heating and cooling equipment exceeds the price or cost or floor area limitation of the structure with such equipment replaced by conventional heating equipment or conventional heating and cooling equipment (as the case may be).

(2) In addition, in the case of a federally assisted mortgage loan, the cost excess specified in subsection (a) shall be fully taken into account in determining the value or cost of the structure involved for purposes of applying any statutory provision specifying the maximum loan-to-value or -cost ratio; except that, if the law specifies different rates of downpayment for successive increments of such value or cost, the lowest such rate shall apply to the additional cost attributable to the solar heating or combined solar heating and cooling equipment, and such equipment shall otherwise be excluded in determining the total value or cost of the structure.

(b) "Mortgage loan" and "federally assisted mortgage loan" defined

As used in subsection (a), the term "mortgage loan" means a loan which is made to finance the purchase or construction of a residence or any other building or structure; and the term "federally assisted mortgage loan" means a mortgage loan which—

(1) is made in whole or in part by any lender the deposits or accounts of which are insured by

any agency of the Federal Government, or is made in whole or in part by any lender which is itself regulated by any agency of the Federal Government; or

(2) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by the Secretary or any other officer or agency of the Federal Government or under or in connection with a housing, urban development, or related program administered by the Secretary or a housing or related program administered by any other such officer or agency; or

(3) is eligible for purchase by the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation, or from any financial institution from which it could be purchased by the Federal Home Loan Mortgage Corporation; or

(4) is made in whole or in part by any "creditor," as defined in section 1602(f) [1] of title 15, who makes or invests in residential real estate loans aggregating more than $1,000,000 per year.

(c) "Federally constructed housing" defined

As used in subsection (a), the term "federally constructed housing" means (1) residential or multifamily housing which is constructed by agencies of the Federal Government to provide dwelling accommodations for particular types or classes of persons under programs administered by such Federal agencies (including all housing constructed by the Department of Defense to provide dwelling accommodations for personnel of the armed services or for such personnel and their families), and (2) residential or multifamily housing which is constructed by agencies of State or local government, with financial assistance in any form from the Federal Government, to provide dwelling accommodations for particular types or classes of persons under programs administered by such State or local agencies.

(Pub. L. 93–409, §13, Sept. 3, 1974, 88 Stat. 1076.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1602(f) of title 15, referred to in subsec. (b)(4), was redesignated section 1602(g) of title 15 by Pub. L. 111–203, title X, §1100A(1)(A), July 21, 2010, 124 Stat. 2107.

[1] *See References in Text note below.*

§5511a. Solar Assistance Financing Entity

(a) Establishment

The Secretary of Housing and Urban Development shall establish within the Department of Housing and Urban Development the Solar Assistance Financing Entity (in this section referred to as the "Entity").

(b) Purpose

The purpose of the Entity shall be to assist in financing solar and renewable energy capital investments and projects for eligible buildings under subsection (c).

(c) Eligible buildings

The Entity may provide assistance under this section only for the following buildings:

(1) Single family housing

Any building consisting of 1 to 4 dwelling units that has a system for heating or cooling, or both.

(2) Multifamily housing

Any building consisting of more than 4 dwelling units that has a system for heating or cooling,

or both.

(3) Commercial buildings

Any building used primarily to carry on a business (including any nonprofit business) that is not used primarily for the manufacture or production of raw materials, products, or agricultural commodities.

(4) Schools, hospitals, and agricultural buildings

Any school, any hospital, and any building used exclusively in connection with the harvesting, storage, or drying of agricultural commodities.

(5) Other buildings

Any other building of a type that the Entity considers appropriate.

(d) Financing options

Assistance provided under this section by the Entity may be provided only for programs for financing solar and renewable energy capital investments and projects, which may include programs for making loans, making grants, reducing the principal obligations of loans, prepayment of interest on loans, purchase and sale of loans and advances of credit, providing loan guarantees, providing loan downpayment assistance, and providing rebates and other incentives for the purchase and installation of solar and renewable energy measures.

(e) Authority to leverage other funds

The Entity may encourage or require programs receiving assistance under this section to supplement the assistance received under this section with amounts from other public and private sources, and, in making assistance under this section available, may give preference to programs that leverage amounts from such other sources.

(f) Provision of assistance

The Entity shall provide assistance under this section through State agencies responsible for developing State energy conservation plans pursuant to section 6322 of this title, or any other entity or agency authorized to specifically carry out the purposes of this section.

(g) Regulations

Not later than the expiration of the 12-month period beginning on October 28, 1992, the Secretary of Housing and Urban Development, in consultation with the Secretary of Energy, shall issue any regulations necessary to carry out this section, which shall ensure maximum flexibility in utilizing amounts made available under this section.

(h) Authorization of appropriations

There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1993 and $10,420,000 for fiscal year 1994. Such sums are to be available until expended.

(Pub. L. 102–550, title IX, §912, Oct. 28, 1992, 106 Stat. 3875.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Housing and Community Development Act of 1992, and not as part of the Solar Heating and Cooling Demonstration Act of 1974 which comprises this subchapter.

Section is comprised of section 912 of Pub. L. 102–550. Subsec. (i) of section 912 of Pub. L. 102–550 repealed sections 1723g and 1723h and chapter 37 (§3601 et seq.) of Title 12, Banks and Banking.

§5512. Small business concerns' opportunities to participate in programs

In carrying out their functions under this subchapter, all Federal officers and agencies shall take steps to assure that small business concerns will have realistic and adequate opportunities to

participate in the programs under this subchapter to the maximum extent possible.

(Pub. L. 93–409, §14, Sept. 3, 1974, 88 Stat. 1077.)

§5513. Priorities and criteria of demonstration programs

The Secretary shall set priorities as far as possible consistent with the intent and operation of this subchapter in accordance with the following criteria:

(a) The residential dwellings and other buildings which will be part of the demonstration programs referred to in sections 5503, 5504, and 5507 of this title shall be located in a sufficient number of different geographic areas in the United States to assure a realistic and effective demonstration of the solar heating systems and combined solar heating and cooling systems involved, and of the dwellings and other buildings themselves, in both rural and urban locations and under climatic conditions which vary as much as possible.

(b) Consideration shall be given to projected costs of commercial production and maintenance of the solar heating systems and combined solar heating and cooling systems utilized in the demonstration programs.

(c) Encouragement should be given in the conduct of programs under this subchapter to those projects in which funds, appropriated by any State or political subdivision thereof for the purpose of sharing costs with the Federal Government for the purchase and installation of solar heating or combined solar heating and cooling components and systems, are committed before or after September 3, 1974.

(Pub. L. 93–409, §15, Sept. 3, 1974, 88 Stat. 1077.)

§5514. Regulations

The Administrator and the Secretary in consultation with the Director of the National Institute of Standards and Technology, the Secretary of Energy, the Administrator of the General Services Administration, the Secretary of Defense, and other appropriate officers and agencies, shall prescribe such regulations as may be necessary or appropriate to carry out this subchapter promptly and efficiently. Each such officer or agency, in consultation with the Administrator and the Secretary, may prescribe such regulations as may be necessary or appropriate to carry out his or its particular functions under this subchapter promptly and efficiently.

(Pub. L. 93–409, §16, Sept. 3, 1974, 88 Stat. 1078; Pub. L. 93–438, title I, §104(f), title III, §301(h), Oct. 11, 1974, 88 Stat. 1238, 1250; Pub. L. 95–91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607; Pub. L. 100–418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433.)

EDITORIAL NOTES

AMENDMENTS

1988—Pub. L. 100–418 substituted "National Institute of Standards and Technology" for "National Bureau of Standards".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Secretary of Energy" substituted in text for "Director", meaning Director of the National Science Foundation, pursuant to sections 104(f) and 301(h) of Pub. L. 93–438, which are classified to sections 5814(f) and 5871(h) of this title and which transferred functions of National Science Foundation relating to or utilized in connection with solar heating and cooling development to Administrator of Energy Research and Development Administration, and pursuant to sections 301(a), 703, and 707 of Pub. L. 95–91, which are

classified to sections 7151(a), 7293, and 7297 of this title and which terminated Energy Research and Development Administration and transferred its functions and functions of Administrator thereof (with certain exceptions) to Secretary of Energy.

§5515. Use of publicly assisted housing by Secretary in demonstrations

The Secretary shall make appropriate use of publicly assisted housing and particularly low-rent housing assisted under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] in demonstrating solar heating systems and combined solar heating and cooling systems under this subchapter.

(Pub. L. 93–409, §17, Sept. 3, 1974, 88 Stat. 1078.)

EDITORIAL NOTES

REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in text, is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§1437 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

§5516. Transfer of functions

Within sixty days after the effective date of the law creating the Energy Research and Development Administration or any other law creating a permanent Federal organization or agency having jurisdiction over the energy research and development functions of the United States (or within sixty days after September 3, 1974, if the effective date of such law occurs prior to the enactment of this subchapter), the energy research and development functions vested in the National Aeronautics and Space Administration and the National Science Foundation under this subchapter and any funds which may have been appropriated pursuant to section 5517 of this title, to the extent necessary or appropriate, may, in accordance with regulations prescribed by the Office of Management and Budget, be transferred to and vested in the Energy Research and Development Administration or such other organization or agency.

(Pub. L. 93–409, §18, Sept. 3, 1974, 88 Stat. 1078.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Energy Research and Development Administration terminated and functions vested by law in Administrator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

Functions of National Science Foundation relating to or utilized in connection with solar heating and cooling development transferred to Administrator of Energy Research and Development Administration by section 5814(f) of this title.

§5517. Authorization of appropriations

(a) Appropriations to National Aeronautics and Space Administration

There is hereby authorized to be appropriated to the National Aeronautics and Space Administration for the fiscal year ending June 30, 1975, $5,000,000, to remain available until expended, to carry out the functions vested in the Administrator by this subchapter.

(b) Appropriations to Department of Housing and Urban Development

There is hereby authorized to be appropriated to the Department of Housing and Urban Development for the fiscal year ending June 30, 1975, $5,000,000, to remain available until expended. Any sums so appropriated shall be available (1) to carry out the functions vested in the Secretary of Housing and Urban Development by this subchapter, and (2) for transfer to the Department of Defense, the National Institute of Standards and Technology, and the General Services Administration to enable them to carry out their respective functions under this subchapter.

(c) Appropriations for programs under this subchapter

There is hereby authorized to be appropriated for the fiscal years ending June 30, 1976, 1977, 1978, and 1979, $50,000,000 in the aggregate to carry out the programs established by this subchapter.

(Pub. L. 93–409, §19, Sept. 3, 1974, 88 Stat. 1078; Pub. L. 100–418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433.)

EDITORIAL NOTES

AMENDMENTS

1988—Subsec. (b). Pub. L. 100–418 substituted "National Institute of Standards and Technology" for "National Bureau of Standards".

SUBCHAPTER II—RESEARCH, DEVELOPMENT, AND DEMONSTRATION

§§5551 to 5556. Repealed. Pub. L. 116–260, div. Z, title III, §3006(e)(1), Dec. 27, 2020, 134 Stat. 2513

Section 5551, Pub. L. 93–473, §2, Oct. 26, 1974, 88 Stat. 1431, related to congressional declaration of findings and policy.

Section 5552, Pub. L. 93–473, §3, Oct. 26, 1974, 88 Stat. 1431, defined terms for this subchapter.

Section 5553, Pub. L. 93–473, §4, Oct. 26, 1974, 88 Stat. 1432, related to the Solar Energy Coordination and Management Project.

Section 5554, Pub. L. 93–473, §5, Oct. 26, 1974, 88 Stat. 1433, related to solar energy resource determination and assessment program, objectives, and implementation.

Section 5555, Pub. L. 93–473, §6, Oct. 26, 1974, 88 Stat. 1433, related to research and development program.

Section 5556, Pub. L. 93–473, §7, Oct. 26, 1974, 88 Stat. 1434, related to solar energy demonstration facilities program.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SAVINGS PROVISION

Pub. L. 116–260, div. Z, title III, §3006(e)(2), Dec. 27, 2020, 134 Stat. 2513, provided that: "The repeal of the Solar Energy Research, Development, and Demonstration Act of 1974 (42 U.S.C. 5551 et seq.) under paragraph (1) shall not affect the authority of the Secretary of Energy to conduct research and development on solar energy."

§5556a. Solar photovoltaic energy systems studies and acquisitions by Secretary of Energy; scope, contents, and submission dates for reports; acquisition authority and requirements; authorization of appropriations

(a) The Secretary of Energy shall—

(1) initiate and conduct an "application and system design study", cooperatively with

appropriate Federal agencies, to determine the potential for the use of solar photovoltaic systems at specific Federal installations; and this study shall—

(A) include an analysis of those sites that are currently cost-effective for solar photovoltaic energy systems, using life-cycle costing techniques, as well as those which would be cost-effective at expected future market prices;

(B) identify potential sites and uses of solar photovoltaic energy systems at the following agencies as well as any others which the Secretary of Energy deems necessary:

(i) the Department of Defense;

(ii) the Department of Transportation (including the United States Coast Guard, the Federal Aviation Administration, and the Federal Highway Administration);

(iii) the Department of Commerce;

(iv) the Department of Agriculture; and

(v) the Department of the Interior;

(C) provide a preliminary report to Congress within nine months following February 25, 1978;

(D) include the presentation of a detailed plan for the implementation of solar photovoltaic energy systems for power generation at specific sites in Federal Government agencies to Congress within twelve months following February 25, 1978;

(2) initiate and conduct a study of the options available to the Federal Government to provide for the adequate growth of the solar photovoltaic industry and to include such possible incentives as government funding, loan guarantees, tax incentives, the operation of pilot plants or production lines and other incentives deemed worthy of consideration by the Secretary of Energy. A preliminary report shall be submitted to Congress within six months following February 25, 1978;

(3) initiate and conduct a study involving the prospects for applications of solar photovoltaic energy systems for power generation in foreign countries, particularly lesser developed countries, and the potential for the exportation of these energy systems. This study shall involve the cooperation of the Department of State and the Department of Commerce, as well as other Federal agencies which the Secretary of Energy deems appropriate. A final report shall be submitted to the Congress, as well as a preliminary report within twelve months of February 25, 1978; and

(4) be authorized to acquire up to an additional 4.0 megawatts (peak) of solar photovoltaic energy systems. The sum of $13,000,000 is hereby authorized to be appropriated (in addition to any other amounts authorized by this Act to be appropriated) for the fiscal year ending September 30, 1978, and for delivery in the following twelve months. Such sums shall remain available until expended. The solar photovoltaic energy systems acquired shall be available for use for power generation by Federal agencies, provided that no procurement takes place until their application on Federal sites is determined to be life cycle cost effective.

(b) For technology development, particularly for engineering design and development of the manufacturing process of solar photovoltaic energy systems (primarily for the implementation of automated processes and other cost reducing production technologies), the sum of $6,000,000 is hereby authorized by this Act to be appropriated for the fiscal year ending September 30, 1978.

(Pub. L. 95–238, title II, §208, Feb. 25, 1978, 92 Stat. 75.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(4), means Pub. L. 95–238, Feb. 25, 1978, 92 Stat. 47, known as the Department of Energy Act of 1978—Civilian Applications. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Department of Energy Act of 1978—Civilian Applications, and not as part of the Solar Energy Research, Development, and Demonstration Act of 1974 which formerly comprised this subchapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

NONAPPLICABILITY OF TITLE II OF PUB. L. 95–238 TO ANY AUTHORIZATION OR APPROPRIATION FOR MILITARY APPLICATION OF NUCLEAR ENERGY, ETC.; DEFINITIONS

Nonapplicability of provisions of title II of Pub. L. 95–238 with respect to any authorization or appropriation for any military application of nuclear energy, etc., see section 209 of Pub. L. 95–238, set out as a note under section 5821 of this title.

§§5557 to 5566. Repealed. Pub. L. 116–260, div. Z, title III, §3006(e)(1), Dec. 27, 2020, 134 Stat. 2513

Section 5557, Pub. L. 93–473, §8, Oct. 26, 1974, 88 Stat. 1435, related to the Solar Energy Information Data Bank.

Section 5558, Pub. L. 93–473, §9, Oct. 26, 1974, 88 Stat. 1436, related to scientific and technical education programs.

Section 5559, Pub. L. 93–473, §10, Oct. 26, 1974, 88 Stat. 1436, related to the Solar Energy Research Institute and its establishment, functions, and location.

Section 5560, Pub. L. 93–473, §11, Oct. 26, 1974, 88 Stat. 1437, related to international cooperation in solar energy research and programs of education.

Section 5561, Pub. L. 93–473, §12, Oct. 26, 1974, 88 Stat. 1437, related to regulations to carry out this subchapter.

Section 5562, Pub. L. 93–473, §13, Oct. 26, 1974, 88 Stat. 1437; Pub. L. 96–470, title II, §203(c), Oct. 19, 1980, 94 Stat. 2243, related to summary in annual report.

Section 5563, Pub. L. 93–473, §14, Oct. 26, 1974, 88 Stat. 1437, related to project information to congressional committees.

Section 5564, Pub. L. 93–473, §15, Oct. 26, 1974, 88 Stat. 1437, related to comprehensive program definition and its preparation, utilization of and consultation with other agencies, transmittal to the President and Congress, and time of transmittal.

Section 5565, Pub. L. 93–473, §16, Oct. 26, 1974, 88 Stat. 1438, related to transfer of functions.

Section 5566, Pub. L. 93–473, §17, Oct. 26, 1974, 88 Stat. 1438, authorized appropriations to carry out this subchapter.

SUBCHAPTER III—SOLAR PHOTOVOLTAIC ENERGY RESEARCH, DEVELOPMENT AND DEMONSTRATION

§§5581 to 5594. Repealed. Pub. L. 116–260, div. Z, title III, §3006(f), Dec. 27, 2020, 134 Stat. 2513

Section 5581, Pub. L. 95–590, §2, Nov. 4, 1978, 92 Stat. 2513, related to congressional findings and declaration of policy.

Section 5582, Pub. L. 95–590, §3, Nov. 4, 1978, 92 Stat. 2515, defined terms for this subchapter.

Section 5583, Pub. L. 95–590, §4, Nov. 4, 1978, 92 Stat. 2515, related to establishment and promotion of research, development, and demonstration programs.

Section 5584, Pub. L. 95–590, §5, Nov. 4, 1978, 92 Stat. 2516, related to Federal assistance application procedures including selection of applicants, agreements, financial assistance, observation and monitoring of photovoltaic systems, reports, and projects and activities.

Section 5585, Pub. L. 95–590, §6, Nov. 4, 1978, 92 Stat. 2516, related to contracts, grants, and arrangements.

Section 5586, Pub. L. 95–590, §7, Nov. 4, 1978, 92 Stat. 2517, related to test procedures and performance criteria.

Section 5587, Pub. L. 95–590, §8, Nov. 4, 1978, 92 Stat. 2518, related to supervision of research, development, and demonstration programs.

Section 5588, Pub. L. 95–590, §9, Nov. 4, 1978, 92 Stat. 2518, related to the Solar Photovoltaic Energy Advisory Committee.

Section 5589, Pub. L. 95–590, §10, Nov. 4, 1978, 92 Stat. 2519, related to promotion and facilitation of practical use of photovoltaic energy.

Section 5590, Pub. L. 95–590, §11, Nov. 4, 1978, 92 Stat. 2520; Pub. L. 103–82, title IV, §405(j), Sept. 21, 1993, 107 Stat. 922, related to submittal to congressional committees of plan for demonstrating applications of photovoltaic systems and facilitating use in other nations, including encouragement of international participation and cooperation and coordination and consistency of plan and international activities with similar activities and programs.

Section 5591, Pub. L. 95–590, §12, Nov. 4, 1978, 92 Stat. 2521, related to participation of small business concerns.

Section 5592, Pub. L. 95–590, §13, Nov. 4, 1978, 92 Stat. 2521, related to priorities.

Section 5593, Pub. L. 95–590, §14, Nov. 4, 1978, 92 Stat. 2521, related to construction with National Energy Conservation Policy Act.

Section 5594, Pub. L. 95–590, §15, Nov. 4, 1978, 92 Stat. 2522, related to authorization of appropriations.

CHAPTER 72—JUVENILE JUSTICE AND DELINQUENCY PREVENTION

SUBCHAPTER I—GENERALLY

Sec.
5601 to 5603. Transferred.

SUBCHAPTER II—PROGRAMS AND OFFICES

PART A—JUVENILE JUSTICE AND DELINQUENCY PREVENTION OFFICE

5611 to 5619. Repealed or Transferred.

PART B—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

5631 to 5639. Repealed or Transferred.

PART C—JUVENILE DELINQUENCY PREVENTION BLOCK GRANT PROGRAM

5651 to 5656. Transferred.

PART D—RESEARCH; EVALUATION; TECHNICAL ASSISTANCE; TRAINING

5661, 5662. Transferred.

PART E—DEVELOPING, TESTING, AND DEMONSTRATING PROMISING NEW INITIATIVES AND PROGRAMS

5665 to 5668. Transferred.

PART F—GENERAL AND ADMINISTRATIVE PROVISIONS

5671 to 5681. Transferred.

SUBCHAPTER III—RUNAWAY AND HOMELESS YOUTH

5701, 5702. Transferred.

PART A—BASIC CENTER GRANT PROGRAM

5711 to 5714. Repealed or Transferred.

PART B—TRANSITIONAL LIVING GRANT PROGRAM

5714–1, 5714–2. Transferred.

PART C—NATIONAL COMMUNICATIONS SYSTEM

5714–11. Transferred.

PART D—COORDINATING, TRAINING, RESEARCH, AND OTHER ACTIVITIES

5714–21 to 5714–25. Transferred.

PART E—SEXUAL ABUSE PREVENTION PROGRAM

5714–41. Transferred.

PART F—GENERAL PROVISIONS

5714a to 5752. Repealed or Transferred.

SUBCHAPTER IV—MISSING CHILDREN

5771 to 5780a. Repealed or Transferred.

SUBCHAPTER V—INCENTIVE GRANTS FOR LOCAL DELINQUENCY PREVENTION PROGRAMS

5781 to 5784. Repealed or Transferred.

SUBCHAPTER VI—PUBLIC OUTREACH

PART A—AMBER ALERT

5791 to 5791d. Transferred.

PART B—MISSING CHILDREN PROCEDURES IN PUBLIC BUILDINGS

5792, 5792a. Transferred.

SUBCHAPTER I—GENERALLY

§5601. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5601 was editorially reclassified as section 11101 of Title 34, Crime Control and Law Enforcement.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–322, title XVII, §170301, Sept. 13, 1994, 108 Stat. 2043, provided that subtitle C (§§170301–170303) of title XVII of Pub. L. 103–322, which enacted former section 5776a of this title, amended former sections 5777 and 5778 of this title, and enacted provisions set out as a note under former section 5776a of this title, could be cited as the "Morgan P. Hardiman Task Force on Missing and Exploited Children Act", prior to repeal by Pub. L. 105–314, title VII, §703(g), Oct. 30, 1998, 112 Stat. 2989.

§5602. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5602 was editorially reclassified as section 11102 of Title 34, Crime Control and Law Enforcement.

§5603. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5603 was editorially reclassified as section 11103 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER II—PROGRAMS AND OFFICES

PART A—JUVENILE JUSTICE AND DELINQUENCY PREVENTION OFFICE

§5611. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5611 was editorially reclassified as section 11111 of Title 34, Crime Control and Law Enforcement.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EDUCATION AND OUTREACH TO TRAFFICKING SURVIVORS

Pub. L. 114–22, title I, §119, May 29, 2015, 129 Stat. 247, which required the Attorney General to make available, on the website of the Office of Juvenile Justice and Delinquency Prevention, educational and outreach information for trafficking victim advocates, crisis hotline personnel, foster parents, law enforcement personnel, and crime survivors, was editorially reclassified as section 20710 of Title 34, Crime Control and Law Enforcement.

§5612. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5612 was editorially reclassified as section 11112 of Title 34, Crime Control and Law Enforcement.

§5613. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5613 was editorially reclassified as section 11113 of Title 34, Crime Control and Law Enforcement.

§5614. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5614 was editorially reclassified as section 11114 of Title 34, Crime Control and Law Enforcement.

§5615. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5615 was editorially reclassified as section 11115 of Title 34, Crime Control and Law Enforcement.

§5616. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5616 was editorially reclassified as section 11116 of Title 34, Crime Control and Law Enforcement.

§5617. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5617 was editorially reclassified as section 11117 of Title 34, Crime Control and Law Enforcement.

STATUTORY NOTES AND RELATED SUBSIDIARIES

USE OF COURT ORDERS TO PLACE JUVENILES IN SECURE FACILITIES, JAILS AND LOCKUPS FOR ADULTS; INVESTIGATION AND REPORT

Pub. L. 100–690, title VII, §7295, Nov. 18, 1988, 102 Stat. 4462, directed Comptroller General of the United States, not later than 180 days after Nov. 18, 1988, to conduct an investigation of extent to which valid

court orders and court orders other than valid court orders, used in the 5-year period ending on Dec. 31, 1988, to place juveniles in secure detention facilities, in secure correctional facilities, and in jails and lockups for adults, and submit, not later than 3 years after Nov. 18, 1988, a report to certain congressional committees of results of investigation.

§§5618, 5619. Repealed. Pub. L. 96–509, §9, Dec. 8, 1980, 94 Stat. 2753

Section 5618, Pub. L. 93–415, title II, §208, Sept. 7, 1974, 88 Stat. 1117, Pub. L. 95–115, §3(a)(3)(B), (f), Oct. 3, 1977, 91 Stat. 1048, 1050, set out the duties and provided for the staffing of the National Advisory Committee and numerous subcommittees.

Section 5619, Pub. L. 93–415, title II, §209, Sept. 7, 1974, 88 Stat. 1118, set out provisions for compensation and reimbursement for travel and other expenses of full and part time Federal employees serving on the Advisory Committee.

PART B—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

§5631. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5631 was editorially reclassified as section 11131 of Title 34, Crime Control and Law Enforcement.

§5632. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5632 was editorially reclassified as section 11132 of Title 34, Crime Control and Law Enforcement.

§5633. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5633 was editorially reclassified as section 11133 of Title 34, Crime Control and Law Enforcement.

STATUTORY NOTES AND RELATED SUBSIDIARIES

COSTS AND IMPLICATIONS OF REMOVAL OF JUVENILES FROM ADULTS IN JAILS; REPORT TO CONGRESS

Pub. L. 96–509, §17, Dec. 8, 1980, 94 Stat. 2761, provided that the Administrator of the Office of Juvenile Justice and Delinquency Prevention, not later than 18 months after Dec. 8, 1980, submit a report to the Congress relating to the cost and implications of any requirement added to the Juvenile Justice and Delinquency Prevention Act of 1974 which would mandate the removal of juveniles from adults in all jails and lockups, such report to include an estimate of the costs likely to be incurred by the States, an analysis of the experience of States which required the removal of juveniles from adults in all jails and lockups, an

analysis of possible adverse ramifications which might result from such requirement of removal, and recommendations for such legislative or administrative action as the Administrator considers appropriate.

§§5634 to 5639. Repealed. Pub. L. 100–690, title VII, §7263(a)(1)(B), Nov. 18, 1988, 102 Stat. 4443

Section 5634, Pub. L. 93–415, title II, §224, Sept. 7, 1974, 88 Stat. 1122; Pub. L. 95–115, §4(d), Oct. 3, 1977, 91 Stat. 1054; Pub. L. 96–509, §§12, 19(h), Dec. 8, 1980, 94 Stat. 2759, 2765; Pub. L. 98–473, title II, §627, Oct. 12, 1984, 98 Stat. 2114, related to funding of special emphasis prevention and treatment programs through grants and contracts.

Section 5635, Pub. L. 93–415, title II, §225, Sept. 7, 1974, 88 Stat. 1123; Pub. L. 94–503, title I, §130(c), Oct. 15, 1976, 90 Stat. 2425; Pub. L. 95–115, §4(e), Oct. 3, 1977, 91 Stat. 1055; Pub. L. 98–473, title II, §628, Oct. 12, 1984, 98 Stat. 2116, related to applications for grants and contracts under section 5634 of this title.

Section 5636, Pub. L. 93–415, title II, §226, Sept. 7, 1974, 88 Stat. 1124, provided for proceedings by Administrator in the case of noncompliance of program or activity with this subchapter.

Section 5637, Pub. L. 93–415, title II, §227, Sept. 7, 1974, 88 Stat. 1124; Pub. L. 95–115, §4(f), Oct. 3, 1977, 91 Stat. 1055; Pub. L. 96–509, §13(a), Dec. 8, 1980, 94 Stat. 2759; Pub. L. 98–473, title II, §629, Oct. 12, 1984, 98 Stat. 2117, related to use of funds paid pursuant to this subchapter.

Section 5638, Pub. L. 93–415, title II, §228, Sept. 7, 1974, 88 Stat. 1124; Pub. L. 95–115, §4(g)(1), (2), (3)(A), Oct. 3, 1977, 91 Stat. 1055, 1056; Pub. L. 96–509, §§14, 19(i), Dec. 8, 1980, 94 Stat. 2760, 2765; Pub. L. 98–473, title II, §630, Oct. 12, 1984, 98 Stat. 2117, related to continuing financial assistance for programs.

Section 5639, Pub. L. 93–415, title II, §229, as added Pub. L. 95–115, §4(h), Oct. 3, 1977, 91 Stat. 1056, provided for confidentiality of program records.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1988, see section 7296(a) of Pub. L. 100–690, set out as an Effective Date of 1988 Amendment note under section 11101 of Title 34, Crime Control and Law Enforcement.

PART C—JUVENILE DELINQUENCY PREVENTION BLOCK GRANT PROGRAM

§5651. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5651 was editorially reclassified as section 11141 of Title 34, Crime Control and Law Enforcement.

PRIOR PROVISIONS

A prior section 5651, Pub. L. 93–415, title II, §241, Sept. 7, 1974, 88 Stat. 1125; Pub. L. 95–115, §§3(a)(3)(A), (5), 5(a), (f), Oct. 3, 1977, 91 Stat. 1048, 1049, 1056, 1057; Pub. L. 96–509, §19(j), Dec. 8, 1980, 94 Stat. 2765; Pub. L. 98–473, title II, §631, Oct. 12, 1984, 98 Stat. 2118; Pub. L. 100–690, title VII, §7259, Nov. 18, 1988, 102 Stat. 4441; Pub. L. 102–586, §2(g)(1), Nov. 4, 1992, 106 Stat. 4994, related to the National Institute for Juvenile Justice and Delinquency Prevention, prior to repeal by Pub. L. 107–273, div. C, title II, §12210(1), Nov. 2, 2002, 116 Stat. 1880.

§5652. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5652 was editorially reclassified as section 11142 of Title 34, Crime Control and Law Enforcement.

PRIOR PROVISIONS

A prior section 5652, Pub. L. 93–415, title II, §242, Sept. 7, 1974, 88 Stat. 1126; Pub. L. 100–690, title VII, §7260, Nov. 18, 1988, 102 Stat. 4441; Pub. L. 102–586, §2(g)(2), Nov. 4, 1992, 106 Stat. 4995, related to the information function of the Institute, prior to repeal by Pub. L. 107–273, div. C, title II, §12210(1), Nov. 2, 2002, 116 Stat. 1880.

§5653. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5653 was editorially reclassified as section 11143 of Title 34, Crime Control and Law Enforcement.

PRIOR PROVISIONS

A prior section 5653, Pub. L. 93–415, title II, §243, Sept. 7, 1974, 88 Stat. 1126; Pub. L. 95–115, §§3(a)(3)(B), 5(b), Oct. 3, 1977, 91 Stat. 1048, 1057; Pub. L. 98–473, title II, §632, Oct. 12, 1984, 98 Stat. 2118; Pub. L. 100–690, title VII, §7261, Nov. 18, 1988, 102 Stat. 4442; Pub. L. 102–586, §2(g)(3), Nov. 4, 1992, 106 Stat. 4995, related to research, demonstration, and evaluation, prior to repeal by Pub. L. 107–273, div. C, title II, §12210(1), Nov. 2, 2002, 116 Stat. 1880.

§5654. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5654 was editorially reclassified as section 11144 of Title 34, Crime Control and Law Enforcement.

PRIOR PROVISIONS

A prior section 5654, Pub. L. 93–415, title II, §244, Sept. 7, 1974, 88 Stat. 1127; Pub. L. 95–115, §5(f), Oct. 3, 1977, 91 Stat. 1057; Pub. L. 96–509, §19(k), Dec. 8, 1980, 94 Stat. 2765; Pub. L. 98–473, title II, §633, Oct. 12, 1984, 98 Stat. 2119; Pub. L. 100–690, title VII, §7262, Nov. 18, 1988, 102 Stat. 4442; Pub. L. 102–586, §2(g)(3), Nov. 4, 1992, 106 Stat. 4996; Pub. L. 105–277, div. A, §101(b) [title I, §129(a)(2)(D)], Oct. 21, 1998, 112 Stat. 2681–50, 2681–76, related to technical assistance and training functions, prior to repeal by Pub. L. 107–273, div. C, title II, §12210(1), Nov. 2, 2002, 116 Stat. 1880.

§5655. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5655 was editorially reclassified as section 11145 of Title 34, Crime Control and Law Enforcement.

PRIOR PROVISIONS

A prior section 5655, Pub. L. 93–415, title II, §245, Sept. 7, 1974, 88 Stat. 1127; Pub. L. 95–115, §5(c), Oct. 3, 1977, 91 Stat. 1057; Pub. L. 96–509, §19(l), Dec. 8, 1980, 94 Stat. 2765, provided for the functions of the Advisory Committee, prior to repeal by Pub. L. 98–473, title II, §§634, 670(a), Oct. 12, 1984, 98 Stat.

2119, 2129, effective Oct. 12, 1984.

A prior section 245 of Pub. L. 93–415 was classified to section 5659 of this title prior to repeal by Pub. L. 107–273.

Another prior section 245 of Pub. L. 93–415 was classified to section 5656 of this title prior to repeal by Pub. L. 100–690.

§5656. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5656 was editorially reclassified as section 11146 of Title 34, Crime Control and Law Enforcement.

PRIOR PROVISIONS

A prior section 5656, Pub. L. 93–415, title II, §245, formerly §246, Sept. 7, 1974, 88 Stat. 1127; Pub. L. 94–273, §2(27), Apr. 21, 1976, 90 Stat. 376; Pub. L. 95–115, §3(a)(3), (5), Oct. 3, 1977, 91 Stat. 1048, 1049; Pub. L. 96–509, §19(m), Dec. 8, 1980, 94 Stat. 2765; renumbered §245, Pub. L. 98–473, title II, §635, Oct. 12, 1984, 98 Stat. 2120, related to annual report by Deputy Administrator on programs funded under this subchapter, prior to repeal by Pub. L. 100–690, title VII, §§7263(a)(2)(C), 7296(a), Nov. 18, 1988, 102 Stat. 4443, 4463, effective Oct. 1, 1988.

A prior section 5657, Pub. L. 93–415, title II, §246, formerly §247, Sept. 7, 1974, 88 Stat. 1127; Pub. L. 95–115, §5(d), Oct. 3, 1977, 91 Stat. 1057; renumbered §246 and amended Pub. L. 98–473, title II, §636, Oct. 12, 1984, 98 Stat. 2120, set forth additional functions of the Institute for Juvenile Justice and Delinquency Prevention, prior to repeal by Pub. L. 100–690, title VII, §§7263(a)(2)(C), 7296(a), Nov. 18, 1988, 102 Stat. 4443, 4463, effective Oct. 1, 1988.

A prior section 5658, Pub. L. 93–415, title II, §248, Sept. 7, 1974, 88 Stat. 1128, set forth provisions relating to restrictions on disclosure and transfer of juvenile records, prior to repeal by Pub. L. 95–115, §5(e)(1), Oct. 3, 1977, 91 Stat. 1057, effective Oct. 1, 1977.

A prior section 5659, Pub. L. 93–415, title II, §245, formerly §249, Sept. 7, 1974, 88 Stat. 1128; renumbered §248 and amended Pub. L. 95–115, §§3(a)(3)(B), 5(e)(1), (f), Oct. 3, 1977, 91 Stat. 1048, 1057; Pub. L. 96–509, §19(n), Dec. 8, 1980, 94 Stat. 2765; renumbered §247 and amended Pub. L. 98–473, title II, §637, Oct. 12, 1984, 98 Stat. 2120; renumbered §245, Pub. L. 100–690, title VII, §7263(a)(2)(E), Nov. 18, 1988, 102 Stat. 4443; Pub. L. 102–586, §2(g)(4), Nov. 4, 1992, 106 Stat. 4996, established a training program of methods and techniques for the prevention and treatment of juvenile delinquency, prior to repeal by Pub. L. 107–273, div. C, title II, §12210(1), Nov. 2, 2002, 116 Stat. 1880.

A prior section 5660, Pub. L. 93–415, title II, §246, formerly §250, Sept. 7, 1974, 88 Stat. 1128; renumbered §249 and amended Pub. L. 95–115, §§3(a)(3)(B), 5(e)(1), (2)(A), Oct. 3, 1977, 91 Stat. 1048, 1057; Pub. L. 96–509, §19(o), Dec. 8, 1980, 94 Stat. 2765; renumbered §248 Pub. L. 98–473, title II, §638, Oct. 12, 1984, 98 Stat. 2120; renumbered §246 and amended Pub. L. 100–690, title VII, §7263(a)(2)(E), (b)(2), Nov. 18, 1988, 102 Stat. 4443, 4447; Pub. L. 102–586, §2(g)(5), Nov. 4, 1992, 106 Stat. 4996, related to the curriculum for training program, prior to repeal by Pub. L. 107–273, div. C, title II, §12210(1), Nov. 2, 2002, 116 Stat. 1880.

PART D—RESEARCH; EVALUATION; TECHNICAL ASSISTANCE; TRAINING

§5661. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5661 was editorially reclassified as section 11161 of Title 34, Crime Control and Law Enforcement.

PRIOR PROVISIONS

A prior section 5661, Pub. L. 93–415, title II, §247, formerly §251, Sept. 7, 1974, 88 Stat. 1128; renumbered §250 and amended Pub. L. 95–115, §§3(a)(3)(B), 5(e)(1), (2)(B), Oct. 3, 1977, 91 Stat. 1048, 1057; Pub. L. 96–509, §19(p), Dec. 8, 1980, 94 Stat. 2765; renumbered §249 and amended Pub. L. 98–473, title II, §639, Oct. 12, 1984, 98 Stat. 2120; renumbered §247 and amended Pub. L. 100–690, title VII, §7263(a)(2)(D), (E), Nov. 18, 1988, 102 Stat. 4443, related to participation in training program and State advisory group conferences, prior to repeal by Pub. L. 107–273, div. C, title II, §12210(1), Nov. 2, 2002, 116 Stat. 1880.

§5662. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5662 was editorially reclassified as section 11162 of Title 34, Crime Control and Law Enforcement.

PRIOR PROVISIONS

A prior section 5662, Pub. L. 93–415, title II, §248, as added Pub. L. 100–690, title VII, §7264, Nov. 18, 1988, 102 Stat. 4447; amended Pub. L. 102–586, §2(g)(6), Nov. 4, 1992, 106 Stat. 4997, related to special studies and reports, prior to repeal by Pub. L. 107–273, div. C, title II, §12210(1), Nov. 2, 2002, 116 Stat. 1880.

PART E—DEVELOPING, TESTING, AND DEMONSTRATING PROMISING NEW INITIATIVES AND PROGRAMS

§5665. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5665 was editorially reclassified as section 11171 of Title 34, Crime Control and Law Enforcement.

PRIOR PROVISIONS

A prior section 5665a, Pub. L. 93–415, title II, §262, as added Pub. L. 100–690, title VII, §7263(a)(2)(F), Nov. 18, 1988, 102 Stat. 4445; amended Pub. L. 102–586, §2(h), Nov. 4, 1992, 106 Stat. 5001, related to considerations for approval of applications, prior to repeal by Pub. L. 107–273, div. C, title II, §12210(1), Nov. 2, 2002, 116 Stat. 1880.

§5666. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5666 was editorially reclassified as section 11172 of Title 34, Crime Control and Law Enforcement.

§5667. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5667 was editorially reclassified as section 11173 of Title 34, Crime Control and Law Enforcement.

PRIOR PROVISIONS

A prior section 5667, Pub. L. 93–415, title II, §281, as added Pub. L. 102–586, §2(i), Nov. 4, 1992, 106 Stat. 5001, related to authority to make grants and contracts, prior to repeal by Pub. L. 107–273, div. C, title II, §12210(1), Nov. 2, 2002, 116 Stat. 1880.

Another prior section 5667, Pub. L. 93–415, title II, §281, as added Pub. L. 100–690, title VII, §7267, Nov. 18, 1988, 102 Stat. 4451, authorized Administrator to make grants and contracts for prevention and treatment programs relating to juvenile gangs, drug abuse, and drug trafficking, prior to the general amendment of part D by Pub. L. 102–586.

Prior sections 5667–1 to 5667f–3 were repealed by Pub. L. 107–273, div. C, title II, §12210(1), Nov. 2, 2002, 116 Stat. 1880.

Section 5667–1, Pub. L. 93–415, title II, §281A, as added Pub. L. 102–586, §2(i), Nov. 4, 1992, 106 Stat. 5003, related to approval of applications.

Section 5667a, Pub. L. 93–415, title II, §282, as added Pub. L. 102–586, §2(i), Nov. 4, 1992, 106 Stat. 5004, related to authority to make grants and contracts.

Another prior section 5667a, Pub. L. 93–415, title II, §282, as added Pub. L. 100–690, title VII, §7267, Nov. 18, 1988, 102 Stat. 4451, related to approval of applications for grants and contracts, prior to the general amendment of part D by Pub. L. 102–586.

Section 5667a–1, Pub. L. 93–415, title II, §282A, as added Pub. L. 102–586, §2(i), Nov. 4, 1992, 106 Stat. 5005, related to application approval.

Section 5667b, Pub. L. 93–415, title II, §283, as added Pub. L. 102–586, §2(i), Nov. 4, 1992, 106 Stat. 5006, defined "juvenile".

Section 5667c, Pub. L. 93–415, title II, §285, as added Pub. L. 102–586, §2(i)(1)(C), Nov. 4, 1992, 106 Stat. 5006, related to establishment of program of State challenge activities.

Section 5667d, Pub. L. 93–415, title II, §287, as added Pub. L. 102–586, §2(i)(1)(C), Nov. 4, 1992, 106 Stat. 5008, defined "juvenile".

Section 5667d–1, Pub. L. 93–415, title II, §287A, as added Pub. L. 102–586, §2(i)(1)(C), Nov. 4, 1992, 106 Stat. 5008, related to grant authority.

Section 5667d–2, Pub. L. 93–415, title II, §287B, as added Pub. L. 102–586, §2(i)(1)(C), Nov. 4, 1992, 106 Stat. 5009, related to administrative requirements.

Section 5667d–3, Pub. L. 93–415, title II, §287C, as added Pub. L. 102–586, §2(i)(1)(C), Nov. 4, 1992, 106 Stat. 5009, established priority for grants.

Section 5667e, Pub. L. 93–415, title II, §288, as added Pub. L. 102–586, §2(i)(1)(C), Nov. 4, 1992, 106 Stat. 5009, related to purposes of mentoring programs.

Section 5667e–1, Pub. L. 93–415, title II, §288A, as added Pub. L. 102–586, §2(i)(1)(C), Nov. 4, 1992, 106 Stat. 5009, defined "at-risk youth" and "mentor".

Section 5667e–2, Pub. L. 93–415, title II, §288B, as added Pub. L. 102–586, §2(i)(1)(C), Nov. 4, 1992, 106 Stat. 5010, related to grants for local educational agencies for mentoring programs.

Section 5667e–3, Pub. L. 93–415, title II, §288C, as added Pub. L. 102–586, §2(i)(1)(C), Nov. 4, 1992, 106 Stat. 5010; amended Pub. L. 103–322, title XV, §150006, Sept. 13, 1994, 108 Stat. 2035, related to regulations and guidelines.

Section 5667e–4, Pub. L. 93–415, title II, §288D, as added Pub. L. 102–586, §2(i)(1)(C), Nov. 4, 1992, 106 Stat. 5010, related to permitted and prohibited uses of grants.

Section 5667e–5, Pub. L. 93–415, title II, §288E, as added Pub. L. 102–586, §2(i)(1)(C), Nov. 4, 1992, 106 Stat. 5011; amended Pub. L. 103–382, title III, §391(t), Oct. 20, 1994, 108 Stat. 4025, related to priority for awarding grants.

Section 5667e–6, Pub. L. 93–415, title II, §288F, as added Pub. L. 102–586, §2(i)(1)(C), Nov. 4, 1992, 106 Stat. 5011, related to information and assurances required on application.

Section 5667e–7, Pub. L. 93–415, title II, §288G, as added Pub. L. 102–586, §2(i)(1)(C), Nov. 4, 1992, 106 Stat. 5012, provided that grants would be made for 3-year periods.

Section 5667e–8, Pub. L. 93–415, title II, §288H, as added Pub. L. 102–586, §2(i)(1)(C), Nov. 4, 1992, 106

Stat. 5012, related to reports.

Section 5667f, Pub. L. 93–415, title II, §289, as added Pub. L. 102–586, §2(i)(1)(C), Nov. 4, 1992, 106 Stat. 5012, related to grants for establishment of boot camps.

Section 5667f–1, Pub. L. 93–415, title II, §289A, as added Pub. L. 102–586, §2(i)(1)(C), Nov. 4, 1992, 106 Stat. 5012, limited size of boot camps.

Section 5667f–2, Pub. L. 93–415, title II, §289B, as added Pub. L. 102–586, §2(i)(1)(C), Nov. 4, 1992, 106 Stat. 5013, related to eligibility and placement.

Section 5667f–3, Pub. L. 93–415, title II, §289C, as added Pub. L. 102–586, §2(i)(1)(C), Nov. 4, 1992, 106 Stat. 5013, related to post-release supervision.

Prior sections 5667g to 5667g–5 were repealed by Pub. L. 107–273, div. C, title II, §12210(2), Nov. 2, 2002, 116 Stat. 1880.

Section 5667g, Pub. L. 93–415, title II, §291, as added Pub. L. 102–586, §2(i)(1)(C), Nov. 4, 1992, 106 Stat. 5013, authorized the President to call and conduct a National White House Conference on Juvenile Justice.

Section 5667g–1, Pub. L. 93–415, title II, §291A, as added Pub. L. 102–586, §2(i)(1)(C), Nov. 4, 1992, 106 Stat. 5014, related to Conference participants.

Section 5667g–2, Pub. L. 93–415, title II, §291B, as added Pub. L. 102–586, §2(i)(1)(C), Nov. 4, 1992, 106 Stat. 5015, related to appointment and compensation of directors and detailees.

Section 5667g–3, Pub. L. 93–415, title II, §291C, as added Pub. L. 102–586, §2(i)(1)(C), Nov. 4, 1992, 106 Stat. 5015, related to planning and administration of Conference.

Section 5667g–4, Pub. L. 93–415, title II, §291D, as added Pub. L. 102–586, §2(i)(1)(C), Nov. 4, 1992, 106 Stat. 5015, related to reports.

Section 5667g–5, Pub. L. 93–415, title II, §291E, as added Pub. L. 102–586, §2(i)(1)(C), Nov. 4, 1992, 106 Stat. 5015, related to congressional oversight.

§5668. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5668 was editorially reclassified as section 11174 of Title 34, Crime Control and Law Enforcement.

PART F—GENERAL AND ADMINISTRATIVE PROVISIONS

EDITORIAL NOTES

PRIOR PROVISIONS

For prior part F of title II of Pub. L. 93–415, see part F (§11181 et seq.) of subchapter II of chapter 111 of Title 34, Crime Control and Law Enforcement.

A prior part G, consisting of sections 5667e to 5667e–8, related to mentoring, prior to repeal by Pub. L. 107–273, div. C, title II, §12210(1), Nov. 2, 2002, 116 Stat. 1880.

A prior part H, consisting of sections 5667f to 5667f–3, related to boot camps, prior to repeal by Pub. L. 107–273, div. C, title II, §12210(1), Nov. 2, 2002, 116 Stat. 1880.

A prior part I, consisting of sections 5667g to 5667g–5, authorized the president to call a National White House Conference on Juvenile Justice, prior to repeal by Pub. L. 107–273, div. C, title II, §12210(2), Nov. 2, 2002, 116 Stat. 1880.

Another prior part I of title II of Pub. L. 93–415 was redesignated part J for purposes of codification. See note below.

Part J, consisting of sections 5671 to 5676, was redesignated part F by Pub. L. 107–273, div. C, title II, §12210(3), Nov. 2, 2002, 116 Stat. 1880, prior to editorial reclassification as part F of subchapter II of chapter 111 of Title 34.

§5671. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5671 was editorially reclassified as section 11181 of Title 34, Crime Control and Law Enforcement.

§5672. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5672 was editorially reclassified as section 11182 of Title 34, Crime Control and Law Enforcement.

§5673. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5673 was editorially reclassified as section 11183 of Title 34, Crime Control and Law Enforcement.

§5674. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5674 was editorially reclassified as section 11184 of Title 34, Crime Control and Law Enforcement.

§5675. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5675 was editorially reclassified as section 11185 of Title 34, Crime Control and Law Enforcement.

§5676. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5676 was editorially reclassified as section 11186 of Title 34, Crime Control and Law Enforcement.

§5677. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5677 was editorially reclassified as section 11187 of Title 34, Crime Control and Law Enforcement.

§5678. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5678 was editorially reclassified as section 11188 of Title 34, Crime Control and Law Enforcement.

§5679. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5679 was editorially reclassified as section 11189 of Title 34, Crime Control and Law Enforcement.

§5680. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5680 was editorially reclassified as section 11190 of Title 34, Crime Control and Law Enforcement.

§5681. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5681 was editorially reclassified as section 11191 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER III—RUNAWAY AND HOMELESS YOUTH

§5701. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5701 was editorially reclassified as section 11201 of Title 34, Crime Control and Law Enforcement.

STATUTORY NOTES AND RELATED SUBSIDIARIES

REPORT ON PROMISING STRATEGIES TO END YOUTH HOMELESSNESS

Pub. L. 108–96, title I, §118, Oct. 10, 2003, 117 Stat. 1170, provided that, not later than 2 years after Oct. 10, 2003, the Secretary of Health and Human Services, in consultation with the United States Interagency Council on Homelessness, was to submit to the Congress a report on promising strategies to end youth homelessness.

§5702. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5702 was editorially reclassified as section 11202 of Title 34, Crime Control and Law Enforcement.

PART A—BASIC CENTER GRANT PROGRAM

§5711. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5711 was editorially reclassified as section 11211 of Title 34, Crime Control and Law Enforcement.

§5712. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5712 was editorially reclassified as section 11212 of Title 34, Crime Control and Law Enforcement.

§§5712a to 5712c. Repealed. Pub. L. 102–586, §3(g)(2)(A)–(C), Nov. 4, 1992, 106 Stat. 5025

Section 5712a, Pub. L. 93–415, title III, §313, as added Pub. L. 100–690, title VII, §7275(b), Nov. 18, 1988, 102 Stat. 4457, related to grants for a national communication system to assist runaway and homeless youth.

Section 5712b, Pub. L. 93–415, title III, §314, as added Pub. L. 100–690, title VII, §7276, Nov. 18, 1988, 102 Stat. 4457, related to grants for technical assistance and training to public and private entities for establishment and operation of runaway and homeless youth centers.

Section 5712c, Pub. L. 93–415, title III, §315, as added Pub. L. 100–690, title VII, §7277, Nov. 18, 1988, 102 Stat. 4457, related to authority of the Secretary to make grants for research, demonstration, and service projects.

§5712d. Repealed. Pub. L. 109–162, title XI, §1172(b), Jan. 5, 2006, 119 Stat. 3123

Section, Pub. L. 93–415, title III, §316, as added Pub. L. 103–322, title IV, §40155, Sept. 13, 1994, 108

Stat. 1922, related to grants for prevention of sexual abuse and exploitation.

A prior section 316 of Pub. L. 93–415 was renumbered section 313 of Pub. L. 93–415 and is classified to section 11213 of Title 34, Crime Control and Law Enforcement.

Another prior section 316 of Pub. L. 93–415 was renumbered section 372 of Pub. L. 93–415 and is classified to section 11272 of Title 34, Crime Control and Law Enforcement.

Another prior section 316 of Pub. L. 93–415 was renumbered section 382 of Pub. L. 93–415 and is classified to section 11274 of Title 34, Crime Control and Law Enforcement.

§5713. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5713 was editorially reclassified as section 11213 of Title 34, Crime Control and Law Enforcement.

§5714. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5714 was editorially reclassified as section 11214 of Title 34, Crime Control and Law Enforcement.

PART B—TRANSITIONAL LIVING GRANT PROGRAM

§5714–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5714–1 was editorially reclassified as section 11221 of Title 34, Crime Control and Law Enforcement.

STATUTORY NOTES AND RELATED SUBSIDIARIES

STUDY OF HOUSING SERVICES AND STRATEGIES

Pub. L. 108–96, title I, §119, Oct. 10, 2003, 117 Stat. 1170, provided that the Secretary of Health and Human Services was to conduct a study of programs funded under part B of the Runaway and Homeless Youth Act (42 U.S.C. 5714–1 et seq.) to report on long-term housing outcomes for youth after exiting the program.

§5714–2. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5714–2 was editorially reclassified as section 11222 of Title 34, Crime Control and Law

Enforcement.

PART C—NATIONAL COMMUNICATIONS SYSTEM

§5714–11. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5714–11 was editorially reclassified as section 11231 of Title 34, Crime Control and Law Enforcement.

PART D—COORDINATING, TRAINING, RESEARCH, AND OTHER ACTIVITIES

§5714–21. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5714–21 was editorially reclassified as section 11241 of Title 34, Crime Control and Law Enforcement.

§5714–22. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5714–22 was editorially reclassified as section 11242 of Title 34, Crime Control and Law Enforcement.

§5714–23. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5714–23 was editorially reclassified as section 11243 of Title 34, Crime Control and Law Enforcement.

§5714–24. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5714–24 was editorially reclassified as section 11244 of Title 34, Crime Control and Law Enforcement.

§5714–25. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5714–25 was editorially reclassified as section 11245 of Title 34, Crime Control and Law Enforcement.

PART E—SEXUAL ABUSE PREVENTION PROGRAM

§5714–41. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5714–41 was editorially reclassified as section 11261 of Title 34, Crime Control and Law Enforcement.

PART F—GENERAL PROVISIONS

§5714a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5714a was editorially reclassified as section 11271 of Title 34, Crime Control and Law Enforcement.

§5714b. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5714b was editorially reclassified as section 11272 of Title 34, Crime Control and Law Enforcement.

§5715. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5715 was editorially reclassified as section 11273 of Title 34, Crime Control and Law Enforcement.

§5716. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5716 was editorially reclassified as section 11274 of Title 34, Crime Control and Law Enforcement.

§5731. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5731 was editorially reclassified as section 11275 of Title 34, Crime Control and Law Enforcement.

§5731a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5731a was editorially reclassified as section 11276 of Title 34, Crime Control and Law Enforcement.

§5732. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5732 was editorially reclassified as section 11277 of Title 34, Crime Control and Law Enforcement.

PRIOR PROVISIONS

A prior section 5732, Pub. L. 93–415, title III, §322, Sept. 7, 1974, 88 Stat. 1132, set forth restrictions on disclosure and transfer of records, prior to repeal by Pub. L. 95–115, §7(b), Oct. 3, 1977, 91 Stat. 1058, eff. Oct. 1, 1977.

§5732–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5732–1 was editorially reclassified as section 11278 of Title 34, Crime Control and Law Enforcement.

§5732a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5732a was editorially reclassified as section 11279 of Title 34, Crime Control and Law Enforcement.

§5733. Repealed. Pub. L. 102–586, §3(g)(2)(E), Nov. 4, 1992, 106 Stat. 5025

Section, Pub. L. 93–415, title III, §365, as added Pub. L. 100–690, title VII, §7279, Nov. 18, 1988, 102 Stat. 4458, related to Secretary's obligation to coordinate activities of health agencies with activities of entities eligible to receive grants.

§5741. Repealed. Pub. L. 98–473, title II, §656, Oct. 12, 1984, 98 Stat. 2124

Section, Pub. L. 93–415, title III, §331, as added Pub. L. 95–115, §7(c), Oct. 3, 1977, 91 Stat. 1059; amended Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695, authorized President to submit to Congress after April 30, 1978, a reorganization plan for establishment of an Office of Youth Assistance, subject to Congressional resolution of disapproval.

Prior to repeal by Pub. L. 98–473, section 5741 of this title comprised part C of this subchapter. Section 657(e) of Pub. L. 98–473 redesignated former part D, consisting of section 5751 (now 34 U.S.C. 11280) of this title, as part C. Previously, part C was redesignated part D by Pub. L. 95–115, §7(c), Oct. 3, 1977, 91 Stat. 1059.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 12, 1984, see section 670(a) of Pub. L. 98–473, set out as an Effective Date of 1984 Amendment note under section 11101 of Title 34, Crime Control and Law Enforcement.

§5751. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5751 was editorially reclassified as section 11280 of Title 34, Crime Control and Law Enforcement.

§5752. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5752 was editorially reclassified as section 11281 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER IV—MISSING CHILDREN

§5771. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5771 was editorially reclassified as section 11291 of Title 34, Crime Control and Law Enforcement.

§5772. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5772 was editorially reclassified as section 11292 of Title 34, Crime Control and Law Enforcement.

§5773. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5773 was editorially reclassified as section 11293 of Title 34, Crime Control and Law Enforcement.

§5774. Repealed. Pub. L. 100–690, title VII, §7286, Nov. 18, 1988, 102 Stat. 4460

Section, Pub. L. 93–415, title IV, §405, as added Pub. L. 98–473, title II, §660, Oct. 12, 1984, 98 Stat. 2127, provided for an Advisory Board on Missing Children.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1988, see section 7296(a) of Pub. L. 100–690, set out as an Effective Date of 1988 Amendment note under section 11101 of Title 34, Crime Control and Law Enforcement.

§5775. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5775 was editorially reclassified as section 11294 of Title 34, Crime Control and Law Enforcement.

§5776. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5776 was editorially reclassified as section 11295 of Title 34, Crime Control and Law Enforcement.

§5776a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5776a was editorially reclassified as section 11296 of Title 34, Crime Control and Law Enforcement.

§5777. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5777 was editorially reclassified as section 11297 of Title 34, Crime Control and Law Enforcement.

§5778. Repealed. Pub. L. 104–235, title II, §231(b), Oct. 3, 1996, 110 Stat. 3092

Section, Pub. L. 93–415, title IV, §409, formerly §408, as added Pub. L. 100–690, title VII, §7291, Nov. 18, 1988, 102 Stat. 4461; renumbered §409, Pub. L. 103–322, title XVII, §170303(1), Sept. 13, 1994, 108 Stat. 2043, related to special study and report to determine obstacles that prevent or impede individuals who have legal custody of children from recovering children from parents who have removed children from such individuals in violation of law.

§5779. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5779 was editorially reclassified as section 41307 of Title 34, Crime Control and Law Enforcement.

§5780. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5780 was editorially reclassified as section 41308 of Title 34, Crime Control and Law Enforcement.

§5780a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5780a was editorially reclassified as section 11298 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER V—INCENTIVE GRANTS FOR LOCAL DELINQUENCY PREVENTION PROGRAMS

§5781. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5781 was editorially reclassified as section 11311 of Title 34, Crime Control and Law Enforcement.

§5782. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5782 was editorially reclassified as section 11312 of Title 34, Crime Control and Law Enforcement.

§5783. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5783 was editorially reclassified as section 11313 of Title 34, Crime Control and Law Enforcement.

§5784. Repealed. Pub. L. 115–385, title IV, §402(c)(2), Dec. 21, 2018, 132 Stat. 5160

Section, Pub. L. 93–415, title V, §506, formerly §505, as added Pub. L. 107–273, div. C, title II, §12222(a), Nov. 2, 2002, 116 Stat. 1896; renumbered §506, Pub. L. 115–385, title III, §305, Dec. 21, 2018, 132 Stat. 5150, authorized appropriations for fiscal years 2004 to 2008.

EDITORIAL NOTES

CODIFICATION

Pub. L. 115–385, §402(c)(2), which directed the repeal of section 505 of Pub. L. 93–415, was executed by repealing this section, which was section 506 of Pub. L. 93–415, to reflect the probable intent of Congress and the renumbering of this section from section 505 to section 506 of the Act by section 305 of Pub. L. 115–385. A new section 505 of Pub. L. 93–415 was enacted by Pub. L. 115–385 and is classified to section 11314 of Title 34, Crime Control and Law Enforcement.

PRIOR PROVISIONS

A prior section 5784, Pub. L. 93–415, title V, §505, as added Pub. L. 102–586, §5(a), Nov. 4, 1992, 106 Stat. 5028; amended Pub. L. 105–277, div. A, §101(b) [title I, §129(a)(2)(F)], Oct. 21, 1998, 112 Stat.

2681–50, 2681–76, related to grants for prevention programs, prior to the general amendment of this subchapter by Pub. L. 107–273.

A prior section 5785, Pub. L. 93–415, title V, §506, as added Pub. L. 102–586, §5(a), Nov. 4, 1992, 106 Stat. 5029, authorized appropriations, prior to the general amendment of this subchapter by Pub. L. 107–273.

SUBCHAPTER VI—PUBLIC OUTREACH

PART A—AMBER ALERT

§5791. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5791 was editorially reclassified as section 20501 of Title 34, Crime Control and Law Enforcement.

§5791a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5791a was editorially reclassified as section 20502 of Title 34, Crime Control and Law Enforcement.

§5791b. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5791b was editorially reclassified as section 20503 of Title 34, Crime Control and Law Enforcement.

§5791c. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5791c was editorially reclassified as section 20504 of Title 34, Crime Control and Law Enforcement.

§5791d. Transferred

EDITORIAL NOTES

CODIFICATION

Section 5791d was editorially reclassified as section 20505 of Title 34, Crime Control and Law Enforcement.

PART B—MISSING CHILDREN PROCEDURES IN PUBLIC BUILDINGS

EDITORIAL NOTES

CODIFICATION

Part was enacted as part of the Code Adam Act of 2003 and also as part of the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003, also know as the PROTECT Act, and not as part of the Juvenile Justice and Delinquency Prevention Act of 1974 which comprises this chapter.

§5792. Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 108–21, title III, §362, Apr. 30, 2003, 117 Stat. 665, was editorially reclassified and is set out in a note under section 3101 of Title 40, Public Buildings, Property, and Works.

§5792a. Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 108–21, title III, §363, Apr. 30, 2003, 117 Stat. 666, was editorially reclassified and is set out in a note under section 3101 of Title 40, Public Buildings, Property, and Works.

CHAPTER 73—DEVELOPMENT OF ENERGY SOURCES

Sec.

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§5801. Congressional declaration of policy and purpose

(a) Development and utilization of energy sources

The Congress hereby declares that the general welfare and the common defense and security require effective action to develop, and increase the efficiency and reliability of use of, all energy sources to meet the needs of present and future generations, to increase the productivity of the national economy and strengthen its position in regard to international trade, to make the Nation self-sufficient in energy, to advance the goals of restoring, protecting, and enhancing environmental quality, and to assure public health and safety.

(b) Necessity of establishing Energy Research and Development Administration

The Congress finds that, to best achieve these objectives, improve Government operations, and assure the coordinated and effective development of all energy sources, it is necessary to establish an Energy Research and Development Administration to bring together and direct Federal activities relating to research and development on the various sources of energy, to increase the efficiency and reliability in the use of energy, and to carry out the performance of other functions, including but not limited to the Atomic Energy Commission's military and production activities and its general basic research activities. In establishing an Energy Research and Development Administration to achieve these objectives, the Congress intends that all possible sources of energy be developed consistent with warranted priorities.

(c) Separation of licensing and regulatory functions of Atomic Energy Commission

The Congress finds that it is in the public interest that the licensing and related regulatory functions of the Atomic Energy Commission be separated from the performance of the other functions of the Commission, and that this separation be effected in an orderly manner, pursuant to this chapter, assuring adequacy of technical and other resources necessary for the performance of each.

(d) Small business participation

The Congress declares that it is in the public interest and the policy of Congress that small business concerns be given a reasonable opportunity to participate, insofar as is possible, fairly and equitably in grants, contracts, purchases, and other Federal activities relating to research, development, and demonstration of sources of energy efficiency, and utilization and conservation of energy. In carrying out this policy, to the extent practicable, the Administrator shall consult with the Administrator of the Small Business Administration.

(e) Priorities

Determination of priorities which are warranted should be based on such considerations as power-related values of an energy source, preservation of material resources, reduction of pollutants, export market potential (including reduction of imports), among others. On such a basis, energy sources warranting priority might include, but not be limited to, the various methods of utilizing solar energy.

(Pub. L. 93–438, §2, Oct. 11, 1974, 88 Stat. 1233.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original "this Act", meaning Pub. L. 93–438, Oct. 11, 1974, 88 Stat. 1233, which enacted this chapter, amended sections 5313 to 5316 of Title 5, Government Organization and Employees, repealed sections 2031 and 2032 of this title, and enacted provisions set out as notes below. For complete classification of this Act to the Code, see Short Title note below and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE; INTERIM APPOINTMENTS

Pub. L. 93–438, title III, §312, Oct. 11, 1974, 88 Stat. 1253, provided that:

"(a) This Act [see Short Title note below] shall take effect one hundred and twenty days after the date of its enactment [Oct. 11, 1974], or on such earlier date as the President may prescribe and publish in the Federal Register [prescribed as Jan. 19, 1975, by Ex. Ord. No. 11834, formerly set out below] except that any of the officers provided for in title I of this Act [subchapter I of this chapter] may be nominated and appointed, as provided by this Act, at any time after the date of enactment of this Act. Funds available to any department or agency (or any official or component thereof), any functions of which are transferred to the Administrator and the Commission by this Act, may, with the approval of the President, be used to pay the compensation and expenses of any officer appointed pursuant to this subsection until such time as funds for that purpose are otherwise available.

"(b) In the event that any officer required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act, the President may designate any officer, whose appointment was required to be made by and with the advice and consent of the Senate and who was such an officer immediately prior to the effective date of this Act, to act in such office until the office is filled as provided in this Act. While so acting, such persons shall receive compensation at the rates provided by this Act for the respective offices in which they act."

SHORT TITLE

Pub. L. 93–438, §1, Oct. 11, 1974, 88 Stat. 1233, provided that: "This Act [enacting this chapter, repealing sections 2031 and 2032 of this title, amending sections 5313 to 5316 of Title 5, Government Organization and Employees, and enacting provisions set out as notes under this section] may be cited as the 'Energy Reorganization Act of 1974'."

SEPARABILITY

Pub. L. 93–438, title III, §311, Oct. 11, 1974, 88 Stat. 1253, provided that: "If any provision of this Act [See Short Title note above], or the application thereof to any person or circumstance, is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby."

TRANSFER OF FUNCTIONS

Energy Research and Development Administration terminated and functions vested by law in Administrator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 11834

Ex. Ord. No. 11834, eff. Jan. 15, 1975, 40 F.R. 2971, which prescribed Jan. 19, 1975, as the effective date of this chapter, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

SUBCHAPTER I—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

§5811. Establishment of Energy Research and Development Administration

There is hereby established an independent executive agency to be known as the Energy Research and Development Administration (hereinafter in this chapter referred to as the "Administration").

(Pub. L. 93–438, title I, §101, Oct. 11, 1974, 88 Stat. 1234.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–438, Oct. 11, 1974, 88 Stat. 1233, which enacted this chapter, amended sections 5313 to 5316 of Title 5, Government Organization and Employees, repealed sections 2031 and 2032 of this title, and enacted provisions set out as notes under section 5801 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Energy Research and Development Administration terminated and functions vested by law in Administrator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§5812. Officers of Administration

(a) Administrator; appointment

There shall be at the head of the Administration an Administrator of Energy Research and Development (hereinafter in this chapter referred to as the "Administrator"), who shall be appointed from civilian life by the President by and with the advice and consent of the Senate. A person may not be appointed as Administrator within two years after release from active duty as a commissioned officer of a regular component of an Armed Force. The Administration shall be administered under

the supervision and direction of the Administrator, who shall be responsible for the efficient and coordinated management of the Administration.

(b) Deputy Administrator

There shall be in the Administration a Deputy Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) Qualifications of Administrator and Deputy Administrator

The President shall appoint the Administrator and Deputy Administrator from among individuals who, by reason of their general background and experience are specially qualified to manage a full range of energy research and development programs.

(d) Assistant Administrators; number; appointment; qualifications

There shall be in the Administration six Assistant Administrators, one of whom shall be responsible for fossil energy, another for nuclear energy, another for environment and safety, another for conservation, another for solar, geothermal, and advanced energy systems, and another for national security. The Assistant Administrators shall be appointed by the President, by and with the advice and consent of the Senate. The President shall appoint each Assistant Administrator from among individuals who, by reason of general background and experience, are specially qualified to manage the energy technology area assigned to such Assistant Administrator.

(e) General Counsel

There shall be in the Administration a General Counsel who shall be appointed by the Administrator and who shall serve at the pleasure of and be removable by the Administrator.

(f) Additional officers

There shall be in the Administration not more than eight additional officers appointed by the Administrator. The positions of such officers shall be considered career positions and be subject to section 2201(d) of this title.

(g) Director of Military Application; functions; qualifications; compensation

The Division of Military Application transferred to and established in the Administration by section 5814(d) of this title shall be under the direction of a Director of Military Application, who shall be appointed by the Administrator and who shall serve at the pleasure of and be removable by the Administrator and shall be an active commissioned officer of the Armed Forces serving in general or flag officer rank or grade. The functions, qualifications, and compensation of the Director of Military Application shall be the same as those provided under the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.], for the Assistant General Manager for Military Application.

(h) Allocation of functions; responsibility for international cooperation

Officers appointed pursuant to this section shall perform such functions as the Administrator shall specify from time to time. The Administrator shall delegate to one such officer the special responsibility for international cooperation in all energy and related environmental research and development.

(i) Order of succession

The Deputy Administrator (or in the absence or disability of the Deputy Administrator, or in the event of a vacancy in the office of the Deputy Administrator, an Assistant Administrator, the General Counsel or such other official, determined according to such order as the Administrator shall prescribe) shall act for and perform the functions of the Administrator during any absence or disability of the Administrator or in the event of a vacancy in the office of the Administrator.

(Pub. L. 93–438, title I, §102, Oct. 11, 1974, 88 Stat. 1234.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 93–438, Oct. 11, 1974, 88 Stat. 1233, known as the Energy Reorganization Act of 1974, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

The Atomic Energy Act of 1954, referred to in subsec. (g), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Energy Research and Development Administration terminated and functions vested by law in Administrator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

Division of Military Application transferred to Department of Energy by former section 7158(b) of this title with that organizational unit to be deemed an organizational unit established by chapter 84 (§7101 et seq.) of this title.

§5813. Responsibilities of Administrator

The responsibilities of the Administrator shall include, but not be limited to—

(1) exercising central responsibility for policy planning, coordination, support, and management of research and development programs respecting all energy sources, including assessing the requirements for research and development in regard to various energy sources in relation to near-term and long-range needs, policy planning in regard to meeting those requirements, undertaking programs for the optimal development of the various forms of energy sources, managing such programs, and disseminating information resulting therefrom;

(2) encouraging and conducting research and development, including demonstration of commercial feasibility and practical applications of the extraction, conversion, storage, transmission, and utilization phases related to the development and use of energy from fossil, nuclear, solar, geothermal, and other energy sources;

(3) engaging in and supporting environmental, biomedical, physical, and safety research related to the development of energy sources and utilization technologies;

(4) taking into account the existence, progress, and results of other public and private research and development activities, including those activities of the Federal Energy Administration relating to the development of energy resources using currently available technology in promoting increased utilization of energy resources, relevant to the Administration's mission in formulating its own research and development programs;

(5) participating in and supporting cooperative research and development projects which may involve contributions by public or private persons or agencies, of financial or other resources to the performance of the work;

(6) developing, collecting, distributing, and making available for distribution, scientific and technical information concerning the manufacture or development of energy and its efficient extraction, conversion, transmission, and utilization;

(7) creating and encouraging the development of general information to the public on all energy conservation technologies and energy sources as they become available for general use, and the Administrator, in conjunction with the Administrator of the Federal Energy Administration shall, to the extent practicable, disseminate such information through the use of mass communications;

(8) encouraging and conducting research and development in energy conservation, which shall be directed toward the goals of reducing total energy consumption to the maximum extent practicable, and toward maximum possible improvement in the efficiency of energy use. Development of new and improved conservation measures shall be conducted with the goal of the most expeditious possible application of these measures;

(9) encouraging and participating in international cooperation in energy and related environmental research and development;

(10) helping to assure an adequate supply of manpower for the accomplishment of energy research and development programs, by sponsoring and assisting in education and training activities in institutions of higher education, vocational schools, and other institutions, and by assuring the collection, analysis, and dissemination of necessary manpower supply and demand data;

(11) encouraging and conducting research and development in clean and renewable energy sources.

(Pub. L. 93–438, title I, §103, Oct. 11, 1974, 88 Stat. 1235; Pub. L. 95–39, title V, §510(a), June 3, 1977, 91 Stat. 200; Pub. L. 102–486, title I, §143(b), Oct. 24, 1992, 106 Stat. 2843.)

EDITORIAL NOTES

AMENDMENTS

1992—Pars. (7) to (12). Pub. L. 102–486 redesignated pars. (8) to (12) as (7) to (11), respectively, and struck out former par. (7) which read as follows: "establishing, in accordance with the National Energy Extension Service Act, an Energy Extension Service to provide technical assistance, instruction, and practical demonstrations on energy conservation measures and alternative energy systems to individuals, businesses, and State and local government officials;".

1977—Pars. (7) to (12). Pub. L. 95–39 added par. (7) and redesignated former pars. (7) to (11) as (8) to (12), respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Energy Research and Development Administration and Federal Energy Administration terminated and functions vested by law in their respective Administrators transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§5814. Abolition and transfers

(a) Abolition of Atomic Energy Commission

The Atomic Energy Commission is hereby abolished. Sections 2031 and 2032 of this title are repealed.

(b) Transfer or lapse of functions of Atomic Energy Commission

All other functions of the Commission, the Chairman and members of the Commission, and the officers and components of the Commission are hereby transferred or allowed to lapse pursuant to the provisions of this chapter.

(c) Functions of Atomic Energy Commission transferred to Administrator

There are hereby transferred to and vested in the Administrator all functions of the Atomic Energy Commission, the Chairman and members of the Commission, and the officers and components of the Commission, except as otherwise provided in this chapter.

(d) Transfer of General Advisory Committee, Patent Compensation Board, and Divisions of Military Application and Naval Reactors to Administration

The General Advisory Committee established pursuant to section 2036 [1] of this title, the Patent Compensation Board established pursuant to section 2187 of this title, and the Divisions of Military Application and Naval Reactors established pursuant to section 2035 of this title, are transferred to

the Energy Research and Development Administration and the functions of the Commission with respect thereto, and with respect to relations with the Military Liaison Committee established by section 2037 [1] of this title, are transferred to the Administrator.

(e) Transfer to Administrator of certain functions of Secretary of the Interior and Department of the Interior; study of potential energy application of helium; report to President and Congress

There are hereby transferred to and vested in the Administrator such functions of the Secretary of the Interior, the Department of the Interior, and officers and components of such department—

(1) as relate to or are utilized by the Office of Coal Research established pursuant to the Act of July 1, 1960 (74 Stat. 336; 30 U.S.C. 661–669);

(2) as relate to or are utilized in connection with fossil fuel energy research and development programs and related activities conducted by the United States Bureau of Mines "energy centers" and synthane plant to provide greater efficiency in the extraction, processing, and utilization of energy resources for the purpose of conserving those resources, developing alternative energy resources, such as oil and gas secondary and tertiary recovery, oil shale and synthetic fuels, improving methods of managing energy-related wastes and pollutants, and providing technical guidance needed to establish and administer national energy policies; and

(3) as relate to or are utilized for underground electric power transmission research.

The Administrator shall conduct a study of the potential energy applications of helium and, within six months from October 11, 1974, report to the President and Congress his recommendations concerning the management of the Federal helium programs, as they relate to energy.

(f) Transfer to Administrator of certain functions of National Science Foundation

There are hereby transferred to and vested in the Administrator such functions of the National Science Foundation as relate to or are utilized in connection with—

(1) solar heating and cooling development; and

(2) geothermal power development.

(g) Transfer to Administrator of certain functions of Environmental Protection Agency

There are hereby transferred to and vested in the Administrator such functions of the Environmental Protection Agency and the officers and components thereof as relate to or are utilized in connection with research, development, and demonstration, but not assessment or monitoring for regulatory purposes, of alternative automotive power systems.

(h) Exercise of authority necessary or appropriate to perform transferred functions and carry out transferred programs

To the extent necessary or appropriate to perform functions and carry out programs transferred by this chapter, the Administrator and Commission may exercise, in relation to the functions so transferred, any authority or part thereof available by law, including appropriation Acts, to the official or agency from which such functions were transferred.

(i) Utilization of technical and management capabilities of other executive agencies; assignment of specific programs or projects in energy research and development

In the exercise of his responsibilities under section 5813 of this title, the Administrator shall utilize, with their consent, to the fullest extent he determines advisable the technical and management capabilities of other executive agencies having facilities, personnel, or other resources which can assist or advantageously be expanded to assist in carrying out such responsibilities. The Administrator shall consult with the head of each agency with respect to such facilities, personnel, or other resources, and may assign, with their consent, specific programs or projects in energy research and development as appropriate. In making such assignments under this subsection, the head of each such agency shall insure that—

(1) such assignments shall be in addition to and not detract from the basic mission responsibilities of the agency, and

(2) such assignments shall be carried out under such guidance as the Administrator deems appropriate.

(Pub. L. 93–438, title I, §104, Oct. 11, 1974, 88 Stat. 1237; Pub. L. 102–285, §10(b), May 18, 1992, 106 Stat. 172.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b), (c), and (h), was in the original "this Act", meaning Pub. L. 93–438, Oct. 11, 1974, 88 Stat. 1233, which enacted this chapter, amended sections 5313 to 5316 of Title 5, Government Organization and Employees, repealed sections 2031 and 2032 of this title, and enacted provisions set out as notes under section 5801 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

Section 2036 of this title, referred to in subsec. (d), was repealed by Pub. L. 95–91, title VII, §709(c)(1), Aug. 4, 1977, 91 Stat. 608.

Section 2037 of this title, referred to in subsec. (d), was repealed by Pub. L. 99–661, div. C, title I, §3137(c), Nov. 14, 1986, 100 Stat. 4066.

Act of July 1, 1960 (74 Stat. 336; 661–668), referred to in subsec. (e)(1), probably means Pub. L. 86–599, July 7, 1960, 74 Stat. 336, which is classified principally to chapter 18 (§661 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"United States Bureau of Mines" substituted for "Bureau of Mines" in subsec. (e)(2) pursuant to section 10(b) of Pub. L. 102–285, set out as a note under section 1 of Title 30, Mineral Lands and Mining.

TRANSFER OF FUNCTIONS

GENERALLY

Energy Research and Development Administration terminated and functions vested by law in Administrator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

Division of Naval Reactors and Division of Military Applications, both established under section 2035 of this title, and functions of Energy Research and Development Administration with respect to Military Liaison Committee, established by section 2037 of this title, referred to in subsec. (d), transferred to Department of Energy by section 7158 of this title, with such organizational units to be deemed organizational units established by chapter 84 (§7101 et seq.) of this title.

Functions vested in, or delegated to, Secretary of Energy and Department of Energy under or with respect to authorities formerly exercised by Bureau of Mines, but limited to research and development relating to increased efficiency of production technology of solid fuel minerals, transferred to, and vested in, Secretary of the Interior, by section 100 of Pub. L. 97–257, 96 Stat. 841, set out as a note under section 7152 of this title.

Functions of Secretary of the Interior, Department of the Interior, and officers and components of Department of the Interior exercised by Bureau of Mines relating to fuel supply and demand analysis and data gathering, research and development relating to increased efficiency of production technology of solid fuel minerals other than research relating to mine health and safety and research relating to environmental and leasing consequences of solid fuel mining, and coal preparation and analysis, referred to in subsec. (e), transferred to Secretary of Energy by section 7152(d) of this title.

DISTRIBUTION OF AUTHORITIES UNDER ATOMIC ENERGY ACT OF 1954

The legislative history of Pub. L. 93–438 (which is classified principally to this chapter) was comprised in part by Senate Report No. 93–980 and House Report No. 93–707. Senate Report No. 93–980 (similar provisions appear in House Report No. 93–707) contained the following analysis showing the distribution by Pub. L. 93–438 of separately and jointly applicable authorities under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.):

I. THE FOLLOWING PROVISIONS OF THE ATOMIC ENERGY ACT OF 1954, AS HERETOFORE AMENDED, APPLY ONLY TO ERDA [ENERGY RESEARCH AND DEVELOPMENT

ADMINISTRATION]

Subsection 31b. [42 U.S.C. 2051(b)] (certain grants and contributions).

Section 33 [42 U.S.C. 2053] ("Research for Others"); provided that the NSLC retains authority to contract out for research as it deems necessary to exercise its licensing and related regulatory functions.

Chapter 5 [(sections 41–44) 42 U.S.C. 2061–2064] ("Production of Special Nuclear Material").

Subsection 53c; 53d; and 53f. [42 U.S.C. 2073(c), (d), (f)] (distributing special nuclear material).

Section 54 [42 U.S.C. 2074] ("Foreign Distribution of Special Nuclear Material").

Section 56 [42 U.S.C. 2076] ("Guaranteed Purchase Prices").

Section 58 [42 U.S.C. 2078] ("Review").

Subsection 63c. [42 U.S.C. 2093(c)] (charges for distributing source material).

Section 64 [42 U.S.C. 2094] ("Foreign Distribution of Source Material").

Section 67 [42 U.S.C. 2097] ("Operations on Lands Belonging to the United States").

Section 91 [42 U.S.C. 2121] ("Authority").

Section 142 [42 U.S.C. 2162] ("Classification and Declassification of Restricted Data").

Section 143 [42 U.S.C. 2163] ("Department of Defense Participation").

Subsections 144a; 144b; and 144c. [42 U.S.C. 2164(a)–(c)] (international cooperation).

Subsection 151c; 151d; 151e. [42 U.S.C. 2181(c)–(e)] (certain patent aspects).

Section 153 [42 U.S.C. 2183] ("Nonmilitary Utilization").

Section 154 [42 U.S.C. 2184] ("Injunctions").

Section 157 [42 U.S.C. 2187] ("Commission Patent Licenses").

Subsections 161e; 161m; 161r; 161t; 161u; and 161v. [42 U.S.C. 2201(e), (m), (r), (t)–(v)] (general provisions).

Section 164 [42 U.S.C. 2204] ("Electric Utility Contracts").

Section 167 [42 U.S.C. 2207] ("Claims Settlements").

II. THE FOLLOWING PROVISIONS OF THE ATOMIC ENERGY ACT OF 1954, AS HERETOFORE AMENDED, APPLY ONLY TO NSLC [NUCLEAR REGULATORY COMMISSION AS ENACTED]

Subsection 53b. [42 U.S.C. 2073(b)] (minimum criteria for licenses).

Subsection 53e. [42 U.S.C. 2073(e)] (licensing conditions).

Section 62 [42 U.S.C. 2092] ("License for Transfers Required").

Subsection 63b. [42 U.S.C. 2093(b)] (minimum criteria for licenses).

Section 69 [42 U.S.C. 2099] ("Prohibition").

Section 101 [42 U.S.C. 2131] ("License Required").

Section 102 [42 U.S.C. 2132] ("Utilization and Production Facilities for Industrial or Commercial Purposes").

Section 103 [42 U.S.C. 2133] ("Commercial Licenses").

Section 104 [42 U.S.C. 2134] ("Medical Therapy and Research and Development").

Subsection 105c [42 U.S.C. 2135(c)] (licensing antitrust review).

Section 106 [42 U.S.C. 2136] ("Classes of Facilities").

Section 107 [42 U.S.C. 2137] ("Operators' Licenses").

Section 109 [42 U.S.C. 2139] ("Component Parts of Facilities").

Subsection 161h. [42 U.S.C. 2201(h)] (licensing activities).

Subsection 161w. [42 U.S.C. 2201(w)] (licensing charges).

Section 182 [42 U.S.C. 2232] ("License Applications").

Section 183 [42 U.S.C. 2233] ("Terms of License").

Section 184 [42 U.S.C. 2234] ("Inalienability of Licenses").

Section 185 [42 U.S.C. 2235] ("Construction Permits").

Subsections 186a. and 186b. [42 U.S.C. 2236(a), (b)] (license revocation).

Section 187 [42 U.S.C. 2237] ("Modification of License").

Section 190 [42 U.S.C. 2240] ("Licensee Incident Reports").

Section 191 [42 U.S.C. 2241] ("Atomic Safety and Licensing Board").

Section 192 [42 U.S.C. 2242] ("Temporary Operating License").

Section 272 [42 U.S.C. 2019] ("Applicability of Federal Power Act").

Section 273 [42 U.S.C. 2020] ("Licensing of Government Agencies").

Section 274 [42 U.S.C. 2021] ("Cooperation with States").

III. THE FOLLOWING PROVISIONS OF THE ATOMIC ENERGY ACT OF 1954, AS HERETOFORE AMENDED, GENERALLY APPLY, RESPECTIVELY, TO THE FUNCTIONS OF THE ADMINISTRATOR [ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION] AND TO NSLC [NUCLEAR

REGULATORY COMMISSION AS ENACTED]

Chapter 1 [(sections 1–3) 42 U.S.C. 2011–2013] ("Declaration, Findings and Purpose"); provided that all references to encouraging, promoting, utilizing, developing and participating in atomic energy or the atomic industry shall not be applicable to the NSLC.

Chapter 2 [(section 11) 42 U.S.C. 2014] ("Definitions"); provided that (i) the determinations and criteria in j. [42 U.S.C. 2014(j)] (extraordinary nuclear occurrences) shall be the responsibility of the Administrator only in regard to activities and matters not covered by the licensing and related regulatory facets of Section 170 of the Atomic Energy Act, as amended, [42 U.S.C. 2210] and (ii) the determinations in v. (production facility), z. (source material), aa. (special nuclear material), and cc. (utilization facility) [42 U.S.C. 2014(v), (z), (aa), (cc)] shall be the responsibility of the Administrator only in regard to facilities and materials not subject to licensing and related regulatory control by NSLC.

Chapter 3 [(sections 21–29) 42 U.S.C. 2031–2039] ("Organization"); except (i) as provided for in this bill, (ii) the Inspection Division established by subsection 25c. [42 U.S.C. 2035(c)] will be transferred to NSLC and the ERDA Administrator also will provide for the discharge of the inspection function under subsection 25c. in ERDA, (iii) in regard to section 29 [42 U.S.C. 2039] ("Advisory Committee on Reactor Safeguards"), it is intended that the ACRS be transferred to NSLC but that the ACRS also be made available to ERDA as the Administrator may request to perform such of the activities contemplated by section 29 as relate to functions transferred to the Administrator.

Subsections 31a; 31c; and 31d. [42 U.S.C. 2051(a), (c), (d)] (research assistance), and Section 32 [42 U.S.C. 2052] ("Research By the Commission").

Section 51 [42 U.S.C. 2071]; provided, that the respective determinations shall be made as indicated in Chapter 2 above.

Subsection 53a [42 U.S.C. 2073(a)]; provided, that subdivisions (ii) and (iii) of said subsection (distributing and making available special nuclear material) shall apply only to ERDA, and subsection (i) (licenses) shall apply only to NSLC.

Section 55 [42 U.S.C. 2075] ("Acquisition").

Section 57 [42 U.S.C. 2077] ("Prohibition").

Section 61 [42 U.S.C. 2091] ("Source Material"); provided, that the respective determinations shall be made as indicated in Chapter 2 above).

Subsection 63a. (source material) [42 U.S.C. 2093(a)]; provided, that the authority to distribute shall apply only to ERDA and the authority to license shall apply only to NSLC.

Section 65 [42 U.S.C. 2095] ("Reporting").

Section 66 [42 U.S.C. 2096] ("Acquisition").

Section 68 [42 U.S.C. 2098] ("Public and Acquired Lands").

Section 81 [42 U.S.C. 2111] ("Domestic Distribution"), and Section 82 [42 U.S.C. 2112] ("Foreign Distribution of Byproduct Material"); provided, that the authority to distribute shall apply only to ERDA and the authority to license shall apply only to NSLC.

Section 92 [42 U.S.C. 2122] ("Prohibition").

Subsections 105a. and 105b. [42 U.S.C. 2135(a), (b)] (Antitrust provisions and reporting).

Section 108 [42 U.S.C. 2138] ("War or National Emergency").

Section 110 [42 U.S.C. 2140] ("Exclusions"); it should be noted that subsection 110a. is amended by section 202 of the bill [42 U.S.C. 5842].

Chapter 11 [(sections 121–125) 42 U.S.C. 2151–2154, 2153 note] ("International Activities"); provided, that, except for licensing and regulatory aspects, the implementation of these provisions shall be the responsibility of ERDA.

Section 141 [42 U.S.C. 2161] ("policy"); provided, that the implementation of subsection 141a. shall be the responsibility of ERDA.

Subsection 144d. [42 U.S.C. 2164(d)] (Presidential authorization).

Section 145 [42 U.S.C. 2165] ("Restrictions"); except that only the Administrator shall establish the basic standards and procedures for the safeguarding of the national defense and security.

Section 146 [42 U.S.C. 2166] ("General Provisions").

Subsection 151a and 151b. [42 U.S.C. 2181(a), (b)] (certain inventions and discoveries).

Section 152 [42 U.S.C. 2182] ("Inventions Made or Conceived During Commission Contracts").

Section 155 [42 U.S.C. 2185] ("Prior Art").

Section 156 [42 U.S.C. 2186] ("Commission Patent Licenses").

Section 158 [42 U.S.C. 2188] ("Monopolistic Use of Patents").

Section 159 [42 U.S.C. 2189] ("Federally Financed Research").

Section 160 [42 U.S.C. 2190] ("Saving Clause").

Subsections 161a., 161b., 161c., 161d., 161f., and 161g. [42 U.S.C. 2201(a)–(d), (f), (g)] (general authority).

Subsection 161i. and 161j. [42 U.S.C. 2201(i), (j)] (certain regulations or orders and dispositions); provided, that the Administrator shall establish the basic standards and procedures respecting the national security.

Subsections 161k. [42 U.S.C. 2201(k)] (firearms); 161n. [42 U.S.C. 2201(n)] (delegations), provided that no functions delegated to officers of NSLC shall include functions relating to the development of atomic energy or the atomic industry; 161o. (reports and records), 161p. (rules and regulations), 161q. (rights-of-way), and 161s. (succession of authority) [42 U.S.C. 2201(o)–(q), (s)].

Section 162 [42 U.S.C. 2202] ("Contracts").

Section 163 [42 U.S.C. 2203] ("Advisory Committees").

Section 165 [42 U.S.C. 2205] ("Contract Practices").

Section 166 [42 U.S.C. 2206] ("Comptroller General Audit"); it should be noted that section 305 of the bill [(section 306 as passed) 42 U.S.C. 5876] also makes this section applicable to ERDA's contracts for non nuclear activities.

Section 168 [42 U.S.C. 2208] ("Payments in Lieu of Taxes").

Section 169 [42 U.S.C. 2209] ("No Subsidy").

Section 170 [42 U.S.C. 2210] ("Indemnification and Limitation of Liability").

Chapter 15 [(sections 171–174) 42 U.S.C. 2221–2224] ("Compensation for Private Property Acquired").

Section 181 [42 U.S.C. 2231] ("General").

Subsection 186c. [42 U.S.C. 2236(c)] (Retaking and Recapture); provided that the Administrator shall establish the basic standards and procedures in regard to safeguarding the national defense and security.

Section 188 [42 U.S.C. 2238] ("Continued Operation of Facilities"); provided, that findings and judgments respecting the production program shall be the responsibility of the Administrator.

Section 189 [42 U.S.C. 2239] ("Hearings and Judicial Review").

Chapter 17 [(sections 201–207) 42 U.S.C. 2251–2257] ("Joint Committee on Atomic Energy").

Chapter 18 [(sections 221–234) 42 U.S.C. 2271–2282] ("Enforcement"); except for Section 234 [42 U.S.C. 2282] ("Civil Monetary Penalties for Violation of Licensing Requirements") which is applicable only to NSLC.

Section 241 [42 U.S.C. 2015] ("Transfer of Property").

Section 251 [42 U.S.C. 2016] ("Report to the Congress").

Section 261 [42 U.S.C. 2017] ("Appropriations").

Section 271 [42 U.S.C. 2018] ("Agency Jurisdiction").

Section 281 [42 U.S.C. 2011 note] ("Separability") and Section 291 [42 U.S.C. 2011 note] ("Short Title").

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 1013 of Title 5, Government Organization and Employees.

[1] *See References in Text note below.*

§5815. Administrative provisions

(a) Rules and regulations

The Administrator is authorized to prescribe such policies, standards, criteria, procedures, rules, and regulations as he may deem to be necessary or appropriate to perform functions now or hereafter vested in him.

(b) Policy planning and evaluation

The Administrator shall engage in such policy planning, and perform such program evaluation analyses and other studies, as may be necessary to promote the efficient and coordinated administration of the Administration and properly assess progress toward the achievement of its missions.

(c) Delegation of functions

Except as otherwise expressly provided by law, the Administrator may delegate any of his functions to such officers and employees of the Administration as he may designate, and may authorize such successive redelegations of such functions as he may deem to be necessary or appropriate.

(d) Organization

Except as provided in sections 5812 and 5814(d) of this title, the Administrator may organize the Administration as he may deem to be necessary or appropriate.

(e) Field offices

The Administrator is authorized to establish, maintain, alter, or discontinue such State, regional, district, local, or other field offices as he may deem to be necessary or appropriate to perform functions now or hereafter vested in him.

(f) Seal

The Administrator shall cause a seal of office to be made for the Administration of such device as he shall approve, and judicial notice shall be taken of such seal.

(g) Working capital fund

The Administrator is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as he shall find to be desirable in the interests of economy and efficiency. There shall be transferred to the fund the stocks of supplies, equipment, assets other than real property, liabilities, and unpaid obligations relating to the services which he determines will be performed through the fund. Appropriations to the fund, in such amounts as may be necessary to provide additional working capital, are authorized. The working capital fund shall recover, from the appropriations and funds for which services are performed, either in advance or by way of reimbursement, amounts which will approximate the costs incurred, including the accrual or annual leave and the depreciation of equipment. The fund shall also be credited with receipts from the sale or exchange of its property, and receipts in payment for loss or damage to property owned by the fund.

(h) Information from other agencies

Each department, agency, and instrumentality of the executive branch of the Government is authorized to furnish to the Administrator, upon his request, any information or other data which the Administrator deems necessary to carry out his duties under this subchapter.

(Pub. L. 93–438, title I, §105, Oct. 11, 1974, 88 Stat. 1238.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Energy Research and Development Administration terminated and functions vested by law in Administrator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§5816. Personnel and services

(a) Appointment and compensation of officers and employees

The Administrator is authorized to select, appoint, employ, and fix the compensation of such

officers and employees, including attorneys, pursuant to section 2201(d) of this title as are necessary to perform the functions now or hereafter vested in him and to prescribe their functions.

(b) Employment of experts and consultants

The Administrator is authorized to obtain services as provided by section 3109 of title 5.

(c) Participation of military personnel

The Administrator is authorized to provide for participation of military personnel in the performance of his functions. Members of the Army, the Navy, the Air Force, or the Marine Corps may be detailed for service in the Administration by the appropriate military Secretary, pursuant to cooperative agreements with the Secretary, for service in the Administration in positions other than a position the occupant of which must be approved by and with the advice and consent of the Senate.

(d) Status of military personnel unaffected

Appointment, detail, or assignment to, acceptance of, and service in, any appointive or other position in the Administration under this section shall in no way affect the status, office, rank, or grade which such officers or enlisted men may occupy or hold, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade. A member so appointed, detailed, or assigned shall not be subject to direction or control by his Armed Force, or any officer thereof, directly or indirectly, with respect to the responsibilities exercised in the position to which appointed, detailed, or assigned.

(e) Transportation and per diem expenses

The Administrator is authorized to pay transportation expenses, and per diem in lieu of subsistence expenses, in accordance with chapter 57 of title 5 for travel between places of recruitment and duty, and while at places of duty, of persons appointed for emergency, temporary, or seasonal services in the field service of the Administration.

(f) Personnel of other agencies

The Administrator is authorized to utilize, on a reimbursable basis, the services of any personnel made available by any department, agency, or instrumentality, including any independent agency of the Government.

(g) Advisory boards

The Administrator is authorized to establish advisory boards, in accordance with the provisions of chapter 10 of title 5, to advise with and make recommendations to the Administrator on legislation, policies, administration, research, and other matters.

(h) Employment of noncitizens

The Administrator is authorized to employ persons who are not citizens of the United States in expert, scientific, technical, or professional capacities whenever he deems it in the public interest.

(Pub. L. 93–438, title I, §106, Oct. 11, 1974, 88 Stat. 1239; Pub. L. 117–286, §4(a)(264), Dec. 27, 2022, 136 Stat. 4335.)

EDITORIAL NOTES

AMENDMENTS

2022—Subsec. (g). Pub. L. 117–286 substituted "chapter 10 of title 5," for "the Federal Advisory Committee Act (Public Law 92–463),".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Energy Research and Development Administration terminated and functions vested by law in Administrator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided for by law. See sections 1001(2) and 1013 of Title 5, Government Organization and Employees.

§5816a. Repealed. Pub. L. 104–106, div. D, title XLIII, §4304(b)(7), Feb. 10, 1996, 110 Stat. 664

Section, Pub. L. 95–39, title III, §308, June 3, 1977, 91 Stat. 189; Pub. L. 96–470, title II, §203(d), Oct. 19, 1980, 94 Stat. 2243, related to financial statements of Department of Energy officers and employees.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

For effective date and applicability of repeal, see section 4401 of Pub. L. 104–106, set out as an Effective Date of 1996 Amendment note under section 2220 of Title 10, Armed Forces.

§5817. Powers of Administrator

(a) Research and development

The Administrator is authorized to exercise his powers in such manner as to insure the continued conduct of research and development and related activities in areas or fields deemed by the Administrator to be pertinent to the acquisition of an expanded fund of scientific, technical, and practical knowledge in energy matters. To this end, the Administrator is authorized to make arrangements (including contracts, agreements, and loans) for the conduct of research and development activities with private or public institutions or persons, including participation in joint or cooperative projects of a research, developmental, or experimental nature; to make payments (in lump sum or installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments); and generally to take such steps as he may deem necessary or appropriate to perform functions now or hereafter vested in him. Such functions of the Administrator under this chapter as are applicable to the nuclear activities transferred pursuant to this subchapter shall be subject to the provisions of the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.], and to other authority applicable to such nuclear activities. The nonnuclear responsibilities and functions of the Administrator referred to in sections 5813 and 5814 of this title shall be carried out pursuant to the provisions of this chapter, applicable authority existing immediately before the effective date of this chapter, or in accordance with the provisions of chapter 4 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2051–2053).

(b) Facilities and real property

Except for public buildings as defined in chapter 33 of title 40, and with respect to leased space subject to the provisions of Reorganization Plan Numbered 18 of 1950, the Administrator is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain facilities and real property as the Administrator deems to be necessary in and outside of the District of Columbia. Such authority shall apply only to facilities required for the maintenance and operation of laboratories, research and testing sites and facilities, quarters, and related accommodations for employees and dependents of employees of the Administration, and such other special-purpose real property as the Administrator deems to be necessary in and outside the District of Columbia. Title to any property or interest therein, real, personal, or mixed, acquired pursuant to this section, shall be in the United States.

(c) Services for employees at remote locations

(1) The Administrator is authorized to provide, construct, or maintain, as necessary and when not otherwise available, the following for employees and their dependents stationed at remote locations:

(A) Emergency medical services and supplies.

(B) Food and other subsistence supplies.

(C) Messing facilities.

(D) Audiovisual equipment, accessories, and supplies for recreation and training.

(E) Reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons.

(F) Living and working quarters and facilities.

(G) Transportation for school-age dependents of employees to the nearest appropriate educational facilities.

(2) The furnishing of medical treatment under subparagraph (A) of paragraph (1) and the furnishing of services and supplies under paragraphs (B) and (C) of paragraph (1) shall be at prices reflecting reasonable value as determined by the Administrator.

(3) Proceeds from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Administrator to pay directly the cost of such work or services, to repay or make advances to appropriations or funds which do or will bear all or a part of such cost, or to refund excess sums when necessary; except that such payments may be credited to a service or working capital fund otherwise established by law, and used under the law governing such funds, if the fund is available for use by the Administrator for performing the work or services for which payment is received.

(d) Acquisition of copyrights and patents

The Administrator is authorized to acquire any of the following described rights if the property acquired thereby is for use in, or is useful to, the performance of functions vested in him:

(1) Copyrights, patents, and applications for patents, designs, processes, specifications, and data.

(2) Licenses under copyrights, patents, and applications for patents.

(3) Releases, before suit is brought, for past infringement of patents or copyrights.

(e) Dissemination of information

Subject to the provisions of chapter 12 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2161–2166), and other applicable law, the Administrator shall disseminate scientific, technical, and practical information acquired pursuant to this subchapter through information programs and other appropriate means, and shall encourage the dissemination of scientific, technical, and practical information relating to energy so as to enlarge the fund of such information and to provide that free interchange of ideas and criticism which is essential to scientific and industrial progress and public understanding.

(f) Gifts and bequests

The Administrator is authorized to accept, hold, administer, and utilize gifts, and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Administration. Gifts and bequests of money and proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Administrator. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift or bequest to the United States.

(Pub. L. 93–438, title I, §107, Oct. 11, 1974, 88 Stat. 1240.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 93–438, Oct. 11, 1974, 88 Stat. 1233, known as the Energy Reorganization Act of 1974, which is classified principally to this

chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

The Atomic Energy Act of 1954, referred to in subsecs. (a) and (e), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of this title. Chapters 4 and 12 of the Atomic Energy Act of 1954, are classified generally to subchapters III (§2051 et seq.) and XI (§2161 et seq.), respectively, of division A of chapter 23 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

The effective date of this chapter, referred to in subsec. (a), refers to the effective date of Pub. L. 93–438. See section 312 of Pub. L. 93–438, set out as an Effective Date; Interim Appointments note under section 5801 of this title.

Reorganization Plan Numbered 18 of 1950, referred to in subsec. (b), is Reorg. Plan No. 18 of 1950, eff. July 1, 1950, 15 F.R. 3177, 64 Stat. 1270, which is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

In subsec. (b), "chapter 33 of title 40" substituted for "the Public Buildings Act of 1959, as amended" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Energy Research and Development Administration terminated and functions vested by law in Administrator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

AIR TRANSPORTATION OF PLUTONIUM; EXEMPT SHIPMENT OF PLUTONIUM

Pub. L. 94–187, title V, Dec. 31, 1975, 89 Stat. 1077, provided that:

"SEC. 501. The Energy Research and Development Administration shall not ship plutonium in any form by aircraft whether exports, imports, or domestic shipment: *Provided*, That any exempt shipments of plutonium, as defined by section 502, are not subject to this restriction. This restriction shall be in force until the Energy Research and Development Administration has certified to the Joint Committee on Atomic Energy of the Congress that a safe container has been developed and tested which will not rupture under crash and blast testing equivalent to the crash and explosion of a high-flying aircraft.

"SEC. 502. For the purposes of this title, the term 'exempt shipments of plutonium' shall include the following:

"(1) Plutonium shipments in any form designed for medical application.

"(2) Plutonium shipments which pursuant to rules promulgated by the Administrator of the Energy Research and Development Administration are determined to be made for purposes of national security, public health and safety, or emergency maintenance operations.

"(3) Shipments of small amounts of plutonium deemed by the Administrator of the Energy Research and Development Administration to require rapid shipment by air in order to preserve the chemical, physical, or isotopic properties of the transported item or material."

§5817a. Employee-suggested research projects; approval; funding; reports

(a) Any Government-owned contractor operated laboratory, energy research center, or other laboratory performing functions under contract to the Administration may, with the approval of the Administrator, use a reasonable amount of its operating budget for the funding of employee-suggested research projects up to the pilot stage of development. It shall be a condition of any such approval that the director of the laboratory or center involved form an internal review mechanism for determining which employee-suggested projects merit funding in a given fiscal year; and any such project may be funded in one or more succeeding years if the review process indicates that it merits such funding.

(b) Each director of a laboratory or center specified in subsection (a) of this section shall submit an annual report to the Administrator on projects being funded under this section; and on completion of

each such project shall submit a report to the Technical Information Center of the Administration for inclusion in its data base.

(Pub. L. 95–39, title III, §303, June 3, 1977, 91 Stat. 189.)

EDITORIAL NOTES

CODIFICATION

Section was not enacted as part of the Energy Reorganization Act of 1974 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Energy Research and Development Administration terminated and functions vested by law in Administrator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§5818. Repealed. Pub. L. 95–91, title VII, §709(b), Aug. 4, 1977, 91 Stat. 608

Section, Pub. L. 93–438, title I, §108, Oct. 11, 1974, 88 Stat. 1241; Pub. L. 94–385, title I, §§162, 163, Aug. 14, 1976, 90 Stat. 1140, 1142; Pub. L. 95–39, title V, §510(b), (c), June 3, 1977, 91 Stat. 200, related to establishment of an Energy Resources Council.

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 11814

Ex. Ord. No. 11814, Oct. 11, 1974, 39 F.R. 36955, as amended by Ex. Ord. No. 11819, Nov. 16, 1974, 39 F.R. 40743; Ex. Ord. No. 11855, May 1, 1975, 40 F.R. 19423, which related to the activation of the Energy Resources Council, was revoked by Ex. Ord. No. 12083, Sept. 27, 1978, 43 F.R. 44813, formerly set out as a note under section 7101 of this title.

§5819. Report to Congress on future reorganization

(a) The President shall transmit to the Congress as promptly as possible, but not later than June 30, 1975, such additional recommendations as he deems advisable for organization of energy and related functions in the Federal Government, including, but not limited to, whether or not there shall be established (1) a Department of Energy and Natural Resources, (2) an Energy Policy Council, and (3) a consolidation in whole or in part of regulatory functions concerning energy.

(b) This report shall replace and serve the purposes of the report required by section 774(a)(4) [1] of title 15.

(Pub. L. 93–438, title I, §109, Oct. 11, 1974, 88 Stat. 1242.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 774(a)(4) of title 15, referred to in subsec. (b), was struck out by Pub. L. 94–385, title I, §109(a)(1), Aug. 14, 1976, 90 Stat. 1130.

[1] *See References in Text note below.*

§5820. Coordination with environmental efforts

The Administrator is authorized to establish programs to utilize research and development performed by other Federal agencies to minimize the adverse environmental effects of energy projects. The Administrator of the Environmental Protection Agency, as well as other affected agencies and departments, shall cooperate fully with the Administrator in establishing and maintaining such programs, and in establishing appropriate interagency agreements to develop cooperative programs and to avoid unnecessary duplication.

(Pub. L. 93–438, title I, §110, Oct. 11, 1974, 88 Stat. 1242.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Energy Research and Development Administration terminated and functions vested by law in Administrator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

RESEARCH APPLIED TO NATIONAL NEEDS; COORDINATION OF ENERGY RESEARCH AND DEVELOPMENT ACTIVITIES

Pub. L. 94–471, §2(e)(3), Oct. 11, 1976, 90 Stat. 2053, provided that: "In the conduct of the energy research and development activities under the 'Research Applied to National Needs' category, the National Science Foundation shall coordinate all new energy research project awards with the Administrator of the Energy Research and Development Administration or his designee."

Similar provisions were contained in Pub. L. 94–86, §5, Aug. 9, 1975, 89 Stat. 430.

§5821. Annual authorization Acts

(a) General requirements; applicability to appropriations

All appropriations made to the Energy Research and Development Administration or the Administrator shall, except as otherwise provided by law, be subject to annual authorization in accordance with section 2017 of this title, section 5915 of this title, and section 5875 of this title. The provisions of this section shall apply with respect to appropriations made pursuant to the Act providing such authorization (hereinafter in this section referred to as "annual authorization Acts").

(b) Requirements and limitations respecting funds appropriated for operating expenses

(1) Funds appropriated pursuant to an annual authorization Act for "Operating expenses" may be used for—

(A) the construction or acquisition of any facilities, or major items of equipment, which may be required at locations other than installations of the Administration, for the performance of research, development, and demonstration activities, and

(B) grants to any organization for purchase or construction of research facilities.

No such funds shall be used under this subsection for the acquisition of land. Fee title to all such facilities and items of equipment shall be vested in the United States, unless the Administrator or his designee determines in writing that the research, development, and demonstration authorized by such Act would best be implemented by permitting fee title or any other property interest to be vested in an entity other than the United States; but before approving the vesting of such title or interest in such entity, the Administrator shall (i) transmit such determination, together with all pertinent data, to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate and (ii) wait a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

(2) No funds shall be used under paragraph (1) for any facility or major item of equipment,

including collateral equipment, if the estimated cost to the Federal Government exceeds $5,000,000 in the case of such a facility or $2,000,000 in the case of such an item of equipment, unless such facility or item has been previously authorized by the appropriate committees of the House of Representatives and the Senate, or the Administrator—

(A) transmit to the appropriate committees of the House of Representatives and the Senate a report on such facility or item showing its nature, purpose, and estimated cost, and

(B) waits a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

(c) Additional requirements and limitations respecting funds appropriated for operating expenses

(1) Not to exceed 1 per centum of all funds appropriated pursuant to any annual authorization Act for "Operating expenses" may be used by the Administrator to construct, expand, or modify laboratories and other facilities, including the acquisition of land, at any location under the control of the Administrator, if the Administrator determines that (A) such action would be necessary because of changes in the national programs authorized to be funded by such Act or because of new scientific or engineering developments, and (B) deferral of such action until the enactment of the next authorization Act would be inconsistent with the policies established by Congress for the Administration.

(2) No funds may be obligated for expenditure or expended under paragraph (1) for activities described in such paragraph unless—

(A) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the Administrator has transmitted to the appropriate committees of the House of Representatives and the Senate a written report containing a full and complete statement concerning (i) the nature of the construction, expansion, or modification involved, (ii) the cost thereof, including the cost of any real estate action pertaining thereto, and (iii) the reason why such construction, expansion, or modification is necessary and in the national interest, or

(B) each such committee before the expiration of such period has transmitted to the Administrator a written notice to the effect that such committee has no objection to the proposed action;

except that this paragraph shall not apply to any project the estimated total cost of which does not exceed $50,000.

(d) Requirements respecting amounts appropriated in annual appropriation Act for use in programs in excess of amount actually authorized for use in program not presented to, or requested of Congress; reduction in aggregate amount available for categories of coal, etc., from sums appropriated

(1) Except as otherwise provided in the authorization Act involved—

(A) no amount appropriated pursuant to any annual authorization Act may be used for any program in excess of the amount actually authorized for that particular program by such Act, and

(B) no amount appropriated pursuant to any annual authorization Act may be used for any program which has not been presented to, or requested of the Congress,

unless (i) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the receipt by the appropriate committees of the House of Representatives and the Senate of notice given by the Administrator containing a full and complete statement of the action

proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (ii) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

(2) Notwithstanding any other provision of this section or the authorization Act involved, the aggregate amount available for use within the categories of coal, petroleum and natural gas, oil shale, solar, geothermal, nuclear energy (non-weapons), environment and safety, and conservation from sums appropriated pursuant to an annual authorization Act may not, as a result of reprograming, be decreased by more than 10 per centum of the total of the sums appropriated pursuant to such Act for those categories.

(e) Requirements and limitations respecting merger of amounts appropriated for operating expenses or for plant and capital equipment

Subject to the applicable requirements and limitations of this section and the authorization Act involved, when so specified in an appropriation Act, amounts appropriated pursuant to any annual authorization Act for "Operating expenses" or for "Plant and capital equipment" may be merged with any other amounts appropriated for like purposes pursuant to any other Act authorizing appropriations for the Administration: *Provided*, That no such amounts appropriated for "Plant and capital equipment" may be merged with amounts appropriated for "Operating expenses".

(f) Availability until expended of amounts appropriated for operating expenses or for plant and capital equipment

When so specified in an appropriation Act, amounts appropriated pursuant to any annual authorization Act for "Operating expenses" or for "Plant and capital equipment" may remain available until expended.

(g) Performance of construction design services by Administrator

The Administrator is authorized to perform construction design services for any administration construction project whenever (1) such construction project has been included in a proposed authorization bill transmitted to the Congress by the Administration, and (2) the Administration determines that the project is of such urgency in order to meet the needs of national defense or protection of life and property or health and safety that construction of the project should be initiated promptly upon enactment of legislation appropriating funds for its construction.

(h) Retention and use for operating expenses, and availability until expended, of moneys received by Administration; exceptions

When so specified in appropriation Acts, any moneys received by the Administration may be retained and used for operating expenses, and may remain available until expended, notwithstanding the provisions of section 3302(b) of title 31; except that—

(1) this subsection shall not apply with respect to sums received from disposal of property under the Atomic Energy Community Act of 1955 [42 U.S.C. 2301 et seq.] or the Strategic and Critical Materials Stockpiling Act, as amended [50 U.S.C. 98 et seq.], or with respect to fees received for tests or investigations under the Act of May 16, 1910, as amended (30 U.S.C. 7); and

(2) revenues received by the Administration from the enrichment of uranium shall (when so specified) be retained and used for the specific purpose of offsetting costs incurred by the Administration in providing uranium enrichment service activities.

(i) Requirements respecting transfers of sums appropriated for operating expenses to other Government agencies; merger of transferred sums

When so specified in an appropriation Act, transfers of sums from the "Operating expenses" appropriation made pursuant to an annual authorization Act may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriations to which they are transferred.

(Pub. L. 93–438, title I, §111, as added Pub. L. 95–238, title II, §201, Feb. 25, 1978, 92 Stat. 56; amended Pub. L. 103–437, §15(c)(7), Nov. 2, 1994, 108 Stat. 4592.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Atomic Energy Community Act of 1955, referred to in subsec. (h)(1), is act Aug. 4, 1955, ch. 543, 69 Stat. 472, which is classified principally to chapter 24 (§2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

The Strategic and Critical Materials Stockpiling Act, as amended, referred to in subsec. (h)(1), is act June 7, 1939, ch. 190, as revised generally by Pub. L. 96–41, §2, July 30, 1979, 93 Stat. 319, which is classified generally to subchapter III (§98 et seq.) of chapter 5 of Title 50, War and National Defense. For complete classification of this Act to the Code, see section 98 of Title 50 and Tables.

Act of May 16, 1910, as amended, referred to in subsec. (h)(1), is act May 16, 1910, ch. 240, 36 Stat. 369, which enacted sections 1, 3, and 5 to 7 of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Tables.

CODIFICATION

In subsec. (h), "section 3302(b) of title 31" substituted for "section 3617 of the Revised Statutes (31 U.S.C. 484)" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

PRIOR PROVISIONS

Provisions similar to those in subsec. (g) of this section were contained in the following appropriation authorization acts, formerly classified to section 2017a–1 of this title.

Pub. L. 95–39, title III, §304, June 3, 1977, 91 Stat. 189.
Pub. L. 94–187, title III, §301, Dec. 31, 1975, 89 Stat. 1073.
Pub. L. 93–276, title I, §103, May 10, 1974, 88 Stat. 118.
Pub. L. 93–60, §103, July 6, 1973, 87 Stat. 144.
Pub. L. 92–314, title I, §103, June 16, 1972, 86 Stat. 225.
Pub. L. 92–84, title I, §103, Aug. 11, 1971, 85 Stat. 306.
Pub. L. 91–273, §103, June 2, 1970, 84 Stat. 300.
Pub. L. 91–44, §103, July 11, 1969, 83 Stat. 47.
Pub. L. 90–289, §103, Apr. 19, 1968, 82 Stat. 97.
Pub. L. 90–56, §103, July 26, 1967, 81 Stat. 125.
Pub. L. 89–428, §103, May 21, 1966, 80 Stat. 163.
Pub. L. 89–32, §103, June 2, 1965, 79 Stat. 122.
Pub. L. 88–332, §104, June 30, 1964, 78 Stat. 229.

AMENDMENTS

1994—Subsec. (b)(1). Pub. L. 103–437 substituted "Committee on Science, Space, and Technology" for "Committee on Science and Technology".

STATUTORY NOTES AND RELATED SUBSIDIARIES

NONAPPLICABILITY OF TITLE II OF PUB. L. 95–238 TO ANY AUTHORIZATION OR APPROPRIATION FOR MILITARY APPLICATION OF NUCLEAR ENERGY, ETC.; DEFINITIONS

Pub. L. 95–238, title II, §209, Feb. 25, 1978, 92 Stat. 76, provided that:

"(a) Nothing in this title [enacting this section and sections 5556a and 5919 of this title, amending sections 2391, 2394, 5905, 5906, and 5914 of this title, and enacting provisions set out as notes under section 7256 of this title and section 2429 of Title 22, Foreign Relations and Intercourse] shall apply with respect to any authorization or appropriation for any military application of nuclear energy, for research and development in support of the Armed Forces, or for the common defense and security of the United States.

"(b)(1) The term 'military application' means any activity authorized or permitted by chapter 9 of the Atomic Energy Act of 1954, as amended (Public Law 83–703, as amended; 42 U.S.C. 2121, 2122).

"(2) The term 'research and development' as used in this section, is defined by section 11 x., of the Atomic Energy Act of 1954, as amended (Public Law 83–703, as amended; 42 U.S.C. 2014).

"(3) The term 'common defense and security' means the common defense and security of the United States as used in the Atomic Energy Act of 1954, as amended (Public Law 83–703, as amended) [section 2011 et seq. of this title]."

SUBCHAPTER II—NUCLEAR REGULATORY COMMISSION; NUCLEAR WHISTLEBLOWER PROTECTION

§5841. Establishment and transfers

(a) Composition; Chairman; Acting Chairman; quorum; official spokesman; seal; functions of Chairman and Commission

(1) There is established an independent regulatory commission to be known as the Nuclear Regulatory Commission which shall be composed of five members, each of whom shall be a citizen of the United States. The President shall designate one member of the Commission as Chairman thereof to serve as such during the pleasure of the President. The Chairman may from time to time designate any other member of the Commission as Acting Chairman to act in the place and stead of the Chairman during his absence. The Chairman (or the Acting Chairman in the absence of the Chairman) shall preside at all meetings of the Commission and a quorum for the transaction of business shall consist of at least three members present. Each member of the Commission, including the Chairman, shall have equal responsibility and authority in all decisions and actions of the Commission, shall have full access to all information relating to the performance of his duties or responsibilities, and shall have one vote. Action of the Commission shall be determined by a majority vote of the members present. The Chairman (or Acting Chairman in the absence of the Chairman) shall be the official spokesman of the Commission in its relations with the Congress, Government agencies, persons, or the public, and, on behalf of the Commission, shall see to the faithful execution of the policies and decisions of the Commission, and shall report thereon to the Commission from time to time or as the Commission may direct. The Commission shall have an official seal which shall be judicially noticed.

(2) The Chairman of the Commission shall be the principal executive officer of the Commission, and he shall exercise all of the executive and administrative functions of the Commission, including functions of the Commission with respect to (a) the appointment and supervision of personnel employed under the Commission (other than personnel employed regularly and full time in the immediate offices of commissioners other than the Chairman, and except as otherwise provided in this chapter), (b) the distribution of business among such personnel and among administrative units of the Commission, and (c) the use and expenditure of funds.

(3) In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(4) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

(5) There are hereby reserved to the Commission its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

(b) Appointment of members

(1) Members of the Commission shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Appointments of members pursuant to this subsection shall be made in such a manner that not more than three members of the Commission shall be members of the same political party.

(c) Term of office

Each member shall serve for a term of five years, each such term to commence on July 1, except that of the five members first appointed to the Commission, one shall serve for one year, one for two years, one for three years, one for four years, and one for five years, to be designated by the

President at the time of appointment; and except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term. For the purpose of determining the expiration date of the terms of office of the five members first appointed to the Nuclear Regulatory Commission, each such term shall be deemed to have begun July 1, 1975.

(d) Submission of appointments to Senate

Such initial appointments shall be submitted to the Senate within sixty days of October 11, 1974. Any individual who is serving as a member of the Atomic Energy Commission on October 11, 1974, and who may be appointed by the President to the Commission, shall be appointed for a term designated by the President, but which term shall terminate not later than the end of his present term as a member of the Atomic Energy Commission, without regard to the requirements of subsection (b)(2) of this section. Any subsequent appointment of such individuals shall be subject to the provisions of this section.

(e) Removal of members; prohibition against engagement in business or other employment

Any member of the Commission may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. No member of the Commission shall engage in any business, vocation, or employment other than that of serving as a member of the Commission.

(f) Transfer of licensing and regulatory functions of Atomic Energy Commission

There are hereby transferred to the Commission all the licensing and related regulatory functions of the Atomic Energy Commission, the Chairman and members of the Commission, the General Counsel, and other officers and components of the Commission—which functions officers, components, and personnel are excepted from the transfer to the Administrator by section 5814(c) of this title.

(g) Additional transfers

In addition to other functions and personnel transferred to the Commission, there are also transferred to the Commission—

(1) the functions of the Atomic Safety and Licensing Board Panel and the Atomic Safety and Licensing Appeal Board;

(2) such personnel as the Director of the Office of Management and Budget determines are necessary for exercising responsibilities under section 5845 of this title, relating to, research, for the purpose of confirmatory assessment relating to licensing and other regulation under the provisions of the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.], and of this chapter.

(Pub. L. 93–438, title II, §201, Oct. 11, 1974, 88 Stat. 1242; Pub. L. 94–79, title II, §§201–203, Aug. 9, 1975, 89 Stat. 413, 414; Pub. L. 95–209, §2, Dec. 13, 1977, 91 Stat. 1482; Pub. L. 99–386, title I, §109, Aug. 22, 1986, 100 Stat. 822.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(2) and (g)(2), was in the original "the Energy Reorganization Act of 1974", and "this Act", respectively, meaning Pub. L. 93–438, Oct. 11, 1974, 88 Stat. 1233, which enacted this chapter, amended sections 5313 to 5316 of Title 5, Government Organization and Employees, repealed sections 2031 and 2032 of this title, and enacted provisions set out as notes under section 5801 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

The Atomic Energy Act of 1954, referred to in subsec. (g), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

AMENDMENTS

1986—Subsec. (h). Pub. L. 99–386 struck out subsec. (h) which related to quarterly reports on compliance with equal employment requirements for grades GS–11 or above.

1977—Subsec. (h). Pub. L. 95–209 added subsec. (h).

1975—Subsec. (a). Pub. L. 94–79, §201, designated existing provisions as par. (1) and added pars. (2) to (5).

Subsec. (c). Pub. L. 94–79, §§202, 203, provided for appointment for remainder of term where vacancy occurs prior to expiration of term of predecessor appointee and designated July 1, 1975, as commencement date of initial appointees for purpose of determining expiration date of terms of office.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Energy Research and Development Administration terminated and functions vested by law in Administrator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

TRANSPORTATION OF PLUTONIUM BY AIRCRAFT THROUGH UNITED STATES AIR SPACE

Pub. L. 100–202, §101(d) [title III, §300], Dec. 22, 1987, 101 Stat. 1329–104, 1329–121, and Pub. L. 100–203, title V, §5062, Dec. 22, 1987, 101 Stat. 1330–251, provided that:

"(a) IN GENERAL.—Notwithstanding any other provision of law, no form of plutonium may be transported by aircraft through the air space of the United States from a foreign nation to a foreign nation unless the Nuclear Regulatory Commission has certified to Congress that the container in which such plutonium is transported is safe, as determined in accordance with subsection (b), the second undesignated paragraph under section 201 of Public Law 94–79 (89 Stat. 413; 42 U.S.C. 5841 note), and all other applicable laws.

"(b) RESPONSIBILITIES OF THE NUCLEAR REGULATORY COMMISSION.—

"(1) DETERMINATION OF SAFETY.—The Nuclear Regulatory Commission shall determine whether the container referred to in subsection (a) is safe for use in the transportation of plutonium by aircraft and transmit to Congress a certification for the purposes of such subsection in the case of each container determined to be safe.

"(2) TESTING.—In order to make a determination with respect to a container under paragraph (1), the Nuclear Regulatory Commission shall—

"(A) require an actual drop test from maximum cruising altitude of a full-scale sample of such container loaded with test materials; and

"(B) require an actual crash test of a cargo aircraft fully loaded with full-scale samples of such container loaded with test material unless the Commission determines, after consultation with an independent scientific review panel, that the stresses on the container produced by other tests used in developing the container exceed the stresses which would occur during a worst case plutonium air shipment accident.

"(3) LIMITATION.—The Nuclear Regulatory Commission may not certify under this section that a container is safe for use in the transportation of plutonium by aircraft if the container ruptured or released its contents during testing conducted in accordance with paragraph (2).

"(4) EVALUATION.—The Nuclear Regulatory Commission shall evaluate the container certification required by title II of the Energy Reorganization Act of 1974 (42 U.S.C. 5841 et seq.) and subsection (a) in accordance with the National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. 4321 et seq.) and all other applicable law.

"(c) CONTENT OF CERTIFICATION.—A certification referred to in subsection (a) with respect to a container shall include—

"(1) the determination of the Nuclear Regulatory Commission as to the safety of such container;

"(2) a statement that the requirements of subsection (b)(2) were satisfied in the testing of such container; and

"(3) a statement that the container did not rupture or release its contents into the environment during testing.

"(d) DESIGN OF TESTING PROCEDURES.—The tests required by subsection (b) shall be designed by the Nuclear Regulatory Commission to replicate actual worst case transportation conditions to the maximum extent practicable. In designing such tests, the Commission shall provide for public notice of the proposed test procedures, provide a reasonable opportunity for public comment on such procedures, and consider such comments, if any.

"(e) TESTING RESULTS: REPORTS AND PUBLIC DISCLOSURE.—The Nuclear Regulatory Commission shall transmit to Congress a report on the results of each test conducted under this section and shall make such results available to the public.

"(f) ALTERNATIVE ROUTES AND MEANS OF TRANSPORTATION.—With respect to any shipments of plutonium from a foreign nation to a foreign nation which are subject to United States consent rights contained in an Agreement for Peaceful Nuclear Cooperation, the President is authorized to make every effort to pursue and conclude arrangements for alternative routes and means of transportation, including sea shipment. All such arrangements shall be subject to stringent physical security conditions, and other conditions designed to protect the public health and safety, and provisions of this section, and all other applicable laws.

"(g) INAPPLICABILITY TO MEDICAL DEVICES.—Subsections (a) through (e) shall not apply with respect to plutonium in any form contained in a medical device designed for individual human application.

"(h) INAPPLICABILITY TO MILITARY USES.—Subsections (a) through (e) shall not apply to plutonium in the form of nuclear weapons nor to other shipments of plutonium determined by the Department of Energy to be directly connected with the United States national security or defense programs.

"(i) INAPPLICABILITY TO PREVIOUSLY CERTIFIED CONTAINERS.—This section shall not apply to any containers for the shipment of plutonium previously certified as safe by the Nuclear Regulatory Commission under Public Law 94–79 (89 Stat. 413; 42 U.S.C. 5841 note).

"(j) PAYMENT OF COSTS.—All costs incurred by the Nuclear Regulatory Commission associated with the testing program required by this section, and administrative costs related thereto, shall be reimbursed to the Nuclear Regulatory Commission by any foreign country receiving plutonium shipped through United States airspace in containers specified by the Commission."

RESIDENT INSPECTOR PROGRAM; IMPLEMENTATION AND ACCELERATION OF ASSIGNMENT OF PERSONNEL; STUDY OF EXISTING AND ALTERNATE PROGRAMS FOR IMPROVING QUALITY ASSURANCE AND CONTROL; PILOT PROGRAMS TO REVIEW AND EVALUATE ALTERNATIVE PROGRAMS; SCOPE OF PILOT PROGRAM; REPORT TO CONGRESS; CONTENTS

Pub. L. 97–415, §13, Jan. 4, 1983, 96 Stat. 2074, provided that:

"(a) The Nuclear Regulatory Commission is authorized and directed to implement and accelerate the resident inspector program so as to assure the assignment of at least one resident inspector by the end of fiscal year 1982 at each site at which a commercial nuclear powerplant is under construction and construction is more than 15 percent complete. At each such site at which construction is not more than 15 percent complete, the Commission shall provide that such inspection personnel as the Commission deems appropriate shall be physically present at the site at such times following issuance of the construction permit as may be necessary in the judgment of the Commission.

"(b) The Commission shall conduct a study of existing and alternative programs for improving quality assurance and quality control in the construction of commercial nuclear powerplants. In conducting the study, the Commission shall obtain the comments of the public, licensees of nuclear powerplants, the Advisory Committee on Reactor Safeguards, and organizations comprised of professionals having expertise in appropriate fields. The study shall include an analysis of the following:

"(1) providing a basis for quality assurance and quality control, inspection, and enforcement actions through the adoption of an approach which is more prescriptive than that currently in practice for defining principal architectural and engineering criteria for the construction of commercial nuclear powerplants;

"(2) conditioning the issuance of construction permits for commercial nuclear powerplants on a demonstration by the licensee that the licensee is capable of independently managing the effective performance of all quality assurance and quality control responsibilities for the powerplant;

"(3) evaluations, inspections, or audits of commercial nuclear powerplant construction by organizations comprised of professionals having expertise in appropriate fields which evaluations, inspections, or audits are more effective than those under current practice;

"(4) improvement of the Commission's organization, methods, and programs for quality assurance development, review, and inspection; and

"(5) conditioning the issuance of construction permits for commercial nuclear powerplants on the permittee entering into contracts or other arrangements with an independent inspector to audit the quality assurance program to verify quality assurance performance.

For purposes of paragraph (5), the term 'independent inspector' means a person or other entity having no responsibility for the design or construction of the plant involved. The study shall also include an analysis of quality assurance and quality control programs at representative sites at which such programs are operating

satisfactorily and an assessment of the reasons therefor.

"(c) For purposes of—

"(1) determining the best means of assuring that commercial nuclear powerplants are constructed in accordance with the applicable safety requirements in effect pursuant to the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.]; and

"(2) assessing the feasibility and benefits of the various means listed in subsection (b);

the Commission shall undertake a pilot program to review and evaluate programs that include one or more of the alternative concepts identified in subsection (b) for the purposes of assessing the feasibility and benefits of their implementation. The pilot program shall include programs that use independent inspectors for auditing quality assurance responsibilities of the licensee for the construction of commercial nuclear powerplants, as described in paragraph (5) of subsection (b). The pilot program shall include at least three sites at which commercial nuclear powerplants are under construction. The Commission shall select at least one site at which quality assurance and quality control programs have operated satisfactorily, and at least two sites with remedial programs underway at which major construction, quality assurance, or quality control deficiencies (or any combination thereof) have been identified in the past. The Commission may require any changes in existing quality assurance and quality control organizations and relationships that may be necessary at the selected sites to implement the pilot program.

"(d) Not later than fifteen months after the date of the enactment of this Act [Jan. 4, 1983], the Commission shall complete the study required under subsection (b) and submit to the United States Senate and House of Representatives a report setting forth the results of the study. The report shall include a brief summary of the information received from the public and from other persons referred to in subsection (b) and a statement of the Commission's response to the significant comments received. The report shall also set forth an analysis of the results of the pilot program required under subsection (c). The report shall be accompanied by the recommendations of the Commission, including any legislative recommendations, and a description of any administrative actions that the Commission has undertaken or intends to undertake, for improving quality assurance and quality control programs that are applicable during the construction of nuclear powerplants."

TRANSPORTATION OF NUCLEAR WASTE WITH POTENTIAL FOR SIGNIFICANT PUBLIC HEALTH AND SAFETY HAZARDS; REGULATIONS FOR NOTICE TO GOVERNOR

Pub. L. 96–295, title III, §301, June 30, 1980, 94 Stat. 789, directed Nuclear Regulatory Commission, within 90 days of June 30, 1980, to promulgate regulations providing for timely notification to the Governor of any State prior to the transport of nuclear waste, including spent nuclear fuel, to, through, or across the boundaries of such State, and provided that such notification requirement would not apply to nuclear waste in such quantities and of such types as the Commission specifically determined did not pose a potentially significant hazard to the health and safety of the public.

REVIEW OF SELECTION AND TRAINING OF MEMBERS OF ATOMIC SAFETY AND LICENSING BOARDS; REPORT TO CONGRESS

Pub. L. 95–601, §7, Nov. 6, 1978, 92 Stat. 2950, directed Commission to undertake a comprehensive review of the existing process for selection and training of members of the Atomic Safety and Licensing Boards, report to Congress on findings of such review by Jan. 1, 1979, and revise such selection and training process as appropriate, based on such findings.

PLUTONIUM SHIPMENTS RESTRICTIONS

Pub. L. 94–79, title II, §201, Aug. 9, 1975, 89 Stat. 413, provided in part that: "The Nuclear Regulatory Commission shall not license any shipments by air transport of plutonium in any form, whether exports, imports or domestic shipments: *Provided, however*, That any plutonium in any form contained in a medical device designed for individual human application is not subject to this restriction. This restriction shall be in force until the Nuclear Regulatory Commission has certified to the Joint Committee on Atomic Energy of the Congress that a safe container has been developed and tested which will not rupture under crash and blast-testing equivalent to the crash and explosion of a high-flying aircraft."

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

For transfer of certain functions from Nuclear Regulatory Commission to Chairman thereof, see Reorg. Plan No. 1 of 1980, 45 F.R. 40561, 94 Stat. 3585, set out below.

REORGANIZATION PLAN NO. 1 OF 1980

45 F.R. 40561, 94 STAT. 3585

Prepared by the President and submitted to the Senate and the House of Representatives in Congress assembled March 27, 1980,[1] pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.

NUCLEAR REGULATORY COMMISSION

SECTION 1. (a) Those functions of the Nuclear Regulatory Commission, hereinafter referred to as the "Commission", concerned with:

(1) policy formulation;

(2) rulemaking, as defined in section 553 of Title 5 of the United States Code, except that those matters set forth in 553(a)(2) and (b) which do not pertain to policy formulation orders or adjudications shall be reserved to the Chairman of the Commission;

(3) orders and adjudications, as defined in section 551 (6) and (7) of Title 5 of the United States Code; shall remain vested in the Commission. The Commission may determine by majority vote, in an area of doubt, whether any matter, action, question or area of inquiry pertains to one of these functions. The performance of any portion of these functions may be delegated by the Commission to a member of the Commission, including the Chairman of the Nuclear Regulatory Commission, hereinafter referred to as the "Chairman", and to the staff through the Chairman.

(b)(1) With respect to the following officers or successor officers duly established by statute or by the Commission, the Chairman shall initiate the appointment, subject to the approval of the Commission; and the Chairman or a member of the Commission may initiate an action for removal, subject to the approval of the Commission:

(i) Executive Director for Operations,

(ii) General Counsel,

(iii) Secretary of the Commission,

(iv) Director of the Office of Policy Evaluation,

(v) Director of the Office of Inspector and Auditor,

(vi) Chairman, Vice Chairman, Executive Secretary, and Members of the Atomic Safety and Licensing Board Panel,

(vii) Chairman, Vice Chairman and Members of the Atomic Safety and Licensing Appeal Panel.

(2) With respect to the following officers or successor officers duly established by statute or by the Commission, the Chairman, after consultation with the Executive Director for Operations, shall initiate the appointment, subject to the approval of the Commission, and the Chairman, or a member of the Commission may initiate an action for removal, subject to the approval of the Commission:

(i) Director of Nuclear Reactor Regulation,

(ii) Director of Nuclear Material Safety and Safeguards,

(iii) Director of Nuclear Regulatory Research,

(iv) Director of Inspection and Enforcement,

(v) Director of Standards Development.

(3) The Chairman or a member of the Commission shall initiate the appointment of the Members of the Advisory Committee on Reactor Safeguards, subject to the approval of the Commission. The provisions for appointment of the Chairman of the Advisory Committee on Reactor Safeguards and the term of the members shall not be affected by the provisions of this Reorganization Plan.

(4) The Commission shall delegate the function of appointing, removing and supervising the staff of the following offices or successor offices to the respective heads of such offices: General Counsel, Secretary of the Commission, Office of Policy Evaluation, Office of Inspector and Auditor. The Commission shall delegate the functions of appointing, removing and supervising the staff of the following panels and committee to the respective Chairmen thereof: Atomic Safety and Licensing Board Panel, Atomic Safety and Licensing Appeal Panel and Advisory Committee on Reactor Safeguards.

(c) Each member of the Commission shall continue to appoint, remove and supervise the personnel employed in his or her immediate office.

(d) The Commission shall act as provided by subsection 201(a)(1) of the Energy Reorganization Act of 1974, as amended (42 U.S.C. 5841(a)(1)) in the performance of its functions as described in subsections (a) and (b) of this section.

SEC. 2. (a) All other functions of the Commission, not specified by Section 1 of this Reorganization Plan, are hereby transferred to the Chairman. The Chairman shall be the official spokesman for the Commission, and shall appoint, supervise, and remove, without further action by the Commission, the Directors and staff of

the Office of Public Affairs and the Office of Congressional Relations. The Chairman may consult with the Commission as he deems appropriate in exercising this appointment function.

(b) The Chairman shall also be the principal executive officer of the Commission, and shall be responsible to the Commission for developing policy planning and guidance for consideration by the Commission; shall be responsible to the Commission for assuring that the Executive Director for Operations and the staff of the Commission (other than the officers and staff referred to in sections (1)(b)(4), (1)(c) and (2)(a) of this Reorganization Plan) are responsive to the requirements of the Commission in the performance of its functions; shall determine the use and expenditure of funds of the Commission, in accordance with the distribution of appropriated funds according to major programs and purposes approved by the Commission; shall present to the Commission for its consideration the proposals and estimates set forth in subsection (3) of this paragraph; and shall be responsible for the following functions, which he shall delegate, subject to his direction and supervision, to the Executive Director for Operations unless otherwise provided by this Reorganization Plan:

(1) administrative functions of the Commission;

(2) distribution of business among such personnel and among administrative units and offices of the Commission;

(3) preparation of

(i) proposals for the reorganization of the major offices within the Commission;

(ii) the budget estimate for the Commission; and

(iii) the proposed distribution of appropriated funds according to major programs and purposes.

(4) appointing and removing without any further action by the Commission, all officers and employees under the Commission other than those whose appointment and removal are specifically provided for by subsections 1 (b), (c) and 2(a) of this Reorganization Plan.

(c) The Chairman as principal executive officer and the Executive Director for Operations shall be governed by the general policies of the Commission and by such regulatory decisions, findings, and determinations, including those for reorganization proposals, budget revisions and distribution of appropriated funds, as the Commission may by law, including this Plan, be authorized to make. The Chairman and the Executive Director for Operations, through the Chairman, shall be responsible for insuring that the Commission is fully and currently informed about matters within its functions.

SEC. 3. (a) Notwithstanding sections 1 and 2 of this Reorganization Plan, there are hereby transferred to the Chairman all the functions vested in the Commission pertaining to an emergency concerning a particular facility or materials licensed or regulated by the Commission, including the functions of declaring, responding, issuing orders, determining specific policies, advising the civil authorities and the public, directing, and coordinating actions relative to such emergency incident.

(b) The Chairman may delegate the authority to perform such emergency functions, in whole or in part, to any of the other members of the Commission. Such authority may also be delegated or redelegated, in whole or in part, to the staff of the Commission.

(c) In acting under this section, the Chairman, or other member of the Commission delegated authority under subsection (b), shall conform to the policy guidelines of the Commission. To the maximum extent possible under the emergency conditions, the Chairman or other member of the Commission delegated authority under subsection (b), shall inform the Commission of actions taken relative to the emergency.

(d) Following the conclusion of the emergency, the Chairman, or the member of the Commission delegated the emergency functions under subsection (b), shall render a complete and timely report to the Commission on the actions taken during the emergency.

SEC. 4. (a) The Chairman may make such delegations and provide for such reporting as the Chairman deems necessary, subject to provisions of law and this Reorganization Plan. Any officer or employee under the Commission may communicate directly to the Commission, or to any member of the Commission, whenever in the view of such officer or employee a critical problem or public health and safety or common defense and security is not being properly addressed.

(b) The Executive Director for Operations shall report for all matters to the Chairman.

(c) The function of the Directors of Nuclear Reactor Regulations, Nuclear Material Safety and Safeguards, and Nuclear Regulatory Research of reporting directly to the Commission is hereby transferred so that such officers report to the Executive Director for Operations. The function of receiving such reports is hereby transferred from the Commission to the Executive Director for Operations.

(d) The heads of the Commission level offices or successor offices, of General Counsel, Secretary to the Commission, Office of Policy Evaluation, Office of Inspector and Auditor, the Atomic Safety and Licensing Board Panel and Appeal Panel, and Advisory Committee on Reactor Safeguards shall continue to report directly to the Commission and the Commission shall continue to receive such reports.

SEC. 5. The provisions of this Reorganization Plan shall take effect October 1, 1980, or at such earlier time or times as the President shall specify, but no sooner than the earliest time allowable under Section 906 of Title 5 of the United States Code.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I am submitting herewith to the Congress Reorganization Plan No. 1 of 1980, under authority vested in me by the Reorganization Act of 1977 (Chapter 9 of Title 5 of the United States Code). The Plan is designed to strengthen management of the Nuclear Regulatory Commission in order to foster safety in all of the agency's activities.

The need for more effective management of the Nuclear Regulatory Commission has been amply demonstrated over the past year. The accident at Three Mile Island one year ago revealed serious shortcomings in the agency's ability to respond effectively during a crisis. The lessons learned from that accident go beyond crisis management, however. They provide the impetus for improving the effectiveness of all aspects of the government regulation of nuclear energy.

In my statement of December 7, 1979, I responded to the recommendations of my Commission on the Accident at Three Mile Island and set forth steps now being taken to address those recommendations. I stated that I would send to Congress a Reorganization Plan to strengthen the Nuclear Regulatory Commission's ability to regulate nuclear safety. I am submitting that Plan today.

The Plan clarifies the duties of the Chairman as principal executive officer. In addition to directing the day-to-day operations of the agency, the Chairman would take charge of the Commission's response to nuclear emergencies and, as principal executive officer, would be guided by Commission policy and subject to Commission oversight.

MANAGEMENT PROBLEMS

Intensive investigations undertaken since the Three Mile Island accident have revealed management problems at the Nuclear Regulatory Commission. These problems must be rectified if the Commission is to be a strong and effective safety regulator.

—My Commission, called the Kemeny Commission after its Chairman, Dr. John Kemeny, concluded that the underlying problem at Three Mile Island stemmed not from deficient equipment but rather from compounded human failures. This included the inability of the Nuclear Regulatory Commission to pursue its safety mission effectively in view of its existing management policies and practices. The Kemeny Commission reported a lack of "closure" in the system to ensure that safety issues are raised, analyzed and resolved. Kemeny Commission members also concluded that the Nuclear Regulatory Commission relies too heavily on licensing, and pays insufficient attention to ensuring the safety of plants once they are in operation.

—During the course of its investigation, the Kemeny Commission found serious managerial problems at the top of the Nuclear Regulatory Commission. It noted that the Commissioners and the Chairman are unclear as to their respective roles. Uncertain, diffuse leadership of this kind leads to highly compartmentalized offices that operate with little or no effective guidance and little coordination.

—A recently completed independent study authorized and funded by the Nuclear Regulatory Commission itself also found serious fault with the Commission's management and called for a major organizational overhaul. The report states that there is no authoritative manager but, instead, five equally responsible Commissioners who deal individually with office directors who, in turn, head their own "independent fiefdoms."

—Likewise, a recent report of the General Accounting Office notes the failure of the Nuclear Regulatory Commission to define either the authority of the Chairman or that of the Executive Director for Operations. The staff lacks policy guidance and top management leadership to set priorities and resolve safety issues. There are unreasonable delays in developing policies to guide the licensing and enforcement activities of the agency.

The central theme in all three of these studies is the failure of the Nuclear Regulatory Commission to provide unified leadership and consistent direction of the agency's activities. The present statutes contain conflicting and ambiguous provisions for managing the agency. Important corrective actions cannot or will not be taken by the Commission until the laws are changed. Failure to do so constitutes a continuing nuclear safety hazard.

The present Reorganization Plan would improve the effectiveness of the Nuclear Regulatory Commission by giving the Chairman the powers he needs to ensure efficient and coherent management in a manner that preserves, in fact enhances, the commission form of organization.

COMMISSION

Under the proposed Plan, the Commission would continue to be responsible for policy formulation, rulemaking and adjudication as functions which should have collegial deliberation. In addition, the Commission would review and approve proposals by the Chairman concerning key management actions such as personnel decisions affecting top positions which directly support Commission functions, the annual budget, and major staff reorganizations. In carrying out its role, the Commission would have the direct assistance of several Commission-level offices as well as the licensing board, the appeal panel, and the Advisory Committee on Reactor Safeguards. The Plan would not alter the present arrangement whereby the Commission, acting on majority vote, represents the ultimate authority of the Nuclear Regulatory Commission and sets the framework within which the Chairman is to operate.

CHAIRMAN

Under the Plan, the Chairman would act as the principal executive officer and spokesman for the Commission. To accomplish this, those functions of the Nuclear Regulatory Commission not retained by the Commission would be vested in the Chairman, who is currently coequal with the Commissioners in all decisions and actions. The Chairman would be authorized to make appointments, on his own authority, to all positions not specified for Commission approval and would be responsible to the Commission for assuring staff support by the operating offices in meeting the needs of the Commission. The Executive Director for Operations would report directly to and receive his authority from the Chairman. Heads of operating offices would also report to the Chairman or, by delegation, to the Executive Director for Operations. Office heads would also be authorized to communicate directly with members of the Commission whenever an office head believed critical safety issues were not being addressed.

EMERGENCY MANAGEMENT

The Nuclear Regulatory Commission's ability to respond decisively and responsibly to any nuclear emergency must be fully ensured in advance. Experience has shown that the Commission as a whole cannot deal expeditiously with emergencies or communicate in a clear, unified voice to civil authorities or to the public. But present law prevents the Commission from delegating its emergency authority to one of its members. The Plan would correct this situation by specifically authorizing the Chairman to act for the Commission in an emergency. In order to ensure flexibility, the Chairman would be permitted to delegate his authority to deal with a particular emergency to any other Commissioner. Plans for dealing with various contingencies would be approved by the Commission in advance. The Commission would also receive a report from the Chairman or his designee describing the management of the emergency once it was over.

ACTIONS NOT INCLUDED IN THIS PLAN

Not included in this Plan are two actions that I support in principle but that need not or cannot be accomplished by means of a Reorganization Plan. First the Commission, as part of its implementation of this reorganization, can and should establish an internal entity to help oversee the performance of the agency as it operates under the Chairman's direction. This action does not require a Reorganization Plan. Second, I have consistently favored funding assistance to intervenors in regulatory proceedings. This is particularly important in the case of nuclear safety regulation. I therefore encourage the Commission to include consideration of intervenor funding as part of its review and upgrading of the licensing process, as called for by the Kemeny Commission. I have also requested Congress to appropriate funds for this purpose. This activity cannot be authorized by a Reorganization Plan.

NO ADDED COSTS

This proposed realignment and clarification of responsibilities would not result in an increase or decrease of expenditures. But placing management responsibilities in the Chairman would result in greater attention to developing and implementing nuclear safety policies and to strict enforcement of the terms of licenses granted by the Commission.

Each of the provisions of this proposed reorganization would also accomplish one or more of the purposes set forth in 5 U.S.C. 901(a). No statutory functions would be abolished by the Plan; rather they would be consolidated or reassigned in order to improve management, delivery of services, execution of the law, and overall operational efficiency and effectiveness of the Commission.

By Executive Order No. 12202, dated March 18, 1980 [42 U.S.C. 5848 note], I established a Nuclear Safety

Oversight Committee to advise me of progress being made by the Nuclear Regulatory Commission, the nuclear industry, and others in improving nuclear safety. I am confident that the present Reorganization Plan, together with the other steps that have been or are being taken by this Administration and by others, will greatly advance the goal of nuclear safety. It would permit the Commission and the American people to hold one individual—the Chairman—accountable for implementation of the Commission's policies through effective management of the Commission staff. Freed of management and administrative details, the Commission could then concentrate on the purpose for which that collegial body was created—to deliberate on the formulation of policy and rules to govern nuclear safety and to decide or oversee disposition of individual cases.

JIMMY CARTER.

THE WHITE HOUSE, March 27, 1980.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I herewith transmit the following amendments to Reorganization Plan No. 1 of 1980, which I sent to the Congress on March 27, 1980.

The amendments to Reorganization Plan No. 1 are consistent with my original intent of strengthening the management of the Nuclear Regulatory Commission in order to improve safety in all of the agency's activities, while preserving the advantages of the Commission form. The amendments reinforce the purpose of the Plan in two respects. First, the amended Plan gives the Commission a greater role in selection of key program officers of the agency by adding four positions to the list of appointments initiated by the Chairman for the Commission's advice and consent. These are the Executive Director for Operations, the Director of Inspection and Enforcement, the Director of Nuclear Regulatory Research, and the Director of Standards Development. Each of these positions contributes to nuclear safety regulation, and each performs functions that help determine the policy and performance of the agency.

The Advisory Committee on Reactor Safeguards advises the Commission as a whole. Since its members serve renewable 4-year terms, another amendment provides that a Commission member, as well as the Chairman, can initiate an appointment to the Advisory Committee on Reactor Safeguards for approval by the Commission.

As a means to ensure that the flow of information to the Commission will not be restricted, the Plan has been amended to make explicit that the Chairman, and the Executive Director of Operations through the Chairman, shall keep the Commission fully and currently informed.

The second general purpose of the amendments is to provide for more effective management of the agency by making more explicit the responsibilities of the Chairman and the Executive Director for Operations acting under his direction. As amended, the Plan charges the Chairman with planning for the development of policy for consideration and approval by the Commission. In the past, this responsibility has not been clearly fixed and has consequently been neglected. The amended Plan continues to make clear that the Executive Director for Operations reports to the Chairman. An amendment, however, requires the Chairman to delegate to the Executive Director for Operations the authority to appoint the staff and the day-to-day administration of the agency. Under this arrangement, the Chairman retains responsibility for the delegated functions but will be better able to handle his other leadership tasks.

In summary, the amendments I am transmitting to Reorganization Plan No. 1 of 1980, based on review and hearings conducted by the Congress and on continued consultations, will help establish a more accountable central management structure for the Nuclear Regulatory Commission as it pursues its statutory objective of ensuring safety in the use of nuclear power.

JIMMY CARTER.

THE WHITE HOUSE, May 5, 1980.

EXECUTIVE ORDER NO. 11902

Ex. Ord. No. 11902, Feb. 2, 1976, 41 F.R. 4877, as amended by Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957, which set out procedures for the export licensing policy as to nuclear materials and equipment, was revoked by Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

[1] *As amended May 5, 1980.*

§5842. Licensing and related regulatory functions respecting selected Administration facilities

Notwithstanding the exclusions provided for in section 110a. [42 U.S.C. 2140(a)] or any other provisions of the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.], the Nuclear Regulatory Commission shall, except as otherwise specifically provided by section 110b. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2140(b)), or other law, have licensing and related regulatory authority pursuant to chapters 6, 7, 8, and 10 of the Atomic Energy Act of 1954, as amended [42 U.S.C. 2071 et seq., 2091 et seq., 2111 et seq., 2131 et seq.], as to the following facilities of the Administration:

(1) Demonstration Liquid Metal Fast Breeder reactors when operated as part of the power generation facilities of an electric utility system, or when operated in any other manner for the purpose of demonstrating the suitability for commercial application of such a reactor.

(2) Other demonstration nuclear reactors—except those in existence on the effective date of this chapter—when operated as part of the power generation facilities of an electric utility system, or when operated in any other manner for the purpose of demonstrating the suitability for commercial application of such a reactor.

(3) Facilities used primarily for the receipt and storage of high-level radioactive wastes resulting from activities licensed under such Act.

(4) Retrievable Surface Storage Facilities and other facilities authorized for the express purpose of subsequent long-term storage of high-level radioactive waste generated by the Administration, which are not used for, or are part of, research and development activities.

(5) Any facility under a contract with and for the account of the Department of Energy that is utilized for the express purpose of fabricating mixed plutonium-uranium oxide nuclear reactor fuel for use in a commercial nuclear reactor licensed under such Act, other than any such facility that is utilized for research, development, demonstration, testing, or analysis purposes.

(Pub. L. 93–438, title II, §202, Oct. 11, 1974, 88 Stat. 1244; Pub. L. 105–261, div. C, title XXXI, §3134(a), Oct. 17, 1998, 112 Stat. 2247.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Atomic Energy Act of 1954, as amended, referred to in text, is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of this title. Chapters 6, 7, 8, and 10 of the Atomic Energy Act of 1954, as amended, are classified generally to subchapters V (§2071 et seq.), VI (§2091 et seq.), VII (§2111 et seq.), and IX (§2131 et seq.) of division A of chapter 23 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

The effective date of this chapter, referred to in par. (2), refers to the effective date of Pub. L. 93–438. See section 312 of Pub. L. 93–438, set out as an Effective Date; Interim Appointments note under section 5801 of this title.

AMENDMENTS

1998—Par. (5). Pub. L. 105–261 added par. (5).

STATUTORY NOTES AND RELATED SUBSIDIARIES

AVAILABILITY OF FUNDS FOR LICENSING BY NRC

Pub. L. 105–261, div. C, title XXXI, §3134(b), Oct. 17, 1998, 112 Stat. 2247, provided that: "[Former] Section 210 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981 ([former] 42 U.S.C. 7272 [see 10 U.S.C. 6106]) shall not apply to any licensing activities required pursuant to section 202(5) of the Energy Reorganization Act of 1974 (42 U.S.C. 5842), as added by subsection (a)."

APPLICABILITY OF OCCUPATIONAL SAFETY AND HEALTH REQUIREMENTS TO ACTIVITIES UNDER LICENSE

Pub. L. 105–261, div. C, title XXXI, §3134(c), Oct. 17, 1998, 112 Stat. 2247, provided that: "Any activities carried out under a license required pursuant to section 202(5) of the Energy Reorganization Act of 1974 (42 U.S.C. 5842), as added by subsection (a), shall be subject to regulation under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.)."

VERBAL COMMUNICATIONS BETWEEN COMMISSION HEADQUARTERS AND REGIONAL OFFICES AND LICENSED UTILIZATION FACILITIES

Pub. L. 96–295, title III, §305(a), June 30, 1980, 94 Stat. 790, provided that: "As expeditiously as practicable, the Nuclear Regulatory Commission shall establish a mechanism for instantaneous and uninterrupted verbal communication between each utilization facility licensed to operate under section 103 or section 104 b. of the Atomic Energy Act of 1954 [section 2133 or 2134(b) of this title] on the date of enactment of this Act [June 30, 1980], or thereafter, and

"(1) Commission headquarters, and

"(2) the appropriate Commission regional office."

STUDY OF EXTENSION OF LICENSING AND REGULATORY AUTHORITY OF COMMISSION; REPORT TO CONGRESS

Pub. L. 95–601, §12, Nov. 6, 1978, 92 Stat. 2953, directed Commission, in cooperation with Department of Energy, to conduct a study of extending the Commission's licensing or regulatory authority to include categories of existing and future Federal radioactive waste storage and disposal activities not presently subject to such authority, and on or before Mar. 1, 1979, to submit a report to Congress containing results of study, which report was to include a complete listing and inventory of all radioactive waste storage and disposal activities being conducted or planned by Federal agencies.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

For transfer of certain functions from Nuclear Regulatory Commission to Chairman thereof, see Reorg. Plan No. 1 of 1980, 45 F.R. 40561, 94 Stat. 3585, set out as a note under section 5841 of this title.

§5843. Office of Nuclear Reactor Regulation

(a) Establishment; appointment of Director

There is hereby established in the Commission an Office of Nuclear Reactor Regulation under the direction of a Director of Nuclear Reactor Regulation, who shall be appointed by the Commission, who may report directly to the Commission, as provided in section 5849 of this title, and who shall serve at the pleasure of and be removable by the Commission.

(b) Functions of Director

Subject to the provisions of this chapter, the Director of Nuclear Reactor Regulation shall perform such functions as the Commission shall delegate, including the following:

(1) Principal licensing and regulation involving all facilities, and materials licensed under the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.], associated with the construction and operation of nuclear reactors licensed under the Atomic Energy Act of 1954, as amended;

(2) Review the safety and safeguards of all such facilities, materials, and activities, and such review functions shall include, but not be limited to—

(A) monitoring, testing and recommending upgrading of systems designed to prevent substantial health or safety hazards; and

(B) evaluating methods of transporting special nuclear and other nuclear materials and of transporting and storing high-level radioactive wastes to prevent radiation hazards to employees and the general public.

(3) Recommend research necessary to fulfill the licensing and regulatory oversight functions of

the Commission.

(c) Licensing process

In carrying out the principal licensing and regulation functions under subsection (b)(1), the Director of Nuclear Reactor Regulation shall—

(1) establish techniques and guidance for evaluating applications for licenses for nuclear reactors to support efficient, timely, and predictable reviews of applications for those licenses to enable the safe and secure use of nuclear reactors;

(2) maintain the techniques and guidance established under paragraph (1) by periodically assessing and, if necessary, modifying those techniques and guidance; and

(3) obtain approval from the Commission if establishment or modification of the techniques and guidance under paragraph (1) or (2) involves policy formulation.

(d) Responsibility for safe operation of facilities

Nothing in this section shall be construed to limit in any way the functions of the Administration relating to the safe operation of all facilities resulting from all activities within the jurisdiction of the Administration pursuant to this chapter.

(Pub. L. 93–438, title II, §203, Oct. 11, 1974, 88 Stat. 1244; Pub. L. 118–67, div. B, title V, §505(a), July 9, 2024, 138 Stat. 1477.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b) and (d), was in the original "this Act", meaning Pub. L. 93–438, Oct. 11, 1974, 88 Stat. 1233, known as the Energy Reorganization Act of 1974, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

The Atomic Energy Act of 1954, referred to in subsec. (b)(1), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

AMENDMENTS

2024—Subsec. (a). Pub. L. 118–67, §505(a)(1), inserted heading.

Subsec. (b). Pub. L. 118–67, §505(a)(2)(A), inserted heading and substituted "delegate, including the following:" for "delegate including:" in introductory provisions.

Subsec. (b)(3). Pub. L. 118–67, §505(a)(2)(B), substituted "to fulfill the licensing and regulatory oversight" for "for the discharge of the".

Subsecs. (c), (d). Pub. L. 118–67, §505(a)(3), (4), added subsec. (c), redesignated former subsec. (c) as (d), and inserted heading in subsec. (d).

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

For transfer of certain functions from Nuclear Regulatory Commission to Chairman thereof, see Reorg. Plan No. 1 of 1980, 45 F.R. 40561, 94 Stat. 3585, set out as a note under section 5841 of this title.

§5844. Office of Nuclear Safety and Safeguards

(a) Establishment; appointment of Director

There is hereby established in the Commission an Office of Nuclear Material Safety and Safeguards under the direction of a Director of Nuclear Material Safety and Safeguards, who shall be appointed by the Commission, who may report directly to the Commission as provided in section 5849 of this title, and who shall serve at the pleasure of and be removable by the Commission.

(b) Functions of Director

Subject to the provisions of this chapter, the Director of Nuclear Material Safety and Safeguards shall perform such functions as the Commission shall delegate including:

(1) Principal licensing and regulation involving all facilities and materials, licensed under the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.], associated with the processing, transport, and handling of nuclear materials, including the provision and maintenance of safeguards against threats, thefts, and sabotage of such licensed facilities, and materials.

(2) Review safety and safeguards of all such facilities and materials licensed under the Atomic Energy Act of 1954, as amended, and such review shall include, but not be limited to—

(A) monitoring, testing, and recommending upgrading of internal accounting systems for special nuclear and other nuclear materials licensed under the Atomic Energy Act of 1954, as amended;

(B) developing, in consultation and coordination with the Administration, contingency plans for dealing with threats, thefts, and sabotage relating to special nuclear materials, high-level radioactive wastes and nuclear facilities resulting from all activities licensed under the Atomic Energy Act of 1954, as amended;

(C) assessing the need for, and the feasibility of, establishing a security agency within the office for the performance of the safeguards functions, and a report with recommendations on this matter shall be prepared within one year of the effective date of this chapter and promptly transmitted to the Congress by the Commission.

(3) Recommending research to enable the Commission to more effectively perform its functions.

(c) Responsibility for safeguarding special nuclear materials; high-level radioactive wastes and nuclear facilities

Nothing in this section shall be construed to limit in any way the functions of the Administration relating to the safeguarding of special nuclear materials, high-level radioactive wastes and nuclear facilities resulting from all activities within the jurisdiction of the Administration pursuant to this chapter.

(Pub. L. 93–438, title II, §204, Oct. 11, 1974, 88 Stat. 1245.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b) and (c), was in the original "this Act", meaning Pub. L. 93–438, Oct. 11, 1974, 88 Stat. 1233, known as the Energy Reorganization Act of 1974, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

The Atomic Energy Act of 1954, referred to in subsec. (b)(1), (2), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

The effective date of this chapter, referred to in subsec. (b)(2)(C), refers to the effective date of Pub. L. 93–438. See section 312 of Pub. L. 93–438, set out as an Effective Date; Interim Provisions note under section 5801 of this title.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

For transfer of certain functions from Nuclear Regulatory Commission to Chairman thereof, see Reorg. Plan No. 1 of 1980, 45 F.R. 40561, 94 Stat. 3585, set out as a note under section 5841 of this title.

§5845. Office of Nuclear Regulatory Research

(a) Establishment; appointment of Director

There is hereby established in the Commission an Office of Nuclear Regulatory Research under the direction of a Director of Nuclear Regulatory Research, who shall be appointed by the Commission, who may report directly to the Commission as provided in section 5849 of this title, and who shall serve at the pleasure of and be removable by the Commission.

(b) Functions of Director

Subject to the provisions of this chapter, the Director of Nuclear Regulatory Research shall perform such functions as the Commission shall delegate including:

(1) Developing recommendations for research deemed necessary for performance by the Commission of its licensing and related regulatory functions.

(2) Engaging in or contracting for research which the Commission deems necessary for the performance of its licensing and related regulatory functions.

(c) Cooperation of Federal agencies

The Administrator of the Administration and the head of every other Federal agency shall—

(1) cooperate with respect to the establishment of priorities for the furnishing of such research services as requested by the Commission for the conduct of its functions;

(2) furnish to the Commission, on a reimbursable basis, through their own facilities or by contract or other arrangement, such research services as the Commission deems necessary and requests for the performance of its functions; and

(3) consult and cooperate with the Commission on research and development matters of mutual interest and provide such information and physical access to its facilities as will assist the Commission in acquiring the expertise necessary to perform its licensing and related regulatory functions.

(d) Responsibility for safety of activities

Nothing in subsections (a) and (b) of this section or section 5841 of this title shall be construed to limit in any way the functions of the Administration relating to the safety of activities within the jurisdiction of the Administration.

(e) Information and research services

Each Federal agency, subject to the provisions of existing law, shall cooperate with the Commission and provide such information and research services, on a reimbursable basis, as it may have or be reasonably able to acquire.

(f) Improved safety systems research

The Commission shall develop a long-term plan for projects for the development of new or improved safety systems for nuclear powerplants.

(Pub. L. 93–438, title II, §205, Oct. 11, 1974, 88 Stat. 1246; Pub. L. 95–209, §4(a), Dec. 13, 1977, 91 Stat. 1482.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 93–438, Oct. 11, 1974, 88 Stat. 1233, known as the Energy Reorganization Act of 1974, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

AMENDMENTS

1977—Subsec. (f). Pub. L. 95–209 added subsec. (f).

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

For transfer of certain functions from Nuclear Regulatory Commission to Chairman thereof, see Reorg. Plan No. 1 of 1980, 45 F.R. 40561, 94 Stat. 3585, set out as a note under section 5841 of this title.

§5846. Compliance with safety regulations

(a) Notification to Commission of noncompliance

Any individual director, or responsible officer of a firm constructing, owning, operating, or supplying the components of any facility or activity which is licensed or otherwise regulated pursuant to the Atomic Energy Act of 1954 as amended [42 U.S.C. 2011 et seq.], or pursuant to this chapter, who obtains information reasonably indicating that such facility or activity or basic components supplied to such facility or activity—

(1) fails to comply with the Atomic Energy Act of 1954, as amended, or any applicable rule, regulation, order, or license of the Commission relating to substantial safety hazards, or

(2) contains a defect which could create a substantial safety hazard, as defined by regulations which the Commission shall promulgate,

shall immediately notify the Commission of such failure to comply, or of such defect, unless such person has actual knowledge that the Commission has been adequately informed of such defect or failure to comply.

(b) Penalty for failure to notify

Any person who knowingly and consciously fails to provide the notice required by subsection (a) of this section shall be subject to a civil penalty in an amount equal to the amount provided by section 234 of the Atomic Energy Act of 1954, as amended [42 U.S.C. 2282].

(c) Posting of requirements

The requirements of this section shall be prominently posted on the premises of any facility licensed or otherwise regulated pursuant to the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.].

(d) Inspection and enforcement

The Commission is authorized to conduct such reasonable inspections and other enforcement activities as needed to insure compliance with the provisions of this section.

(Pub. L. 93–438, title II, §206, Oct. 11, 1974, 88 Stat. 1246.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in subsecs. (a) and (c), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 93–438, Oct. 11, 1974, 88 Stat. 1233, known as the Energy Reorganization Act of 1974, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

For transfer of certain functions from Nuclear Regulatory Commission to Chairman thereof, see Reorg.

Plan No. 1 of 1980, 45 F.R. 40561, 94 Stat. 3585, set out as a note under section 5841 of this title.

§5847. Nuclear energy center site survey

(a)(1) [1] The Commission is authorized and directed to make or cause to be made under its direction, a national survey, which shall include consideration of each of the existing or future electric reliability regions, or other appropriate regional areas, to locate and identify possible nuclear energy center sites. This survey shall be conducted in cooperation with other interested Federal, State, and local agencies, and the views of interested persons, including electric utilities, citizens' groups, and others, shall be solicited and considered.

(2) For purposes of this section, the term "nuclear energy center site" means any site, including a site not restricted to land, large enough to support utility operations or other elements of the total nuclear fuel cycle, or both including, if appropriate, nuclear fuel reprocessing facilities, nuclear fuel fabrication plants, retrievable nuclear waste storage facilities, and unranium [2] enrichment facilities.

(3) The survey shall include—

(a) a regional evaluation of natural resources, including land, air, and water resources, available for use in connection with nuclear energy center sites; estimates of future electric power requirements that can be served by each nuclear energy center site; an assessment of the economic impact of each nuclear energy site; and consideration of any other relevant factors, including but not limited to population distribution, proximity to electric load centers and to other elements of the fuel cycle, transmission line rights-of-way, and the availability of other fuel resources;

(b) an evaluation of the environmental impact likely to result from construction and operation of such nuclear energy centers, including an evaluation whether such nuclear energy centers will result in greater or lesser environmental impact than separate siting of the reactors and/or fuel cycle facilities; and

(c) consideration of the use of federally owned property and other property designated for public use, but excluding national parks, national forests, national wilderness areas, and national historic monuments.

(4) A report of the results of the survey shall be published and transmitted to the Congress and the Council on Environmental Quality not later than one year from October 11, 1974, and shall be made available to the public, and shall be updated from time to time thereafter as the Commission, in its discretion, deems advisable. The report shall include the Commission's evaluation of the results of the survey and any conclusions and recommendations, including recommendations for legislation, which the Commission may have concerning the feasibility and practicality of locating nuclear power reactors and/or other elements of the nuclear fuel cycle on nuclear energy center sites. The Commission is authorized to adopt policies which will encourage the location of nuclear power reactors and related fuel cycle facilities on nuclear energy center sites insofar as practicable.

(Pub. L. 93–438, title II, §207, Oct. 11, 1974, 88 Stat. 1247.)

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

For transfer of certain functions from Nuclear Regulatory Commission to Chairman thereof, see Reorg. Plan No. 1 of 1980, 45 F.R. 40561, 94 Stat. 3585, set out as a note under section 5841 of this title.

[1] So in original. No subsec. (b) has been enacted.

[2] So in original. Probably should be "uranium".

§5848. Abnormal occurrence reports

The Commission shall submit to the Congress an annual report listing for the previous fiscal year any abnormal occurrences at or associated with any facility which is licensed or otherwise regulated pursuant to the Atomic Energy Act of 1954 as amended [42 U.S.C. 2011 et seq.], or pursuant to this chapter. For the purposes of this section an abnormal occurrence is an unscheduled incident or event which the Commission determines is significant from the standpoint of public health or safety. Nothing in the preceding sentence shall limit the authority of a court to review the determination of the Commission. Each such report shall contain—

(1) the date and place of each occurrence;
(2) the nature and probable consequence of each occurrence;
(3) the cause or causes of each; and
(4) any action taken to prevent reoccurrence;

the Commission shall also provide as wide dissemination to the public of the information specified in clauses (1) and (2) of this section as reasonably possible within fifteen days of its receiving information of each abnormal occurrence and shall provide as wide dissemination to the public as reasonably possible of the information specified in clauses (3) and (4) as soon as such information becomes available to it.

(Pub. L. 93–438, title II, §208, Oct. 11, 1974, 88 Stat. 1248; Pub. L. 104–66, title II, §2171, Dec. 21, 1995, 109 Stat. 731.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in text, is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–438, Oct. 11, 1974, 88 Stat. 1233, known as the Energy Reorganization Act of 1974, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

AMENDMENTS

1995—Pub. L. 104–66 substituted "an annual report listing for the previous fiscal year" for "each quarter a report listing for that period" in first sentence.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which the 9th item on page 186 identifies a reporting provision which, as subsequently amended, is contained in this section), see section 3003 of Pub. L. 104–66, set out as a note under section 1113 of Title 31, Money and Finance.

PRESIDENT'S COMMISSION ON THE ACCIDENT AT THREE MILE ISLAND; SUBPENA POWER

Pub. L. 96–12, May 23, 1979, 93 Stat. 26, which authorized the President's Commission on the Accident at Three Mile Island, as established by Ex. Ord. No. 12130, Apr. 11, 1979, 44 F.R. 22027, formerly set out below, to issue subpenas requiring the attendance and testimony of witnesses and the produce of any evidence from the Nuclear Regulatory Commission or any person which related to the accident at Three Mile Island, and to issue orders for the inspection of the Three Mile Island nuclear power plant, with refusal to obey a subpena or inspection order punishable by contempt of court.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

For transfer of certain functions from Nuclear Regulatory Commission to Chairman thereof, see Reorg. Plan No. 1 of 1980, 45 F.R. 40561, 94 Stat. 3585, set out as a note under section 5841 of this title.

EXECUTIVE ORDER NO. 12130

Ex. Ord. No. 12130, Apr. 11, 1979, 44 F.R. 22027, which established the President's Commission on the Accident at Three Mile Island and provided for its functions, administration, final report, and termination, was revoked by section 1–103(h) of Ex. Ord. No. 12258, Dec. 31, 1980, 46 F.R. 1252, formerly set out as a note under section 1013 of Title 5, Government Organization and Employees.

EXECUTIVE ORDER NO. 12202

Ex. Ord. No. 12202, Mar. 18, 1980, 45 F.R. 17939, as amended by Ex. Ord. No. 12240, Sept. 26, 1980, 45 F.R. 64545, which established the Nuclear Safety Oversight Committee and provided for its membership, functions, etc., was revoked by Ex. Ord. No. 12379, §22, Aug. 17, 1982, 47 F.R. 36100 and Ex. Ord. No. 12399, §4(c), Dec. 31, 1982, 48 F.R. 380, formerly set out as notes under section 1013 of Title 5, Government Organization and Employees.

§5849. Other officers

(a) Executive Director

The Commission shall appoint an Executive Director for Operations, who shall serve at the pleasure of and be removable by the Commission.

(b) Functions of Executive Director

The Executive Director shall perform such functions as the Commission may direct, except that the Executive Director shall not limit the authority of the director of any component organization provided in this chapter to communicate with or report directly to the Commission when such director of a component organization deems it necessary to carry out his responsibilities. Notwithstanding the preceding sentence, each such director shall keep the Executive Director fully and currently informed concerning the content of all such direct communications with the Commission.

(c) Equal employment opportunity report

The Executive Director shall report to the Commission at semi-annual public meetings on the problems, progress, and status of the Commission's equal employment opportunity efforts.

(d) Annual status report

The Executive Director shall prepare and forward to the Commission an annual report (for the fiscal year 1978 and each succeeding fiscal year) on the status of the Commission's programs concerning domestic safeguards matters including an assessment of the effectiveness and adequacy of safeguards at facilities and activities licensed by the Commission. The Commission shall forward to the Congress a report under this section prior to February 1, 1979, as a separate document, and prior to February 1 of each succeeding year as a separate chapter of the Commission's annual report (required under section 5877(c) of this title) following the fiscal year to which such report applies.

(e) Additional officers

There shall be in the Commission not more than five additional officers appointed by the Commission. The positions of such officers shall be considered career positions and be subject to section 2201(d) of this title.

(Pub. L. 93–438, title II, §209, Oct. 11, 1974, 88 Stat. 1248; Pub. L. 95–601, §§4, 6, Nov. 6, 1978, 92 Stat. 2949.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 93–438, Oct. 11, 1974, 88 Stat. 1233, known as the Energy Reorganization Act of 1974, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

AMENDMENTS

1978—Subsec. (b). Pub. L. 95–601, §4(a), inserted provision requiring component organization directors to keep the Executive Director informed as to communications with the Commission.

Subsec. (c). Pub. L. 95–601, §4(b), added subsec. (c). Former subsec. (c) redesignated (e).

Subsec. (d). Pub. L. 95–601, §6, added subsec. (d).

Subsec. (e). Pub. L. 95–601, §4(b), redesignated former subsec. (c) as (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (d) of this section relating to forwarding of annual report to Congress, see section 3003 of Pub. L. 104–66, set out as a note under section 1113 of Title 31, Money and Finance, and the 10th item on page 186 of House Document No. 103–7.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

For transfer of certain functions from Nuclear Regulatory Commission to Chairman thereof, see Reorg. Plan No. 1 of 1980, 45 F.R. 40561, 94 Stat. 3585, set out as a note under section 5841 of this title.

§5850. Unresolved safety issues plan

The Commission shall develop a plan providing for the specification and analysis of unresolved safety issues relating to nuclear reactors and shall take such action as may be necessary to implement corrective measures with respect to such issues. Such plan shall be submitted to the Congress on or before January 1, 1978 and progress reports shall be included in the annual report of the Commission thereafter.

(Pub. L. 93–438, title II, §210, as added Pub. L. 95–209, §3, Dec. 13, 1977, 91 Stat. 1482.)

EDITORIAL NOTES

PRIOR PROVISIONS

Another section 210 of Pub. L. 93–438 was renumbered section 211 and is classified to section 5851 of this title.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

For transfer of certain functions from Nuclear Regulatory Commission to Chairman thereof, see Reorg. Plan No. 1 of 1980, 45 F.R. 40561, 94 Stat. 3585, set out as a note under section 5841 of this title.

§5851. Employee protection

(a) Discrimination against employee

(1) No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the

employee (or any person acting pursuant to a request of the employee)—

(A) notified his employer of an alleged violation of this chapter or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.);

(B) refused to engage in any practice made unlawful by this chapter or the Atomic Energy Act of 1954, if the employee has identified the alleged illegality to the employer;

(C) testified before Congress or at any Federal or State proceeding regarding any provision (or proposed provision) of this chapter or the Atomic Energy Act of 1954;

(D) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this chapter or the Atomic Energy Act of 1954, as amended, or a proceeding for the administration or enforcement of any requirement imposed under this chapter or the Atomic Energy Act of 1954, as amended;

(E) testified or is about to testify in any such proceeding or;

(F) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other manner in such a proceeding or in any other action to carry out the purposes of this chapter or the Atomic Energy Act of 1954, as amended.

(2) For purposes of this section, the term "employer" includes—

(A) a licensee of the Commission or of an agreement State under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021);

(B) an applicant for a license from the Commission or such an agreement State;

(C) a contractor or subcontractor of such a licensee or applicant;

(D) a contractor or subcontractor of the Department of Energy that is indemnified by the Department under section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)), but such term shall not include any contractor or subcontractor covered by Executive Order No. 12344;

(E) a contractor or subcontractor of the Commission;

(F) the Commission; and

(G) the Department of Energy.

(b) Complaint, filing and notification

(1) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, within 180 days after such violation occurs, file (or have any person file on his behalf) a complaint with the Secretary of Labor (in this section referred to as the "Secretary") alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint, the Commission, and the Department of Energy.

(2)(A) Upon receipt of a complaint filed under paragraph (1), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within thirty days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting in his behalf) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this subparagraph. Within ninety days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by subparagraph (B) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for public hearing. Upon the conclusion of such hearing and the issuance of a recommended decision that the complaint has merit, the Secretary shall issue a preliminary order providing the relief prescribed in subparagraph (B), but may not order compensatory damages pending a final order. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

(B) If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order the person who committed such violation to (i) take affirmative action to abate the violation, and (ii) reinstate the complainant to his former position together with the compensation (including back pay), terms, conditions, and privileges of his employment, and the Secretary may order such person to provide compensatory

damages to the complainant. If an order is issued under this paragraph, the Secretary, at the request of the complainant shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

(3)(A) The Secretary shall dismiss a complaint filed under paragraph (1), and shall not conduct the investigation required under paragraph (2), unless the complainant has made a prima facie showing that any behavior described in subparagraphs (A) through (F) of subsection (a)(1) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(B) Notwithstanding a finding by the Secretary that the complainant has made the showing required by subparagraph (A), no investigation required under paragraph (2) shall be conducted if the employer demonstrates, by clear and convincing evidence, that it would have taken the same unfavorable personnel action in the absence of such behavior.

(C) The Secretary may determine that a violation of subsection (a) has occurred only if the complainant has demonstrated that any behavior described in subparagraphs (A) through (F) of subsection (a)(1) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(D) Relief may not be ordered under paragraph (2) if the employer demonstrates by clear and convincing evidence that it would have taken the same unfavorable personnel action in the absence of such behavior.

(4) If the Secretary has not issued a final decision within 1 year after the filing of a complaint under paragraph (1), and there is no showing that such delay is due to the bad faith of the person seeking relief under this paragraph, such person may bring an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

(c) Review

(1) Any person adversely affected or aggrieved by an order issued under subsection (b) may obtain review of the order in the United States court of appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the Secretary's order.

(2) An order of the Secretary with respect to which review could have been obtained under paragraph (1) shall not be subject to judicial review in any criminal or other civil proceeding.

(d) Jurisdiction

Whenever a person has failed to comply with an order issued under subsection (b)(2), the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief, compensatory, and exemplary damages.

(e) Commencement of action

(1) Any person on whose behalf an order was issued under paragraph (2) of subsection (b) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

(2) The court, in issuing any final order under this subsection, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award is appropriate.

(f) Enforcement

Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28.

(g) Deliberate violations

Subsection (a) shall not apply with respect to any employee who, acting without direction from his or her employer (or the employer's agent), deliberately causes a violation of any requirement of this chapter or of the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.].

(h) Nonpreemption

This section may not be construed to expand, diminish, or otherwise affect any right otherwise available to an employee under Federal or State law to redress the employee's discharge or other discriminatory action taken by the employer against the employee.

(i) Posting requirement

The provisions of this section shall be prominently posted in any place of employment to which this section applies.

(j) Investigation of allegations

(1) The Commission or the Department of Energy shall not delay taking appropriate action with respect to an allegation of a substantial safety hazard on the basis of—

(A) the filing of a complaint under subsection (b)(1) of this section arising from such allegation; or

(B) any investigation by the Secretary, or other action, under this section in response to such complaint.

(2) A determination by the Secretary under this section that a violation of subsection (a) has not occurred shall not be considered by the Commission or the Department of Energy in its determination of whether a substantial safety hazard exists.

(Pub. L. 93–438, title II, §211, formerly §210, as added Pub. L. 95–601, §10, Nov. 6, 1978, 92 Stat. 2951; renumbered §211 and amended Pub. L. 102–486, title XXIX, §2902(a)–(g), (h)(2), (3), Oct. 24, 1992, 106 Stat. 3123, 3124; Pub. L. 109–58, title VI, §629, Aug. 8, 2005, 119 Stat. 785.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1) and (g), was in the original "this Act", meaning Pub. L. 93–438, Oct. 11, 1974, 88 Stat. 1233, known as the Energy Reorganization Act of 1974, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

The Atomic Energy Act of 1954, referred to in subsecs. (a)(1) and (g), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification on this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

Executive Order No. 12344, referred to in subsec. (a)(2)(D), is Ex. Ord. No. 12344, Feb. 1, 1982, 47 F.R. 4979, which is set out as a note under section 6102 of Title 10, Armed Forces.

AMENDMENTS

2005—Subsec. (a)(2)(E) to (G). Pub. L. 109–58, §629(a), added subpars. (E) to (G).

Subsec. (b)(4). Pub. L. 109–58, §629(b), added par. (4).

1992—Subsec. (a). Pub. L. 102–486, §2902(a), designated existing provisions as par. (1) and struck out ", including a Commission licensee, an applicant for a Commission license, or a contractor or a subcontractor of a Commission licensee or applicant," after "No employer", added subpars. (A) to (C), redesignated former pars. (1) to (3) as subpars. (D) to (F), respectively, and added par. (2).

Subsec. (b)(1). Pub. L. 102–486, §2902(b), (h)(2), substituted "180" for "thirty", "(in this section referred to as the 'Secretary')" for "(hereinafter in this subsection referred to as the 'Secretary')", and ", the Commission, and the Department of Energy" for "and the Commission".

Subsec. (b)(2)(A). Pub. L. 102–486, §2902(c), inserted before last sentence "Upon the conclusion of such hearing and the issuance of a recommended decision that the complaint has merit, the Secretary shall issue a preliminary order providing the relief prescribed in subparagraph (B), but may not order compensatory

damages pending a final order."

Subsec. (b)(3). Pub. L. 102–486, §2902(d), added par. (3).

Subsecs. (h) to (j). Pub. L. 102–486, §2902(e)–(g), added subsecs. (h) to (j).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–486, title XXIX, §2902(i), Oct. 24, 1992, 106 Stat. 3125, provided that: "The amendments made by this section [amending this section] shall apply to claims filed under section 211(b)(1) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(b)(1)) on or after the date of the enactment of this Act [Oct. 24, 1992]."

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

For transfer of certain functions from Nuclear Regulatory Commission to Chairman thereof, see Reorg. Plan No. 1 of 1980, 45 F.R. 40561, 94 Stat. 3585, set out as a note under section 5841 of this title.

§5852. Availability of funds

(a) Appropriations for salaries and expenses; additional purposes

Funds appropriated for "Nuclear Regulatory Commission—Salaries and Expenses" shall be available to the Commission for the following additional purposes:

(1) Employment of aliens.

(2) Services authorized by section 3109 of title 5.

(3) Publication and dissemination of atomic information.

(4) Purchase, repair, and cleaning of uniforms.

(5) Reimbursements to the General Services Administration for security guard services.

(6) Hire of passenger motor vehicles and aircraft.

(7) Transfers of funds to other agencies of the Federal Government for the performance of the work for which such funds are appropriated, and such transferred funds may be merged with the appropriations to which they are transferred.

(8) Transfers to the Office of Inspector General of the Commission, not to exceed an additional amount equal to 5 percent of the amount otherwise appropriated to the Office for the fiscal year. Notice of such transfers shall be submitted to the Committees on Appropriations.

(b) Appropriations for Office of Inspector General; additional purposes

Funds appropriated for "Nuclear Regulatory Commission—Office of Inspector General" shall be available to the Office for the additional purposes described in paragraphs (2) and (7) of subsection (a).

(c) Use of program funds for salaries and expenses

Moneys received by the Commission for the cooperative nuclear research program, services rendered to State governments, foreign governments, and international organizations, and the material and information access authorization programs, including criminal history checks under section 2169 of this title [1] may be retained and used for salaries and expenses associated with those activities, notwithstanding section 3302 of title 31, and shall remain available until expended.

(d) Use of funds to provide voluntary separation incentive payments

Notwithstanding section 663(c)(2)(D) of Public Law 104–208, and to facilitate targeted workforce downsizing and restructuring, the Chairman of the Nuclear Regulatory Commission may use funds appropriated in this Act to exercise the authority provided by section 663 of that Act with respect to

employees who voluntarily separate from October 7, 1998, through December 31, 2000. All of the requirements in section 663 of Public Law 104–208, except for section 663(c)(2)(D), apply to the exercise of authority under this section.

(e) Fiscal year applicability

Subsections (a), (b), and (c) of this section shall apply to fiscal year 1999 and each succeeding fiscal year.

(Pub. L. 105–245, title V, §506, Oct. 7, 1998, 112 Stat. 1856.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 663 of Public Law 104–208, referred to in subsec. (d), is section 663 of Pub. L. 104–208, div. A, title I, §101(f) [title VI], Sept. 30, 1996, 110 Stat. 3009–314, 3009–383, which is set out as a note under section 5597 of Title 5, Government Organization and Employees.

This Act, referred to in subsec. (d), is Pub. L. 105–245, Oct. 7, 1998, 112 Stat. 1838, known as the Energy and Water Development Appropriations Act, 1999. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Energy and Water Development Appropriations Act, 1999, and not as part of the Energy Reorganization Act of 1974 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:
Pub. L. 105–62, title IV, Oct. 13, 1997, 111 Stat. 1336.
Pub. L. 104–206, title IV, Sept. 30, 1996, 110 Stat. 3000.
Pub. L. 104–46, title IV, Nov. 13, 1995, 109 Stat. 417.
Pub. L. 103–316, title IV, Aug. 26, 1994, 108 Stat. 1721.
Pub. L. 103–126, title IV, Oct. 28, 1993, 107 Stat. 1332.
Pub. L. 102–377, title IV, Oct. 2, 1992, 106 Stat. 1340.
Pub. L. 102–104, title IV, Aug. 17, 1991, 105 Stat. 534.
Pub. L. 101–514, title IV, Nov. 5, 1990, 104 Stat. 2096.
Pub. L. 101–101, title IV, Sept. 29, 1989, 103 Stat. 664.
Pub. L. 100–371, title IV, July 19, 1988, 102 Stat. 872.
Pub. L. 100–202, §101(d) [title IV], Dec. 22, 1987, 101 Stat. 1329–104, 1329–128.
Pub. L. 99–500, §101(e) [title IV], Oct. 18, 1986, 100 Stat. 1783–194, 1783–211, and Pub. L. 99–591, §101(e) [title IV], Oct. 30, 1986, 100 Stat. 3341–194, 3341–211.
Pub. L. 99–141, title IV, Nov. 1, 1985, 99 Stat. 577.
Pub. L. 98–360, title IV, July 16, 1984, 98 Stat. 419.
Pub. L. 98–50, title IV, July 14, 1983, 97 Stat. 260.
Pub. L. 97–88, title IV, Dec. 4, 1981, 95 Stat. 1147.
Pub. L. 96–367, title IV, Oct. 1, 1980, 94 Stat. 1344.
Pub. L. 96–69, title IV, Sept. 25, 1979, 93 Stat. 449.

[1] *So in original. Probably should be followed by a comma.*

§5853. Limitation on legal fee reimbursement

The Department of Energy shall not, except as required under a contract entered into before August 8, 2005, reimburse any contractor or subcontractor of the Department for any legal fees or expenses incurred with respect to a complaint subsequent to—

(1) an adverse determination on the merits with respect to such complaint against the contractor

or subcontractor by the Director of the Department of Energy's Office of Hearings and Appeals pursuant to part 708 of title 10, Code of Federal Regulations, or by a Department of Labor Administrative Law Judge pursuant to section 5851 of this title; or

(2) an adverse final judgment by any State or Federal court with respect to such complaint against the contractor or subcontractor for wrongful termination or retaliation due to the making of disclosures protected under chapter 12 of title 5, section 5851 of this title, or any comparable State law,

unless the adverse determination or final judgment is reversed upon further administrative or judicial review.

(Pub. L. 93–438, title II, §212, as added Pub. L. 109–58, title VI, §627, Aug. 8, 2005, 119 Stat. 784.)

§5854. Notification and reports by Chairman

The Chairman of the Nuclear Regulatory Commission shall notify the other members of the Commission, the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Environment and Public Works of the Senate, not later than 1 day after the Chairman begins performing functions under the authority of section 3 of Reorganization Plan No. 1 of 1980, or after a member of the Commission who is delegated emergency functions under subsection (b) of that section begins performing those functions. Such notification shall include an explanation of the circumstances warranting the exercise of such authority. The Chairman shall report to the Committees, not less frequently than once each week, on the actions taken by the Chairman, or a delegated member of the Commission, under such authority, until the authority is relinquished. The Chairman shall notify the Committees not later than 1 day after such authority is relinquished. The Chairman shall submit the report required by section 3(d) of the Reorganization Plan No. 1 of 1980 to the Committees not later than 1 day after it was submitted to the Commission. This section shall be in effect in fiscal year 2015 and each subsequent fiscal year.

(Pub. L. 113–235, div. D, title IV, §401, Dec. 16, 2014, 128 Stat. 2330.)

EDITORIAL NOTES

REFERENCES IN TEXT

Reorganization Plan No. 1 of 1980, referred to in text, is set out as a note under section 5841 of this title.

CODIFICATION

Section was enacted as part of the Energy and Water Development and Related Agencies Appropriations Act, 2015, and also as part of the Consolidated and Further Continuing Appropriations Act, 2015, and not as part of the Energy Reorganization Act of 1974 which comprises this chapter.

SUBCHAPTER III—MISCELLANEOUS AND TRANSITIONAL PROVISIONS

§5871. Transitional provisions

(a) Lapse of agency or other body from which functions or programs have been transferred and positions or offices therein

Except as otherwise provided in this chapter, whenever all of the functions or programs of an agency, or other body, or any component thereof, affected by this chapter, have been transferred

from that agency, or other body, or any component thereof by this chapter, the agency, or other body, or component thereof shall lapse. If an agency, or other body, or any component thereof, lapses pursuant to the preceding sentence, each position and office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rate prescribed for an office or position at level II, III, IV, or V of the Executive Schedule (5 U.S.C. 5313–5316), shall lapse.

(b) Continuation of orders, determinations, rules, etc.

All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this chapter, and

(2) which are in effect at the time this chapter takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Administrator, the Commission, or other authorized officials, a court of competent jurisdiction, or by operation of law.

(c) Effect of chapter on proceedings pending before Atomic Energy Commission or other department or agency

The provisions of this chapter shall not affect any proceeding pending, at the time this section takes effect, before the Atomic Energy Commission or any department or agency (or component thereof) functions of which are transferred by this chapter; but such proceedings, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this chapter had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued if this chapter had not been enacted.

(d) Effect of chapter on suits commenced prior to effective date

Except as provided in subsection (f)—

(1) the provisions of this chapter shall not affect suits commenced prior to the date this chapter takes effect, and

(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this chapter had not been enacted.

(e) Abatement of suits, actions, or other proceedings by or against officer, department, or agency

No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, functions of which are transferred by this chapter, shall abate by reason of the enactment of this chapter. No cause of action by or against any department or agency, functions of which are transferred by this chapter, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this chapter. Causes of actions, suits, actions, or other proceedings may be asserted by or against the United States or such official as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter any order which will give effect to the provisions of this section.

(f) Continuation of suits; substitution of parties

If, before the date on which this chapter takes effect, any department or agency, or officer thereof in his official capacity, is a party to a suit, and under this chapter any function of such department,

agency, or officer is transferred to the Administrator or Commission, or any other official, then such suit shall be continued as if this chapter had not been enacted, with the Administrator or Commission, or other official, as the case may be, substituted.

(g) Judicial review of orders and actions in performance of transferred functions; statutory requirements relating to notices, hearings, action upon record, or administrative review

Final orders and actions of any official or component in the performance of functions transferred by this chapter shall be subject to judicial review to the same extent and in the same manner as if such orders or actions had been made or taken by the officer, department, agency, or instrumentality in the performance of such functions immediately preceding the effective date of this chapter. Any statutory requirements relating to notices, hearings, action upon the record, or administrative review that apply to any function transferred by this chapter shall apply to the performance of those functions by the Administrator or Commission, or any officer or component.

(h) References in other laws to department, agency, officer, or office whose functions have been transferred deemed reference to Administration, Administrator, or Commission

With respect to any functions transferred by this chapter and performed after the effective date of this chapter, reference in any other law to any department or agency, or any officer or office, the functions of which are so transferred, shall be deemed to refer to the Administration, the Administrator or Commission, or other office or official in which this chapter vests such functions.

(i) Limitation, curtailment, etc., of presidential functions or authority

Nothing contained in this chapter shall be construed to limit, curtail, abolish, or terminate any function of the President which he had immediately before the effective date of this chapter; or to limit, curtail, abolish, or terminate his authority to perform such function; or to limit, curtail, abolish, or terminate his authority to delegate, redelegate, or terminate any delegation of functions.

(j) References in chapter to provision of law deemed to include references thereto as amended or supplemented

Any reference in this chapter to any provision of law shall be deemed to include, as appropriate, references thereto as now or hereafter amended or supplemented.

(k) Functions conferred by chapter deemed in addition to and not substitution for functions existing before effective date

Except as may be otherwise expressly provided in this chapter, all functions expressly conferred by this chapter shall be in addition to and not in substitution for functions existing immediately before the effective date of this chapter and transferred by this chapter.

(Pub. L. 93–438, title III, §301, Oct. 11, 1974, 88 Stat. 1248.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–438, Oct. 11, 1974, 88 Stat. 1233, which enacted this chapter, amended sections 5313 to 5316 of Title 5, Government Organization and Employees, repealed sections 2031 and 2032 of this title, and enacted provisions set out as notes under section 5801 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

References to "at the time this chapter takes effect" in subsec. (b)(2), "the date this chapter takes effect" in subsec. (d)(1), "date on which this chapter takes effect" in subsec. (f), and "the effective date of this chapter" in subsecs. (g), (h), (i), and (k), refer to the effective date of Pub. L. 93–438. See section 312 of Pub. L. 93–438, set out as an Effective Date; Interim Appointments note under section 5801 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Energy Research and Development Administration terminated and functions vested by law in Administrator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

For transfer of certain functions from Nuclear Regulatory Commission to Chairman thereof, see Reorg. Plan No. 1 of 1980, 45 F.R. 40561, 94 Stat. 3585, set out as a note under section 5841 of this title.

§5872. Transfer of personnel

(a) Provisions of law applicable

Except as provided in the next sentence, the personnel employed in connection with, and the personnel positions, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with the functions and programs transferred by this chapter, are, subject to section 1531 of title 31, correspondingly transferred for appropriate allocation. Personnel positions expressly created by law, personnel occupying those positions on the effective date of this chapter, and personnel authorized to receive compensation at the rate prescribed for offices and positions at levels II, III, IV, or V of the Executive Schedule (5 U.S.C. 5313–5316) on the effective date of this chapter shall be subject to the provisions of subsection (c) of this section and section 5871 of this title.

(b) Prohibition against separation or reduction in grade or compensation for one year after transfer

Except as provided in subsection (c), transfer of nontemporary personnel pursuant to this chapter shall not cause any such employee to be separated or reduced in grade or compensation for one year after such transfer.

(c) Compensation in new position at not less than rate provided for previous position

Any person who, on the effective date of this chapter, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, and who, without a break in service, is appointed in the Administration to a position having duties comparable to those performed immediately preceding his appointment shall continue to be compensated in his new position at not less than the rate provided for his previous position.

(Pub. L. 93–438, title III, §302, Oct. 11, 1974, 88 Stat. 1250.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original "this Act", meaning Pub. L. 93–438, Oct. 11, 1974, 88 Stat. 1233, known as the Energy Reorganization Act of 1974, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

The effective date of this chapter, referred to in subsecs. (a) and (c), refers to the effective date of Pub. L. 93–438. See section 312 of Pub. L. 93–438, set out as an Effective Date; Interim Appointments note under section 5801 of this title.

CODIFICATION

In subsec. (a), "section 1531 of title 31" substituted for "section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c)" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Energy Research and Development Administration terminated and functions vested by law in Administrator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§5873. Director of Office of Management and Budget; power to make dispositions

The Director of the Office of Management and Budget is authorized to make such additional incidental dispositions of personnel, personnel positions, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to or to be made available in connection with functions transferred by this chapter, as he may deem necessary or appropriate to accomplish the intent and purpose of this chapter.

(Pub. L. 93–438, title III, §303, Oct. 11, 1974, 88 Stat. 1250.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–438, Oct. 11, 1974, 88 Stat. 1233, known as the Energy Reorganization Act of 1974, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

§5874. Definitions

As used in this chapter—

(1) any reference to "function" or "functions" shall be deemed to include references to duty, obligation, power, authority, responsibility, right, privilege, and activity, or the plural thereof, as the case may be; and

(2) any reference to "perform" or "performance", when used in relation to functions, shall be deemed to include the exercise of power, authority, rights, and privileges.

(Pub. L. 93–438, title III, §304, Oct. 11, 1974, 88 Stat. 1251.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–438, Oct. 11, 1974, 88 Stat. 1233, known as the Energy Reorganization Act of 1974, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

§5875. Authorization of appropriations

(a) Except as otherwise provided by law, appropriations made under this chapter shall be subject to annual authorization.

(b) Authorization of appropriations to the Commission shall reflect the need for effective licensing and other regulation of the nuclear power industry in relation to the growth of such industry.

(Pub. L. 93–438, title III, §305, Oct. 11, 1974, 88 Stat. 1251.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 93–438, Oct. 11, 1974, 88 Stat. 1233, known as the Energy Reorganization Act of 1974, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

For transfer of certain functions from Nuclear Regulatory Commission to Chairman thereof, see Reorg. Plan No. 1 of 1980, 45 F.R. 40561, 94 Stat. 3585, set out as a note under section 5841 of this title.

§5876. Comptroller General audit

(a) Section 166 of the Atomic Energy Act of 1954, as amended [42 U.S.C. 2206], shall be deemed to be applicable, respectively, to the nuclear and nonnuclear activities under subchapter I and to the activities under subchapter II.

(b) The Comptroller General of the United States shall audit, review, and evaluate the implementation of the provisions of subchapter II of this chapter by the Nuclear Safety and Licensing Commission not later than sixty months after the effective date of this chapter, the Comptroller General shall prepare and submit to the Congress a report on his audit, which shall contain, but not be limited to—

(1) an evaluation of the effectiveness of the licensing and related regulatory activities of the Commission and the operations of the Office of Nuclear Safety Research and the Bureau of Nuclear Materials Security;

(2) an evaluation of the effect of such Commission activities on the efficiency, effectiveness, and safety with which the activities licensed under the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.], are carried out;

(3) recommendations concerning any legislation he deems necessary, and the reasons therefor, for improving the implementation of subchapter II.

(Pub. L. 93–438, title III, §306, Oct. 11, 1974, 88 Stat. 1251.)

EDITORIAL NOTES

REFERENCES IN TEXT

The effective date of this chapter, referred to in subsec. (b), is the effective date of Pub. L. 93–438. See section 312 of Pub. L. 93–438, set out as an Effective Date; Interim Appointments note under section 5801 of this title.

The Atomic Energy Act of 1954, as amended, referred to in subsec. (b)(2), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

For transfer of certain functions from Nuclear Regulatory Commission to Chairman thereof, see Reorg. Plan No. 1 of 1980, 45 F.R. 40561, 94 Stat. 3585, set out as a note under section 5841 of this title.

§5877. Reports to President for submission to Congress

(a) Report by Administrator on activities of Administration

The Administrator shall, as soon as practicable after the end of each fiscal year, make a report to the President for submission to the Congress on the activities of the Administration during the preceding fiscal year. Such report shall include a statement of the short-range and long-range goals, priorities, and plans of the Administration together with an assessment of the progress made toward the attainment of those objectives and toward the more effective and efficient management of the Administration and the coordination of its functions.

(b) Review of desirability and feasibility of transferring functions of Administrator respecting military application and restricted data to Department of Defense or other Federal agencies; report by Administrator

During the first year of operation of the Administration, the Administrator, in collaboration with the Secretary of Defense, shall conduct a thorough review of the desirability and feasibility of transferring to the Department of Defense or other Federal agencies the functions of the Administrator respecting military application and restricted data, and within one year after the Administrator first takes office the Administrator shall make a report to the President, for submission to the Congress, setting forth his comprehensive analysis, the principal alternatives, and the specific recommendations of the Administrator and the Secretary of Defense.

(c) Report by Commission on activities of Commission

The Commission shall, as soon as practicable after the end of each fiscal year, make a report to the President for submission to the Congress on the activities of the Commission during the preceding fiscal year. Such report shall include a clear statement of the short-range and long-range goals, priorities, and plans of the Commission as they relate to the benefits, costs, and risks of commercial nuclear power. Such report shall also include a clear description of the Commission's activities and findings in the following areas—

(1) insuring the safe design of nuclear powerplants and other licensed facilities;

(2) investigating abnormal occurrences and defects in nuclear powerplants and other licensed facilities;

(3) safeguarding special nuclear materials at all stages of the nuclear fuel cycle;

(4) investigating suspected, attempted, or actual thefts of special nuclear materials in the licensed sector and developing contingency plans for dealing with such incidents;

(5) insuring the safe, permanent disposal of high-level radioactive wastes through the licensing of nuclear activities and facilities;

(6) protecting the public against the hazards of low-level radioactive emissions from licensed nuclear activities and facilities.

(Pub. L. 93–438, title III, §307, Oct. 11, 1974, 88 Stat. 1251.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (c) of this section relating to submission of annual report 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 10th item on page 186 of House Document No. 103–7.

TRANSFER OF FUNCTIONS

Energy Research and Development Administration terminated and functions vested by law in Administrator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

DESCRIPTION IN REPORT RESPECTING DECONTAMINATION, ETC., COLLABORATIVE EFFORTS AT THREE MILE ISLAND UNIT 2

Pub. L. 97–415, §10(c), Jan. 4, 1983, 96 Stat. 2071, directed the Nuclear Regulatory Commission to include in its annual report to Congress under subsec. (c) of this section as a separate chapter a description of the collaborative efforts by the Commission and the Department of Energy with respect to the decontamination,

cleanup, repair, or rehabilitation of facilities at Three Mile Island Unit 2.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

For transfer of certain functions from Nuclear Regulatory Commission to Chairman thereof, see Reorg. Plan No. 1 of 1980, 45 F.R. 40561, 94 Stat. 3585, set out as a note under section 5841 of this title.

§5878. Information to Congressional committees

The Administrator shall keep the appropriate congressional committees fully and currently informed with respect to all of the Administration's activities.

(Pub. L. 93–438, title III, §308, Oct. 11, 1974, 88 Stat. 1252.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Energy Research and Development Administration terminated and functions vested by law in Administrator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§5878a. Funding and encouragement of small business; information for inclusion in report

The Secretary of Energy shall,[1] include, in the report required by section 204(b) of the Department of Energy Act of 1978—Civilian Applications (42 U.S.C. 7256, note; 92 Stat. 60), information detailing the extent to which small business and nonprofit organizations are being funded by the nonnuclear research, development, and demonstration programs of the Secretary of Energy, and the extent to which small business involvement pursuant to section 5801(d) of this title is being encouraged by the Secretary of Energy.

(Pub. L. 94–187, title III, §308, Dec. 31, 1975, 89 Stat. 1074; Pub. L. 96–470, title II, §203(e), Oct. 19, 1980, 94 Stat. 2243.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 204(b) of the Department of Energy Act 1978—Civilian Applications (42 U.S.C. 7256, note; 92 Stat. 60), referred to in text, is section 204(b) of Pub. L. 95–238, title II, Feb. 25, 1978, 92 Stat. 59, which is set out as a note under section 7256 of this title.

CODIFICATION

Section was not enacted as a part of the Energy Reorganization Act of 1974 which comprises this chapter.

AMENDMENTS

1980—Pub. L. 96–470 substituted "include, in the report required by section 204(b) of the Department of Energy Act of 1978—Civilian Applications, information" for "by June 30, 1976, and by the end of each fiscal year thereafter, submit a report to the Committee on Science and Technology of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate" and "Secretary of Energy" for "Administrator" wherever appearing.

[1] *So in original. The comma probably should not appear.*

§5879. Transfer of funds

The Administrator, when authorized in an appropriation Act, may, in any fiscal year, transfer funds from one appropriation to another within the Administration; except, that no appropriation shall be either increased or decreased pursuant to this section by more than 5 per centum of the appropriation for such fiscal year.

(Pub. L. 93–438, title III, §309, Oct. 11, 1974, 88 Stat. 1252.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Energy Research and Development Administration terminated and functions vested by law in Administrator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

SUBCHAPTER IV—SEX DISCRIMINATION

§5891. Sex discrimination prohibited

No person shall on the ground of sex be excluded from participation in, be denied a license under, be denied the benefits of, or be subjected to discrimination under any program or activity carried on or receiving Federal assistance under any subchapter of this chapter. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.]. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee.

(Pub. L. 93–438, title IV, §401, Oct. 11, 1974, 88 Stat. 1254.)

EDITORIAL NOTES

REFERENCES IN TEXT

Any subchapter of this chapter, referred to in text, was in the original "any title of this Act", meaning Pub. L. 93–438, Oct. 11, 1974, 88 Stat. 1233, which enacted this chapter, amended sections 5313 to 5316 of Title 5, Government Organization and Employees, repealed sections 2031 and 2032 of this title, and enacted provisions set out as notes under section 5801 of this title.

The Civil Rights Act of 1964, referred to in text, is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. 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.

CHAPTER 74—NONNUCLEAR ENERGY RESEARCH AND DEVELOPMENT

Sec.

5901. Congressional statement of findings.
5902. Congressional declaration of policy and purpose; implementation and administration of program by Secretary of Energy.
5903. Duties and authorities of the Secretary.
5903a. Nonduplication of programs, projects, and research facilities.
5903b. Environmental and safety research, development, and demonstration program.

5903c. Moneys received by Secretary from fossil energy activity; payment into Treasury; reports to House and Senate Committees.
5903d. Clean coal technology projects; proposals, implementation, funding, etc.
5904. Research, development, and demonstration program governing principles.
5905. Comprehensive planning and programming.
5906. Federal assistance and participation in programs.
5907. Demonstration projects.
5907a. Small grant program.
5908. Patents and inventions.
5909. Relationship to antitrust laws.
5910. Repealed.
5911. Acquisition of essential materials.
5912. Water resource assessments.
5913. Evaluation by National Institute of Standards and Technology of energy-related inventions prior to awarding of grants by Secretary; promulgation of regulations.
5914. Omitted.
5915. Authorization of appropriations.
5915a. Expiration of initial authorization to construct fossil energy demonstration plants.
5916. Central source of nonnuclear energy information.
5917 to 5920. Repealed.

§5901. Congressional statement of findings

The Congress hereby finds that—

(a) The Nation is suffering from a shortage of environmentally acceptable forms of energy.

(b) Compounding this energy shortage is our past and present failure to formulate a comprehensive and aggressive research and development program designed to make available to American consumers our large domestic energy reserves including fossil fuels, nuclear fuels, geothermal resources, solar energy, and other forms of energy. This failure is partially because the unconventional energy technologies have not been judged to be economically competitive with traditional energy technologies.

(c) The urgency of the Nation's energy challenge will require commitments similar to those undertaken in the Manhattan and Apollo projects; it will require that the Nation undertake a research, development, and demonstration program in nonnuclear energy technologies with a total Federal investment which may reach or exceed $20,000,000,000 over the next decade.

(d) In undertaking such program, full advantage must be taken of the existing technical and managerial expertise in the various energy fields within Federal agencies and particularly in the private sector.

(e) The Nation's future energy needs can be met if a national commitment is made now to dedicate the necessary financial resources, to enlist our scientific and technological capabilities, and to accord the proper priority to developing new nonnuclear energy options to serve national needs, conserve vital resources, and protect the environment.

(Pub. L. 93–577, §2, Dec. 31, 1974, 88 Stat. 1879.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 93–577, §1(a), as added Pub. L. 109–58, title X, §1009(b)(1), Aug. 8, 2005, 119 Stat. 934, provided that: "This Act [enacting this chapter] may be cited as the 'Federal Nonnuclear Energy Research and Development Act of 1974'."

DEFINITIONS

Pub. L. 93–577, §1(b), as added Pub. L. 109–58, title X, §1009(b)(1), Aug. 8, 2005, 119 Stat. 934, provided that: "In this Act [enacting this chapter]:

"(1) The term 'Department' means the Department of Energy.
"(2) The term 'Secretary' means the Secretary of Energy."

§5902. Congressional declaration of policy and purpose; implementation and administration of program by Secretary of Energy

(a) It is the policy of the Congress to develop on an urgent basis the technological capabilities to support the broadest range of energy policy options through conservation and use of domestic resources by socially and environmentally acceptable means.

(b)(1) The Congress declares the purpose of this chapter to be to establish and vigorously conduct a comprehensive, national program of basic and applied research and development, including but not limited to demonstrations of practical applications, of all potentially beneficial energy sources and utilization technologies, within the Department.

(2) In carrying out this program, the Secretary shall be governed by the terms of this chapter and other applicable provisions of law with respect to all nonnuclear aspects of the research, development, and demonstration program; and the policies and provisions of the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.], and other provisions of law shall continue to apply to the nuclear research, development, and demonstration program.

(3) In implementing and conducting the research, development, and demonstration programs pursuant to this chapter, the Secretary shall incorporate programs in specific nonnuclear technologies previously enacted into law, including those established by the Solar Heating and Cooling Demonstration Act of 1974 (Public Law 93–409) [42 U.S.C. 5501 et seq.], the Geothermal Energy Research, Development, and Demonstration Act of 1974 (Public Law 93–410),[1] and the Solar Energy Research, Development, and Demonstration Act of 1974 (Public Law 93–473).[1]

(Pub. L. 93–577, §3, Dec. 31, 1974, 88 Stat. 1879; Pub. L. 109–58, title X, §1009(b)(2), Aug. 8, 2005, 119 Stat. 934.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in subsec. (b)(2), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

The Solar Heating and Cooling Demonstration Act of 1974, referred to in subsec. (b)(3), is Pub. L. 93–409, Sept. 3, 1974, 88 Stat. 1069, which is classified generally to subchapter I (§5501 et seq.) of chapter 71 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5501 of this title and Tables.

The Geothermal Energy Research, Development, and Demonstration Act of 1974 (Public Law 93–410), referred to in subsec. (b)(3), was classified generally to chapter 24 (§1101 et seq.) of Title 30, Mineral Lands and Mining, prior to repeal by Pub. L. 116–260, div. Z, title III, §3002(i)(3), Dec. 27, 2020, 134 Stat. 2495.

The Solar Energy Research, Development, and Demonstration Act of 1974 (Public Law 93–473), referred to in subsec. (b)(3), was classified generally to subchapter II (§5551 et seq.) of chapter 71 of this title, prior to repeal by Pub. L. 116–260, div. Z, title III, §3006(e)(1), Dec. 27, 2020, 134 Stat. 2513.

AMENDMENTS

2005—Subsec. (b)(1). Pub. L. 109–58, §1009(b)(2)(A), substituted "Department" for "Energy Research and Development Administration".

Subsec. (b)(2). Pub. L. 109–58, §1009(b)(2)(B), substituted "Secretary" for "Administrator of the Energy Research and Development Administration (hereinafter in this chapter referred to as the 'Administrator')".

Subsec. (b)(3). Pub. L. 109–58, §1009(b)(2)(C), substituted "Secretary" for "Administrator" and inserted "Demonstration" after "Cooling".

[1] *See References in Text note below.*

§5903. Duties and authorities of the Secretary

The Secretary shall—

(a) review the current status of nonnuclear energy resources and current nonnuclear energy research and development activities, including research and development being conducted by Federal and non-Federal entities;

(b) formulate and carry out a comprehensive Federal nonnuclear energy research, development, and demonstration program which will expeditiously advance the policies established by this chapter and other relevant legislation establishing programs in specific energy technologies;

(c) utilize the funds authorized pursuant to this chapter to advance energy research and development by initiating and maintaining, through fund transfers, grants, or contracts, energy research, development and demonstration programs or activities utilizing the facilities, capabilities, expertise, and experience of Federal agencies, national laboratories, universities, nonprofit organizations, industrial entities, and other non-Federal entities which are appropriate to each type of research, development, and demonstration activity;

(d) establish procedures for periodic consultation with representatives of science, industry, environmental organizations, consumers, and other groups who have special expertise in the areas of energy research, development, and technology; and

(e) initiate programs to design, construct, and operate energy facilities of sufficient size to demonstrate the technical and economic feasibility of utilizing various forms of nonnuclear energy.

(Pub. L. 93–577, §4, Dec. 31, 1974, 88 Stat. 1880; Pub. L. 109–58, title X, §1009(b)(3), Aug. 8, 2005, 119 Stat. 934.)

EDITORIAL NOTES

AMENDMENTS

2005—Pub. L. 109–58 added section catchline, struck out former catchline, and substituted "Secretary" for "Administrator" in introductory provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CLASSIFICATION OF RECIPIENTS OF AWARDS, CONTRACTS, OR OTHER FINANCIAL ARRANGEMENTS; REPORTING REQUIREMENT

Pub. L. 95–39, title I, §111, June 3, 1977, 91 Stat. 186, provided that:

"(a) The Administrator [now Secretary of Energy] shall classify each recipient of any award, contract, or other financial arrangement in any nonnuclear research, development, or demonstration category as—

"(1) a Federal agency,

"(2) a non-Federal governmental entity,

"(3) a profitmaking enterprise (indicating whether or not it is a small business concern),

"(4) a nonprofit enterprise other than an educational institution, or

"(5) a nonprofit educational institution.

"(b) The information required by subsection (a), along with the dollar amount of each award, contract, or other financial arrangement made, shall be included as an appendix to the annual report required by section 15(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 ([former] 42 U.S.C. 5914): *Provided*, That small purchases or contracts of less than $10,000, which are excepted from the requirements of advertising by section 252(c)(3) of [former] title 41, United States Code, shall be exempt from the reporting requirements of this section."

§5903a. Nonduplication of programs, projects, and research facilities

The Secretary shall coordinate nonnuclear programs of the Department of Energy with the heads

of relevant Federal agencies in order to minimize unnecessary duplication of programs, projects, and research facilities.

(Pub. L. 94–187, title III, §309, Dec. 31, 1975, 89 Stat. 1074; Pub. L. 95–91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607.)

EDITORIAL NOTES

CODIFICATION

Section was not enacted as a part of the Federal Nonnuclear Energy Research and Development Act of 1974 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Secretary", meaning Secretary of Energy, substituted in text for "Administrator", meaning Administrator of Energy Research and Development Administration, and "Department of Energy" substituted in text for "Administration" pursuant to sections 301(a), 703, and 707 of Pub. L. 95–91, which are classified to sections 7151(a), 7293, and 7297 of this title and which terminated Energy Research and Development Administration and transferred its functions and functions of Administrator thereof (with certain exceptions) to Secretary of Energy.

§5903b. Environmental and safety research, development, and demonstration program

The Secretary shall conduct an environmental and safety research, development, and demonstration program related to fossil fuels.

(Pub. L. 94–187, title III, §316, Dec. 31, 1975, 89 Stat. 1077; Pub. L. 95–91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607.)

EDITORIAL NOTES

CODIFICATION

Section was not enacted as a part of the Federal Nonnuclear Energy Research and Development Act of 1974 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Secretary", meaning Secretary of Energy, substituted in text for "Administrator", meaning Administrator of Energy Research and Development Administration, pursuant to sections 301(a), 703, and 707 of Pub. L. 95–91, which are classified to sections 7151(a), 7293, and 7297 of this title and which terminated Energy Research and Development Administration and transferred its functions and functions of Administrator thereof (with certain exceptions) to Secretary of Energy.

§5903c. Moneys received by Secretary from fossil energy activity; payment into Treasury; reports to House and Senate Committees

All moneys received by the Secretary from any fossil energy activity shall be paid into the Treasury to the credit of miscellaneous receipts, except that on December 1 of each year the Secretary shall provide to the Committee on Science, Space, and Technology of the House of

Representatives and the Committee on Energy and Natural Resources of the Senate a report of all such receipts for the preceding fiscal year, including, but not limited to, the amount and source of such revenues and the program and subprogram activity generating such revenues.

(Pub. L. 95–39, title I, §106, June 3, 1977, 91 Stat. 184; Pub. L. 95–91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607; Pub. L. 103–437, §15(c)(8), Nov. 2, 1994, 108 Stat. 4592.)

EDITORIAL NOTES

CODIFICATION

Section was not enacted as part of the Federal Nonnuclear Energy Research and Development Act of 1974 which comprises this chapter.

AMENDMENTS

1994—Pub. L. 103–437 substituted "Committee on Science, Space, and Technology" for "Committee on Science and Technology".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Secretary", meaning Secretary of Energy, substituted in text for "Administrator", meaning Administrator of Energy Research and Development Administration, pursuant to sections 301(a), 703, and 707 of Pub. L. 95–91, which are classified to sections 7151(a), 7293, and 7297 of this title and which terminated Energy Research and Development Administration and transferred its functions and functions of Administrator thereof (with certain exceptions) to Secretary of Energy.

§5903d. Clean coal technology projects; proposals, implementation, funding, etc.

Within 60 days following December 19, 1985, the Secretary of Energy shall, pursuant to the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901, et seq.), issue a general request for proposals for clean coal technology projects for which the Secretary of Energy upon review may provide financial assistance awards. Proposals for clean coal technology projects under this section shall be submitted to the Department of Energy within 60 days after issuance of the general request for proposals. The Secretary of Energy shall make any project selections no later than August 1, 1986: *Provided*, That the Secretary may vest fee title or other property interests acquired under cost-shared clean coal technology agreements in any entity, including the United States: *Provided further*, That the Secretary shall not finance more than 50 per centum of the total costs of a project as estimated by the Secretary as of the date of award of financial assistance: *Provided further*, That cost-sharing by project sponsors is required in each of the design, construction, and operating phases proposed to be included in a project: *Provided further*, That financial assistance for costs in excess of those estimated as of the date of award of original financial assistance may not be provided in excess of the proportion of costs borne by the Government in the original agreement and only up to 25 per centum of the original financial assistance: *Provided further*, That revenues or royalties from prospective operation of projects beyond the time considered in the award of financial assistance, or proceeds from prospective sale of the assets of the project, or revenues or royalties from replication of technology in future projects or plants are not cost-sharing for the purposes of this appropriation: *Provided further*, That other appropriated Federal funds are not cost-sharing for the purposes of this appropriation: *Provided further*, That existing facilities, equipment, and supplies, or previously expended research or development funds are not cost-sharing for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice.

(Pub. L. 99–190, §101(d) [title II, §201], Dec. 19, 1985, 99 Stat. 1224, 1251.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Nonnuclear Energy Research and Development Act of 1974, referred to in text, is Pub. L. 93–577, Dec. 31, 1974, 88 Stat. 1878, which is classified generally to this chapter (§5901 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 5901 of this title and Tables.

CODIFICATION

Section was not enacted as part of the Federal Nonnuclear Energy Research and Development Act of 1974 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

PROVISIONS RELATING TO PROJECTS USING CLEAN COAL TECHNOLOGIES

Provisions relating to projects using clean coal technologies were contained in the following appropriations acts:

Pub. L. 102–154, title II, Nov. 13, 1991, 105 Stat. 1019; Pub. L. 103–211, title II, Feb. 12, 1994, 108 Stat. 18.

Pub. L. 101–512, title II, Nov. 5, 1990, 104 Stat. 1944; Pub. L. 103–211, title II, Feb. 12, 1994, 108 Stat. 18.

Pub. L. 101–121, title II, Oct. 23, 1989, 103 Stat. 728.

Pub. L. 100–446, title II, Sept. 27, 1988, 102 Stat. 1811.

Pub. L. 100–202, §101(g) [title II], Dec. 22, 1987, 101 Stat. 1329–213, 1329–240.

Pub. L. 99–500, §101(h) [title II], Oct. 18, 1986, 100 Stat. 1783–242, 1783–272, and Pub. L. 99–591, §101(h) [title II], Oct. 30, 1986, 100 Stat. 3341–242, 3341–272.

§5904. Research, development, and demonstration program governing principles

(a) The Congress authorizes and directs that the comprehensive program in research, development, and demonstration required by this chapter shall be designed and executed according to the following principles:

(1) Energy conservation shall be a primary consideration in the design and implementation of the Federal nonnuclear energy program. For the purposes of this chapter, energy conservation means both improvement in efficiency of energy production and use, and reduction in energy waste.

(2) The environmental and social consequences of a proposed program shall be analyzed and considered in evaluating its potential.

(3) Any program for the development of a technology which may require significant consumptive use of water after the technology has reached the stage of commercial application shall include thorough consideration of the impacts of such technology and use on water resources pursuant to the provisions of section 5912 of this title.

(4) Heavy emphasis shall be given to those technologies which utilize renewable or essentially inexhaustible energy sources.

(5) The potential for production of net energy by the proposed technology at the stage of commercial application shall be analyzed and considered in evaluating proposals.

(b) The Congress further directs that the execution of the comprehensive research, development, and demonstration program shall conform to the following principles:

(1) Research and development of nonnuclear energy sources shall be pursued in such a way as to facilitate the commercial availability of adequate supplies of energy to all regions of the United States.

(2) In determining the appropriateness of Federal involvement in any particular research and development undertaking, the Secretary shall give consideration to the extent to which the proposed undertaking satisfies criteria including, but not limited to, the following:

(A) The urgency of public need for the potential results of the research, development, or demonstration effort is high, and it is unlikely that similar results would be achieved in a timely manner in the absence of Federal assistance.

(B) The potential opportunities for non-Federal interests to recapture the investment in the undertaking through the normal commercial utilization of proprietary knowledge appear inadequate to encourage timely results.

(C) The extent of the problems treated and the objectives sought by the undertaking are national or widespread in their significance.

(D) There are limited opportunities to induce non-Federal support of the undertaking through regulatory actions, end use controls, tax and price incentives, public education, or other alternatives to direct Federal financial assistance.

(E) The degree of risk of loss of investment inherent in the research is high, and the availability or risk capital to the non-Federal entities which might otherwise engage in the field of the research is inadequate for the timely development of the technology.

(F) The magnitude of the investment appears to exceed the financial capabilities of potential non-Federal participants in the research to support effective efforts.

(Pub. L. 93–577, §5, Dec. 31, 1974, 88 Stat. 1880; Pub. L. 95–91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Secretary", meaning Secretary of Energy, substituted in text for "Administrator", meaning Administrator of Energy Research and Development Administration, pursuant to sections 301(a), 703, and 707 of Pub. L. 95–91, which are classified to sections 7151(a), 7293, and 7297 of this title and which terminated Energy Research and Development Administration and transferred its functions and functions of Administrator thereof (with certain exceptions) to Secretary of Energy.

NATIONAL ALCOHOL FUELS COMMISSION

Pub. L. 95–599, title I, §170, Nov. 6, 1978, 92 Stat. 2724, as amended by Pub. L. 96–106, §20, Nov. 9, 1979, 93 Stat. 799, established the National Alcohol Fuels Commission, directed the Commission to make a full and complete investigation and study of the long- and short-term potential for alcohol fuels, from biomass (including but not limited to, animal, crop and wood waste, municipal and industrial waste, sewage sludge, and ocean and terrestrial crops) and coal, to contribute to meeting the Nation's energy needs, and provided that, not later than eighteen months after being established, the Commission submit to the President and the Congress its final report including its recommendations and findings, with the Commission to cease to exist six months after submission of such report.

§5905. Comprehensive planning and programming

(a) Pursuant to the authority and directions of this chapter and the Energy Reorganization Act of 1974 (Public Law 93–438) [42 U.S.C. 5801 et seq.], the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), and titles XX through XXIII of the Energy Policy Act of 1992 [42 U.S.C. 13401 et seq., 13451 et seq., 13501 et seq., 13521 et seq.], the Secretary, in consultation with the Advisory Board established under section 2302 of the Energy Policy Act of 1992 [42 U.S.C. 13522], shall transmit to the Congress, on or before June 30, 1975, a comprehensive plan for energy research, development, and demonstration. This plan shall be appropriately revised annually as provided in section 5914(a) [1] of this title. Such plan shall be designed to achieve—

(1) solutions to immediate and short-term (the period up to 5 years after submission of the plan or its annual revision) energy supply system and associated environmental problems;

(2) solutions to middle-term (the period from 5 years to 10 years after submission of the plan or its annual revision) energy supply system and associated environmental problems; and

(3) solutions to long-term (the period beyond 10 years after submission of the plan or its annual revision) energy supply system and associated environmental problems.

(b)(1) Based on the comprehensive energy research, development, and demonstration plan developed under subsection (a), the Secretary, in consultation with the Advisory Board established under section 2302 of the Energy Policy Act of 1992 [42 U.S.C. 13522], shall develop and transmit to the Congress, on or before June 30, 1975, a comprehensive nonnuclear energy research, development, and demonstration program to implement the nonnuclear research, development, and demonstration aspects of the comprehensive plan. Such program shall be updated and transmitted to the Congress annually as part of the report required under section 5914 [1] of this title.

(2) This program shall be designed to achieve solutions to the energy supply and associated environmental problems in the immediate and short-term, middle-term, and long-term time intervals described in subsection (a)(1) through (3). In formulating the nonnuclear aspects of this program, the Secretary, in consultation with the Advisory Board established under section 2302 of the Energy Policy Act of 1992 [42 U.S.C. 13522], shall evaluate the economic, environmental, and technological merits of each aspect of the program.

(3) The Secretary shall assign program elements and activities in specific nonnuclear energy technologies, to the short-term, middle-term, and long-term time intervals, and shall present full and complete justification for these assignments and the degree of emphasis for each. These program elements and activities shall include, but not be limited to, research, development, and demonstrations designed—

(A) to advance energy conservation technologies, including but not limited to—

(i) productive use of waste, including garbage, sewage, agricultural wastes, and industrial waste heat;

(ii) reuse and recycling of materials and consumer products;

(iii) improvements in automobile design for increased efficiency and lowered emissions, including investigation of the full range of alternatives to the internal combustion engine and systems of efficient public transportation; and

(iv) advanced urban and architectural design to promote efficient energy use in the residential and commercial sectors, improvements in home design and insulation technologies, small thermal storage units and increased efficiency in electrical appliances and lighting fixtures;

(B) to accelerate the commercial demonstration of technologies for producing low-sulfur fuels suitable for boiler use;

(C) to demonstrate improved methods for the generation, storage, and transmission of electrical energy through (i) advances in gas turbine technologies, combined power cycles, the use of low British thermal unit gas and, if practicable, magnetohydrodynamics; (ii) storage systems to allow more efficient load following, including the use of inertial energy storage systems; and (iii) improvement in cryogenic transmission methods;

(D) to accelerate the commercial demonstration of technologies for producing substitutes for natural gas, including coal gasification: *Provided,* That the Secretary shall invite and consider proposals from potential participants based upon Federal assistance and participation in the form of a joint Federal-industry corporation, and recommendations pursuant to this clause shall be accompanied by a report on the viability of using this form of Federal assistance or participation;

(E) to accelerate the commercial demonstration of technologies for producing syncrude and liquid petroleum products from coal: *Provided,* That the Secretary shall invite and consider proposals from potential participants based upon Federal assistance and participation through guaranteed prices or purchase of the products, and recommendations pursuant to this clause shall be accompanied by a report on the viability of using this form of Federal assistance or participation;

(F) in accordance with the program authorized by the Geothermal Energy Research, Development, and Demonstration Act of 1974 (Public Law 93–410),[1] to accelerate the commercial demonstration of geothermal energy technologies;

(G) to demonstrate the production of syncrude from oil shale by all promising technologies including in situ technologies;

(H) to demonstrate new and improved methods for the extraction of petroleum resources, including secondary and tertiary recovery of crude oil;

(I) to demonstrate the economics and commercial viability of solar energy for residential and commercial energy supply applications in accordance with the program authorized by the Solar Heating and Cooling Demonstration Act of 1974 (Public Law 93–409); [1]

(J) to accelerate the commercial demonstration of environmental control systems for energy technologies developed pursuant to this chapter;

(K) to investigate the technical and economic feasibility of tidal power for supplying electrical energy;

(L) to determine the economics and commercial viability of the production of synthetic fuels such as hydrogen and methanol;

(M) to commercially demonstrate the use of fuel cells for central station electric power generation;

(N) to determine the economics and commercial viability of in situ coal gasification;

(O) to improve techniques for the management of existing energy systems by means of quality control; application of systems analysis, communications, and computer techniques; and public information with the objective of improving the reliability and efficiency of energy supplies and encourage the conservation of energy resources;

(P) to improve methods for the prevention and cleanup of marine oil spills;

(Q) to implement the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12001 et seq.); and

(R) to implement titles XX through XXIII of the Energy Policy Act of 1992 [42 U.S.C. 13401 et seq., 13451 et seq., 13501 et seq., 13521 et seq.].

(c) Based upon the comprehensive plan developed under subsection (a), the Secretary, in consultation with the Advisory Board established under section 2302 of the Energy Policy Act of 1992 [42 U.S.C. 13522], shall develop and transmit to the Congress, on or before September 1, 1978, a comprehensive environment and safety program to insure the full consideration and evaluation of all environmental, health, and safety impacts of each element, program, or initiative contained in the nuclear and nonnuclear energy research, development, and demonstration plans. Such program shall be updated and transmitted to the Congress annually as part of the report required under section 5914 [1] of this title.

(Pub. L. 93–577, §6, Dec. 31, 1974, 88 Stat. 1881; Pub. L. 95–238, title II, §206(a), Feb. 25, 1978, 92 Stat. 61; Pub. L. 102–486, title XXIII, §2303(a), Oct. 24, 1992, 106 Stat. 3092; Pub. L. 109–58, title X, §1009(b)(4), Aug. 8, 2005, 119 Stat. 935; Pub. L. 116–260, div. Z, title III, §3006(d), Dec. 27, 2020, 134 Stat. 2513.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Energy Reorganization Act of 1974, referred to in subsec. (a), is Pub. L. 93–438, Oct. 11, 1974, 88 Stat. 1233, which is classified principally to chapter 73 (§5801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

The Department of Energy Organization Act, referred to in subsec. (a), is Pub. L. 95–91, Aug. 4, 1977, 91 Stat. 565, which is classified principally to chapter 84 (§7101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

The Energy Policy Act of 1992, referred to in subsecs. (a) and (b)(3)(R), is Pub. L. 102–486, Oct. 24, 1992, 106 Stat. 2776. Titles XX through XXIII of the Act are classified generally to subchapters VIII (§13401 et seq.), IX (§13451 et seq.), X (§13501 et seq.), and XI (§13521 et seq.), respectively, of chapter 134 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 13201 of this title and Tables.

Section 5914 of this title, referred to in subsecs. (a), (b)(1), and (c), was omitted from the Code.

The Geothermal Energy Research, Development, and Demonstration Act of 1974 (Public Law 93–410), referred to in subsec. (b)(3)(F), was classified generally to chapter 24 (§1101 et seq.) of Title 30, Mineral

Lands and Mining, prior to repeal by Pub. L. 116–260, div. Z, title III, §3002(i)(3), Dec. 27, 2020, 134 Stat. 2495.

The Solar Heating and Cooling Demonstration Act of 1974, referred to in subsec. (b)(3)(I), is Pub. L. 93–409, Sept. 3, 1974, 88 Stat. 1069, was classified generally to subchapter I (§5501 et seq.) of chapter 71 of this title, prior to repeal by Pub. L. 116–260, div. Z, title III, §3006(e)(1), Dec. 27, 2020, 134 Stat. 2513.

The Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989, referred to in subsec. (b)(3)(Q), is Pub. L. 101–218, Dec. 11, 1989, 103 Stat. 1859, which is classified principally to chapter 125 (§12001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12001 of this title and Tables.

AMENDMENTS

2020—Subsec. (b)(3)(L) to (S). Pub. L. 116–260 redesignated subpars. (M) to (S) as (L) to (R), respectively, and struck out subpar. (L) which read as follows: "to commercially demonstrate advanced solar energy technologies in accordance with the Solar Energy Research, Development, and Demonstration Act of 1974 (Public Law 93–473);".

2005—Subsec. (b)(3). Pub. L. 109–58 substituted "Secretary" for "Administrator" in introductory provisions and subpars. (D) and (E) and inserted "Demonstration" after "Cooling" in subpar. (I) and "Energy" after "Solar" in subpar. (L).

1992—Subsec. (a). Pub. L. 102–486, §2303(a)(1)(A), substituted "the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), and titles XX through XXIII of the Energy Policy Act of 1992, the Secretary, in consultation with the Advisory Board established under section 2302 of the Energy Policy Act of 1992," for "the Administrator".

Subsec. (a)(1). Pub. L. 102–486, §2303(a)(1)(B), substituted "(the period up to 5 years after submission of the plan or its annual revision)" for "(to the early 1980's)".

Subsec. (a)(2). Pub. L. 102–486, §2303(a)(1)(C), substituted "(the period from 5 years to 10 years after submission of the plan or its annual revision)" for "(the early 1980's to 2000)".

Subsec. (a)(3). Pub. L. 102–486, §2303(a)(1)(D), substituted "(the period beyond 10 years after submission of the plan or its annual revision)" for "(beyond 2000)".

Subsec. (b)(1). Pub. L. 102–486, §2303(a)(2)(B), inserted at end "Such program shall be updated and transmitted to the Congress annually as part of the report required under section 5914 of this title."

Pub. L. 102–486, §2303(a)(2)(A), substituted "Secretary, in consultation with the Advisory Board established under section 2302 of the Energy Policy Act of 1992," for "Administrator".

Subsec. (b)(2). Pub. L. 102–486, §2303(a)(2)(C), substituted ", middle-term, and long-term time intervals described in subsection (a)(1) through (3)" for "(to the early 1980's), middle-term (the early 1980's to 2000), and long-term (beyond 2000) time intervals".

Pub. L. 102–486, §2303(a)(2)(A), substituted "Secretary, in consultation with the Advisory Board established under section 2302 of the Energy Policy Act of 1992," for "Administrator".

Subsec. (b)(3). Pub. L. 102–486, §2303(a)(2)(D)–(F), added subpars. (R) and (S).

Subsec. (c). Pub. L. 102–486, §2303(a)(3)(B), inserted at end "Such program shall be updated and transmitted to the Congress annually as part of the report required under section 5914 of this title."

Pub. L. 102–486, §2303(a)(3)(A), substituted "Secretary, in consultation with the Advisory Board established under section 2302 of the Energy Policy Act of 1992," for "Administrator".

1978—Subsec. (c). Pub. L. 95–238 added subsec. (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

NONAPPLICABILITY OF TITLE II OF PUB. L. 95–238 TO ANY AUTHORIZATION OR APPROPRIATION FOR MILITARY APPLICATION OF NUCLEAR ENERGY, ETC.; DEFINITIONS

Nonapplicability of provisions of title II of Pub. L. 95–238 with respect to any authorization or appropriation for any military application of nuclear energy, etc., see section 209 of Pub. L. 95–238, set out as a note under section 5821 of this title.

[1] *See References in Text note below.*

§5906. Federal assistance and participation in programs

(a) Forms of activities authorized

In carrying out the objectives of this chapter, the Secretary may utilize various forms of Federal assistance and participation which may include but are not limited to—

(1) joint Federal-industry experimental, demonstration, or commercial corporations consistent with the provisions of subsection (b) of this section;

(2) contractual arrangements with non-Federal participants including corporations, consortia, universities, governmental entities and nonprofit institutions;

(3) contracts for the construction and operation of federally owned facilities;

(4) Federal purchases or guaranteed price of the products of demonstration plants or activities consistent with the provisions of subsection (c) of this section;

(5) Federal loans to non-Federal entities conducting demonstrations of new technologies;

(6) incentives, including financial awards, to individual inventors, such incentives to be designed to encourage the participation of a large number of such inventors; and

(7) Federal loan guarantees and commitments thereof as provided in section 5919 [1] of this title.

(b) Proposed joint Federal-industry corporations; operational guidelines; powers, duties, and functions; composition; scope of Federal assistance and participation; specific authorization

Joint Federal-industry corporations proposed for congressional authorization pursuant to this chapter shall be subject to the provisions of section 5908 of this title and shall conform to the following guidelines except as otherwise authorized by Congress:

(1) Each such corporation may design, construct, operate, and maintain one or more experimental, demonstration, or commercial-size facilities, or other operations which will ascertain the technical, environmental, and economic feasibility of a particular energy technology. In carrying out this function, the corporation shall be empowered, either directly or by contract, to utilize commercially available technologies, perform tests, or design, construct, and operate pilot plants, as may be necessary for the design of the full-scale facility.

(2) Each corporation shall have—

(A) a Board of nine directors consisting of individuals who are citizens of the United States, of whom one shall be elected annually by the Board to serve as Chairman. The Board shall be empowered to adopt and amend bylaws. Five members of the Board shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and four members of the Board shall be appointed by the President on the basis of recommendations received by him from any non-Federal entity or entities entering into contractual arrangements to participate in the corporation;

(B) a President and such other officers and employees as may be named and appointed by the Board (with the rates of compensation of all officers and employees being fixed by the Board); and

(C) the usual powers conferred upon corporations by the laws of the District of Columbia.

(3) An appropriate time interval, not to exceed 12 years, shall be established for the term of Federal participation in the corporation, at the expiration of which the Board of Directors shall take such action as may be necessary to dissolve the corporation or otherwise terminate Federal participation and financial interests. In carrying out such dissolution, the Board of Directors shall dispose of all physical facilities of the corporation in such manner and subject to such terms and conditions as the Board determines are in the public interest and consistent with existing law; and a share of the appraised value of the corporate assets proportional to the Federal participation in the corporation, including the proceeds from the disposition of such facilities, on the date of its dissolution, after satisfaction of all its legal obligations, shall be made available to the United States and deposited in the Treasury of the United States as miscellaneous receipts. All patent rights of the corporation shall, on such date of dissolution, be vested in the Secretary: *Provided*, That Federal participation may be terminated prior to the time established in the authorizing Act upon recommendation of the Board of Directors.

(4) Any commercially valuable product produced by demonstration facilities shall be disposed of in such manner and under such terms and conditions as the corporation shall prescribe. All revenues received by the corporation from the sale of such products shall be available to the corporation for use by it in defraying expenses incurred in connection with carrying out its functions to which this chapter applies.

(5) The estimated Federal share of the construction, operation, and maintenance cost over the life of each corporation shall be determined in order to facilitate a single congressional authorization of the full amount at the time of establishment of the corporation.

(6) The Federal share of the cost of each such corporation shall reflect (A) the technical and economic risk of the venture, (B) the probability of any financial return to the non-Federal participants arising from the venture, (C) the financial capability of the potential non-Federal participants, and (D) such other factors as the Secretary may set forth in proposing the corporation: *Provided*, That in no instance shall the Federal share exceed 90 per centum of the cost.

(7) No such corporation shall be established unless previously authorized by specific legislation enacted by the Congress.

(c) Proposed competitive systems of price supports for demonstration facilities; guidelines

Competitive systems of price supports proposed for congressional authorization pursuant to this chapter shall conform to the following guidelines:

(1) The Secretary shall determine the types and capacities of the desired full-scale, commercial-size facility or other operation which would demonstrate the technical, environmental, and economic feasibility of a particular nonnuclear energy technology.

(2) The Secretary may award planning grants for the purpose of financing a study of the full cycle economic and environmental costs associated with the demonstration facility selected pursuant to paragraph (1) of this subsection. Such planning grants may be awarded to Federal and non-Federal entities including, but not limited to, industrial entities, universities, and nonprofit organizations. Such planning grants may also be used by the grantee to prepare a detailed and comprehensive bid to construct the demonstration facility.

(3) Following the completion of the studies pursuant to the planning grants awarded under paragraph (2) of this subsection regarding each such potential price supported demonstration facility for which the Secretary intends to request congressional authorization, he shall invite bids from all interested parties to determine the minimum amount of Federal price support needed to construct the demonstration facility. The Secretary may designate one or more competing entities, each to construct one commercial demonstration facility. Such designation shall be made on the basis of those entities, (A) commitment to construct the demonstration facility at the minimum level of Federal price supports, (B) detailed plan of environmental protection, and (C) proposed design and operation of the demonstration facility.

(4) The construction plans and actual construction of the demonstration facility, together with all related facilities, shall be monitored by the Environmental Protection Agency. If additional environmental requirements are imposed by the Secretary after the designation of the successful bidders and if such additional environmental requirements result in additional costs, the Secretary is authorized to renegotiate the support price to cover such additional costs.

(5) The estimated amount of the Federal price support for a demonstration facility's product over the life of such facility shall be determined by the Secretary to facilitate a single congressional authorization of the full amount of such support at the time of the designation of the successful bidders.

(6) No price support program shall be implemented unless previously authorized by specific legislation enacted by the Congress.

(d) Support for joint university-industry research efforts

Nothing in this section shall preclude Federal participation in, and support for, joint university-industry nonnuclear energy research efforts.

(Pub. L. 93–577, §7, Dec. 31, 1974, 88 Stat. 1883; Pub. L. 95–238, title II, §207(a), Feb. 25, 1978,

92 Stat. 61; Pub. L. 99–386, title I, §104(a), Aug. 22, 1986, 100 Stat. 821; Pub. L. 109–58, title X, §1009(b)(5), Aug. 8, 2005, 119 Stat. 935.)

EDITORIAL NOTES

CODIFICATION

Section 5919 of this title, referred to in subsec. (a)(7), was in the original "section 19" and has been editorially translated as section 5919 of this title which related to loan guarantees prior to repeal by Pub. L. 109–58, title X, §1009(b)(12), Aug. 8, 2005, 119 Stat. 936, to reflect the probable intent of Congress, notwithstanding enactment of another section 19 which was classified to section 5918 of this title and related to organizational conflicts prior to repeal by Pub. L. 104–106, div. D, title XLIII, §4304(b)(5), Feb. 10, 1996, 110 Stat. 664.

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–58, §1009(b)(5)(A), substituted "Secretary" for "Administrator" in introductory provisions.

Subsec. (a)(4). Pub. L. 109–58, §1009(b)(5)(B), substituted "of this section" for "of the section".

Subsecs. (b), (c). Pub. L. 109–58, §1009(b)(5)(A), substituted "Secretary" for "Administrator" wherever appearing.

1986—Subsec. (b)(7). Pub. L. 99–386 struck out subpar. (A) which related to submission of a report by Secretary to House and Senate, prior to establishment of any joint Federal-industry corporation pursuant to this chapter, setting forth in detail consistency of establishment of corporation with this section and section 5904 of this title, and proposed purpose and activities of corporation, and struck out subpar. (B) designation.

1978—Subsec. (a)(7). Pub. L. 95–238 added par. (7).

STATUTORY NOTES AND RELATED SUBSIDIARIES

NONAPPLICABILITY OF TITLE II OF PUB. L. 95–238 TO ANY AUTHORIZATION OR APPROPRIATION FOR MILITARY APPLICATION OF NUCLEAR ENERGY, ETC.; DEFINITIONS

Nonapplicability of provisions of title II of Pub. L. 95–238 with respect to any authorization or appropriation for any military application of nuclear energy, etc., see section 209 of Pub. L. 95–238, set out as a note under section 5821 of this title.

PRICE-SUPPORT PROGRAM TO DEMONSTRATE MUNICIPAL SOLID WASTE REPROCESSING FOR PRODUCTION OF FUELS AND ENERGY INTENSIVE PRODUCTS

Pub. L. 95–39, title I, §107, June 3, 1977, 91 Stat. 185, authorized Administrator, subject to the appropriation of funds pursuant to section 101(7)(I) of Pub. L. 95–39, to establish and implement, under subsection (a)(4) of this section and in accordance with subsection (c) of this section, a price-support program to demonstrate municipal solid waste reprocessing for production of fuels and energy intensive products, with Administrator, prior to entering into any contract for such demonstration, to submit to Congress a full and complete report on the proposed commercial demonstration facility and the necessary project demonstration guarantees, and provided that such contract could not be finalized prior to the expiration of ninety calendar days (not including any day on which either House of Congress was not in session because of an adjournment of more than three calendar days to a day certain) from the date on which such report was received.

[1] *See Codification note below.*

§5907. Demonstration projects

(a) Scope of authority of Secretary

The Secretary is authorized to—

(1) identify opportunities to accelerate the commercial applications of new energy technologies, and provide Federal assistance for or participation in demonstration projects (including pilot plants demonstrating technological advances and field demonstrations of new methods and procedures,

and demonstrations of prototype commercial applications for the exploration, development, production, transportation, conversion, and utilization of energy resources); and

(2) enter into cooperative agreements with non-Federal entities to demonstrate the technical feasibility and economic potential of energy technologies on a prototype or full-scale basis.

(b) Criteria applicable in reviewing potential projects

In reviewing potential projects, the Secretary shall consider criteria including but not limited to—

(1) the anticipated, research, development, and application objectives to be achieved by the activities or facilities proposed;

(2) the economic, environmental, and societal significance which a successful demonstration may have for the national fuels and energy system;

(3) the relationship of the proposal to the criteria of priority set forth in section 5904(b)(2) of this title;

(4) the availability of non-Federal participants to construct and operate the facilities or perform the activities associated with the proposal and to contribute to the financing of the proposal;

(5) the total estimated cost including the Federal investment and the probable time schedule;

(6) the proposed participants and the proposed financial contributions of the Federal Government and of the non-Federal participants; and

(7) the proposed cooperative arrangement, agreements among the participants, and form of management of the activities.

(c) Federal and non-Federal share of costs

(1) A financial award under this section may be made only to the extent of the Federal share of the estimated total design and construction costs, plus operation and maintenance costs.

(2) For the purposes of this chapter the non-Federal share may be in any form, including, but not limited to, lands or interests therein needed for the project or personal property or services, the value of which shall be determined by the Secretary.

(d) Regulations

(1) The Administrator of the Energy Research and Development Administration shall, within six months of December 31, 1974, promulgate regulations establishing procedures for submission of proposals to the Energy Research and Development Administration for the purposes of this chapter. Such regulations shall establish a procedure for selection of proposals which—

(A) provides that projects will be carried out under such conditions and varying circumstances as will assist in solving energy extraction, transportation, conversion, conservation, and end-use problems of various areas and regions, under representative geological, geographic, and environmental conditions; and

(B) provides time schedules for submission of, and action on, proposal requests for the purposes of implementing the goals and objectives of this chapter.

(2) Such regulations also shall specify the types and form of the information, data, and support documentation that are to be contained in proposals for each form of Federal assistance or participation set forth in section 5906(a) of this title: *Provided*, That such proposals to the extent possible shall include, but not be limited to—

(A) specification of the technology;

(B) description of prior pilot plant operating experience with the technology;

(C) preliminary design of the demonstration plant;

(D) time tables containing proposed construction and operation plans;

(E) budget-type estimates of construction and operating costs;

(F) description and proof of title to land for proposed site, natural resources, electricity and water supply and logistical information related to access to raw materials to construct and operate the plant and to dispose of salable products produced from the plant;

(G) analysis of the environmental impact of the proposed plant and plans for disposal of wastes resulting from the operation of the plant;

(H) plans for commercial use of the technology if the demonstration is successful;

(I) plans for continued use of the plant if the demonstration is successful; and

(J) plans for dismantling of the plant if the demonstration is unsuccessful or otherwise abandoned.

(3) The Secretary shall from time to time review and, as appropriate, modify and repromulgate regulations issued pursuant to this section.

(e) Amount of estimate of Federal investment requiring Congressional authorization for appropriation

If the estimate of the Federal investment with respect to construction costs of any demonstration project proposed to be established under this section exceeds $50,000,000, no amount may be appropriated for such project except as specifically authorized by legislation hereafter enacted by the Congress.

(f) Amount of estimated Federal contribution; necessity for report

If the total estimated amount of the Federal contribution to the construction cost of a demonstration project does not exceed $50,000,000, the Secretary is authorized to proceed with the negotiation of agreements and implementation of the proposal subject to the availability of funds under the authorization of appropriations pursuant to section 5915 of this title: *Provided*, That if such Federal contribution to the construction cost is estimated to exceed $25,000,000 the Secretary shall provide a full and comprehensive report on the proposed demonstration project to the appropriate committees of the Congress and no funds may be expended for any agreement under the authority granted by this section prior to the expiration of sixty calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which the Secretary's report on the proposed project is received by the Congress. Such reports shall contain an analysis of the extent to which the proposed demonstration satisfies the criteria specified in subsection (b) of this section.

(Pub. L. 93–577, §8, Dec. 31, 1974, 88 Stat. 1886; Pub. L. 109–58, title X, §1009(b)(6), Aug. 8, 2005, 119 Stat. 935.)

EDITORIAL NOTES

AMENDMENTS

2005—Subsecs. (a), (b), (c)(2). Pub. L. 109–58, §1009(b)(6)(A), substituted "Secretary" for "Administrator" in introductory provisions of subsecs. (a) and (b) and in par. (2) of subsec. (c).

Subsec. (d)(1). Pub. L. 109–58, §1009(b)(6)(B)(i), substituted "Administrator of the Energy Research and Development Administration" for "Administrator" in introductory provisions.

Subsec. (d)(3). Pub. L. 109–58, §1009(b)(6)(B)(ii), substituted "Secretary" for "Administrator".

Subsec. (f). Pub. L. 109–58, §1009(b)(6)(C), substituted "Secretary" for "Administrator" in two places and "Secretary's" for "Administrator's".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration, referred to in subsec. (d)(1), was terminated and all of its functions and the functions of its Administrator were transferred (with certain exceptions) to the Secretary of Energy. See sections 301(a), 703, and 707 of Pub. L. 95–91, which are classified to sections 7151(a), 7293, and 7297 of this title.

REPORT TO CONGRESS ON ENVIRONMENTAL, MONITORING, ASSESSMENT, AND CONTROL EFFORTS REQUIRED FOR DEMONSTRATION PROJECTS; SUBMISSION TO CONGRESS BY DECEMBER 3, 1977

Pub. L. 95–39, title I, §113, June 3, 1977, 91 Stat. 187, directed Administrator of Energy Research and Development Administration, in consultation with Administrator of Environmental Protection Agency, to

submit a report to Congress six months after June 3, 1977, on the environmental monitoring, assessment, and control efforts, relating to environment, safety, and health, which are required to successfully demonstrate any project which is subject to subsecs. (e) and (f) of this section and is authorized by this Act or any prior Act.

§5907a. Small grant program

(a) Establishment

There shall be established within the Department of Energy a program for appropriate technology under the direction of the Secretary. The Secretary shall develop and implement a program of small grants for the purpose of encouraging development and demonstration projects described in subsection (c) of this section.

(b) Limitation

The aggregate amount of financial support made available to any participant in such program, including affiliates, under this section shall not exceed $50,000 during any two-year period.

(c) Systems and technologies to be developed and demonstrated

Funds made available under this section shall be used to provide for a coordinated and expanded effort for the development and demonstration of, and the dissemination of information with respect to, energy-related systems and supporting technologies appropriate to—

(1) the needs of local communities and the enhancement of community self-reliance through the use of available resources;

(2) the use of renewable resources and the conservation of nonrenewable resources;

(3) the use of existing technologies applied to novel situations and uses;

(4) applications which are energy-conserving, environmentally sound, small scale, durable and low cost; and

(5) applications which demonstrate simplicity of installation, operation and maintenance.

(d) Eligible participants; simplified application procedures; report to Secretary; allocation criteria; guidelines

(1) Grants, agreements or contracts under this section may be made to individuals, local nonprofit organizations and institutions, State and local agencies, Indian tribes and small businesses. The Secretary shall develop simplified procedures with respect to application for support under this section.

(2) Each grant, agreement or contract under this section shall be governed by the provisions of section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 [42 U.S.C. 5908] and shall contain effective provisions under which the Secretary shall receive a full written report of activities supported in whole or in part by funds made available by the Secretary; and

(3) In determining the allocation of funds among applicants for support under this section the Secretary may take into consideration:

(A) the potential for energy savings or energy production;

(B) the type of fuel saved or produced;

(C) the potential impact on local or regional energy or environmental problems; and

(D) such other criteria as the Secretary finds necessary to achieve the purposes of this Act or the purposes of the Federal Nonnuclear Energy Research and Development Act of 1974 [42 U.S.C. 5901 et seq.].

Guidelines implementing this section shall be promulgated with full opportunity for public comment.

(e) Reports to Congress

The Secretary shall—

(1) prepare and submit no later than October 1, 1977, a detailed report on plans for implementation, including the timing of implementation, of the provisions of this section to the

Committee on Energy and Natural Resources of the Senate and the Committee on Science and Technology of the House of Representatives and shall keep such committees fully and currently informed concerning the development of such plans; and

(2) include as a part of the annual report required by section 15(a)(1) [1] of the Federal Nonnuclear Energy Research and Development Act of 1974 beginning in 1977, a full and complete report on the program under this section.

(Pub. L. 95–39, title I, §112, June 3, 1977, 91 Stat. 186; Pub. L. 95–91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (d)(3)(D), means Pub. L. 95–39, June 3, 1977, 91 Stat. 180, which to the extent classified to the Code enacted sections 5816a, 5817a, 5903c, 5907a, 5915a, 5918, and 7001 to 7011 of this title, amended sections 5813, 5818, and 5912 of this title, and enacted provisions set out as notes under sections 5906, 5907, 5914, and 7001 of this title. For complete classification of this Act to the Code, see Tables.

The Federal Nonnuclear Energy Research and Development Act of 1974, referred to in subsec. (d)(3)(D), is Pub. L. 93–577, Dec. 31, 1974, 88 Stat. 1878, which is classified generally to this chapter (§5901 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 5901 of this title and Tables.

Section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974, referred to in subsec. (e)(2), was classified to section 5914 of this title and was omitted from the Code.

CODIFICATION

Section was not enacted as part of the Federal Nonnuclear Energy Research and Development Act of 1974 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Science and Technology of House of Representatives changed to Committee on Science, Space, and Technology of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

TRANSFER OF FUNCTIONS

"Secretary", meaning Secretary of Energy, substituted for "Administrator", "Administration", and "Assistant Administrator for Conservation and Development", meaning Energy Research and Development Administration and Administrator thereof, in subsecs. (a), (d), and (e) and "Department of Energy" substituted for "Administration" in subsec. (a) pursuant to sections 301(a), 703, and 707 of Pub. L. 95–91, which are classified to sections 7151(a), 7293, and 7297 of this title and which terminated Energy Research and Development Administration and transferred its functions and functions of Administrator thereof (with certain exceptions) to Secretary of Energy.

[1] *See References in Text note below.*

§5908. Patents and inventions

(a) Vesting of title to invention and issuance of patents to United States; prerequisites

Whenever any invention is made or conceived in the course of or under any contract of the Department, other than nuclear energy research, development, and demonstration pursuant to the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) and the Secretary determines that—

(1) the person who made the invention was employed or assigned to perform research, development, or demonstration work and the invention is related to the work he was employed or

assigned to perform, or that it was within the scope of his employment duties, whether or not it was made during working hours, or with a contribution by the Government of the use of Government facilities, equipment, materials, allocated funds, information proprietary to the Government, or services of Government employees during working hours; or

(2) the person who made the invention was not employed or assigned to perform research, development, or demonstration work, but the invention is nevertheless related to the contract or to the work or duties he was employed or assigned to perform, and was made during working hours, or with a contribution from the Government of the sort referred to in clause (1).[1]

title to such invention shall vest in the United States, and if patents on such invention are issued they shall be issued to the United States, unless in particular circumstances the Secretary waives all or any part of the rights of the United States to such invention in conformity with the provisions of this section.

(b) Contract as requiring report to Department of invention, etc., made in course of contract

Each contract entered into by the Department with any person shall contain effective provisions under which such person shall furnish promptly to the Department a written report containing full and complete technical information concerning any invention, discovery, improvement, or innovation which may be made in the course of or under such contract.

(c) Waiver by Secretary of rights of United States; regulations prescribing procedures; record of waiver determinations; objectives

Under such regulations in conformity with the provisions of this section as the Secretary shall prescribe, the Secretary may waive all or any part of the rights of the United States under this section with respect to any invention or class of inventions made or which may be made by any person or class of persons in the course of or under any contract of the Department if he determines that the interests of the United States and the general public will be best served by such waiver. The Department shall maintain a publicly available, periodically updated record of waiver determinations. In making such determinations, the Secretary shall have the following objectives:

(1) Making the benefits of the energy research, development, and demonstration program widely available to the public in the shortest practicable time.

(2) Promoting the commercial utilization of such inventions.

(3) Encouraging participation by private persons in the Department's energy research, development, and demonstration program.

(4) Fostering competition and preventing undue market concentration or the creation or maintenance of other situations inconsistent with the antitrust laws.

(d) Considerations applicable at time of contracting for waiver determination by Secretary

In determining whether a waiver to the contractor at the time of contracting will best serve the interests of the United States and the general public, the Secretary shall specifically include as considerations—

(1) the extent to which the participation of the contractor will expedite the attainment of the purposes of the program;

(2) the extent to which a waiver of all or any part of such rights in any or all fields of technology is needed to secure the participation of the particular contractor;

(3) the extent to which the contractor's commercial position may expedite utilization of the research, development, and demonstration program results;

(4) the extent to which the Government has contributed to the field of technology to be funded under the contract;

(5) the purpose and nature of the contract, including the intended use of the results developed thereunder;

(6) the extent to which the contractor has made or will make substantial investment of financial resources or technology developed at the contractor's private expense which will directly benefit the work to be performed under the contract;

(7) the extent to which the field of technology to be funded under the contract has been developed at the contractor's private expense;

(8) the extent to which the Government intends to further develop to the point of commercial utilization the results of the contract effort;

(9) the extent to which the contract objectives are concerned with the public health, public safety, or public welfare;

(10) the likely effect of the waiver on competition and market concentration; and

(11) in the case of a nonprofit educational institution, the extent to which such institution has a technology transfer capability and program, approved by the Secretary as being consistent with the applicable policies of this section.

(e) Considerations applicable to identified invention for waiver determination by Secretary

In determining whether a waiver to the contractor or inventor or rights to an identified invention will best serve the interests of the United States and the general public, the Secretary shall specifically include as considerations paragraphs (4) through (11) of subsection (d) as applied to the invention and—

(1) the extent to which such waiver is a reasonable and necessary incentive to call forth private risk capital for the development and commercialization of the invention; and

(2) the extent to which the plans, intentions, and ability of the contractor or inventor will obtain expeditious commercialization of such invention.

(f) Rights subject to reservation where title to invention vested in United States

Whenever title to an invention is vested in the United States, there may be reserved to the contractor or inventor—

(1) a revocable or irrevocable nonexclusive, paid-up license for the practice of the invention throughout the world; and

(2) the rights to such invention in any foreign country where the United States has elected not to secure patent rights and the contractor elects to do so, subject to the rights set forth in paragraphs (2), (3), (6), and (7) of subsection (h): *Provided*, That when specifically requested by the Department and three years after issuance of such a patent, the contractor shall submit the report specified in subsection (h)(1) of this section.

(g) to (i) Repealed. Pub. L. 96–517, §7(c), Dec. 12, 1980, 94 Stat. 3027

(j) Small business status of applicant for waiver or licenses

The Secretary shall, in granting waivers or licenses, consider the small business status of the applicant.

(k) Protection of invention, etc., rights by Secretary

The Secretary is authorized to take all suitable and necessary steps to protect any invention or discovery to which the United States holds title, and to require that contractors or persons who acquire rights to inventions under this section protect such inventions.

(l) Department as defense agency of United States for purpose of maintaining secrecy of inventions

The Department shall be considered a defense agency of the United States for the purpose of chapter 17 of title 35.

(m) Definitions

As used in this section—

(1) the term "person" means any individual, partnership, corporation, association, institution, or other entity;

(2) the term "contract" means any contract, grant, agreement, understanding, or other arrangement, which includes research, development, or demonstration work, and includes any assignment, substitution of parties, or subcontract executed or entered into thereunder;

(3) the term "made", when used in relation to any invention, means the conception or first actual

reduction to practice of such invention;

(4) the term "invention" means inventions or discoveries, whether patented or unpatented; and

(5) the term "contractor" means any person having a contract with or on behalf of the Department.

(n) Report concerning applicability of existing patent policies to energy programs; time for submission to President and appropriate congressional committees

Within twelve months after December 31, 1974, the Secretary with the participation of the Attorney General, the Secretary of Commerce, and other officials as the President may designate, shall submit to the President and the appropriate congressional committees a report concerning the applicability of existing patent policies affecting the programs under this chapter, along with his recommendations for amendments or additions to the statutory patent policy, including his recommendations on mandatory licensing, which he deems advisable for carrying out the purposes of this chapter.

(Pub. L. 93–577, §9, Dec. 31, 1974, 88 Stat. 1887; Pub. L. 96–517, §7(c), Dec. 12, 1980, 94 Stat. 3027; Pub. L. 109–58, title X, §1009(b)(7), Aug. 8, 2005, 119 Stat. 935.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in subsec. (a), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–58, §1009(b)(7)(B), substituted "Secretary" for "Administrator" in introductory and concluding provisions.

Pub. L. 109–58, §1009(b)(7)(A), substituted "Department" for "Administration" in introductory provisions.

Subsec. (b). Pub. L. 109–58, §1009(b)(7)(A), substituted "Department" for "Administration" in two places.

Subsec. (c). Pub. L. 109–58, §1009(b)(7)(B), substituted "Secretary" for "Administrator" wherever appearing in introductory provisions.

Pub. L. 109–58, §1009(b)(7)(A), substituted "Department" for "Administration" in two places in introductory provisions.

Subsec. (c)(3). Pub. L. 109–58, §1009(b)(7)(C), substituted "Department's" for "Administration's".

Subsec. (d). Pub. L. 109–58, §1009(b)(7)(B), substituted "Secretary" for "Administrator" in introductory provisions and par. (11).

Subsec. (e). Pub. L. 109–58, §1009(b)(7)(B), substituted "Secretary" for "Administrator" in introductory provisions.

Subsec. (f)(2). Pub. L. 109–58, §1009(b)(7)(A), substituted "Department" for "Administration".

Subsecs. (j), (k). Pub. L. 109–58, §1009(b)(7)(B), substituted "Secretary" for "Administrator".

Subsec. (l). Pub. L. 109–58, §1009(b)(7)(A), substituted "Department" for "Administration".

Subsec. (m)(5). Pub. L. 109–58, §1009(b)(7)(A), substituted "Department" for "Administration".

Subsec. (n). Pub. L. 109–58, §1009(b)(7)(B), substituted "Secretary with" for "Administrator with".

1980—Subsec. (g). Pub. L. 96–517 struck out subsec. (g) which related to licenses for inventions, promulgation of regulations specifying terms and conditions, criteria and procedures for grant of exclusive or partially exclusive licenses, and record of determinations.

Subsec. (h). Pub. L. 96–517 struck out subsec. (h) which related to required terms and conditions in waiver of rights or grant of exclusive or partially exclusive license.

Subsec. (i). Pub. L. 96–517 struck out subsec. (i) which related to publication in the Federal Register by the Administrator of waiver or license termination hearing requirements and availability of records.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–517 effective July 1, 1981, but implementing regulations authorized to be issued

earlier, see section 8(f) of Pub. L. 96–517, set out as a note under section 41 of Title 35, Patents.

[1] *So in original. Probably should be a comma.*

§5909. Relationship to antitrust laws

(a) Nothing in this chapter shall be deemed to convey to any individual, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

(b) As used in this section, the term "antitrust law" means—

(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

(2) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.) as amended;

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;

(4) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(Pub. L. 93–577, §10, Dec. 31, 1974, 88 Stat. 1891.)

EDITORIAL NOTES

REFERENCES IN TEXT

Act of July 2, 1890, referred to in subsec. (b)(1), is act July 2, 1890, ch. 647, 26 Stat. 209, known as the Sherman Act, which is classified to sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables.

Act of October 15, 1914, referred to in subsec. (b)(2), is act Oct. 15, 1914, ch. 323, 38 Stat. 730, known as the Clayton Act, which is classified generally to sections 12, 13, 14 to 19, 21, and 22 to 27 of Title 15, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables.

The Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended, referred to in subsec. (b)(3), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of Title 15. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

Act of June 19, 1936, chapter 592, referred to in subsec. (b)(5), is act June 19, 1936, ch. 592, 49 Stat. 1526, popularly known as the Robinson-Patman Antidiscrimination Act and also as the Robinson-Patman Price Discrimination Act, which enacted sections 13a, 13b, and 21a of Title 15, Commerce and Trade, and amended section 13 of Title 15. For complete classification of this Act to the Code, see Short Title note set out under section 13 of Title 15 and Tables.

§5910. Repealed. Pub. L. 104–66, title II, §2021(i), Dec. 21, 1995, 109 Stat. 727

Section, Pub. L. 93–577, §11, Dec. 31, 1974, 88 Stat. 1892; Pub. L. 95–91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607; 1977 Reorg. Plan No. 1, §5E, 42 F.R. 56101, 91 Stat. 1634, related to environmental evaluations by Administrator of Environmental Protection Agency.

§5911. Acquisition of essential materials

(a) The President may, by rule or order, require the allocation of, or the performance under contracts or orders (other than contracts of employment) relating to, supplies of materials and equipment if he finds that—

(1) such supplies are scarce, critical, and essential to carry out the purposes of this chapter; and

(2) such supplies cannot reasonably be obtained without exercising the authority granted by this section.

(b) A rule or order under subsection (a) shall be considered to be a major rule subject to chapter 8 of title 5.

(Pub. L. 93–577, §12, Dec. 31, 1974, 88 Stat. 1892; Pub. L. 109–58, title X, §1009(b)(8), Aug. 8, 2005, 119 Stat. 935.)

EDITORIAL NOTES

AMENDMENTS

2005—Subsec. (b). Pub. L. 109–58 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "The President shall transmit any rule or order proposed under subsection (a) of this section (bearing an identification number) to each House of Congress on the date on which it is proposed. If such proposed rule or order is transmitted to the Congress such proposed rule or order shall take effect at the end of the first period of thirty calendar days of continuous session of Congress after the date on which such proposed rule or order is transmitted to it unless, between the date of transmittal and the end of the thirty day period, either House passes a resolution stating in substance that such House does not favor such a proposed rule or order."

§5912. Water resource assessments

(a) Assessments by Water Resources Council of water resource requirements and water supply availability for nonnuclear energy technologies; preparation requirements

The Water Resources Council shall undertake assessments of water resource requirements and water supply availability for any nonnuclear energy technology and any probable combinations of technologies which are the subject of Federal research and development efforts authorized by this chapter, and the commercial development of which could have significant impacts on water resources. In the preparation of its assessment, the Council shall—

(1) utilize to the maximum extent practicable data on water supply and demand available in the files of member agencies of the Council;

(2) collect and compile any additional data it deems necessary for complete and accurate assessments;

(3) give full consideration to the constraints upon availability imposed by treaty, compact, court decree, State water laws, and water rights granted pursuant to State and Federal law;

(4) assess the effects of development of such technology on water quality;

(5) include estimates of cost associated with production and management of the required water supply, and the cost of disposal of waste water generated by the proposed facility or process;

(6) assess the environmental, social, and economic impact of any change in use of currently utilized water resource that may be required by the proposed facility or process; and

(7) consult with the Council on Environmental Quality.

(b) Request by Secretary that Water Resources Council prepare assessment of availability of adequate water resources for proposed demonstration projects; report; publication

For any proposed demonstration project which may involve a significant impact on water resources, the Secretary shall, as a precondition of Federal assistance to that project, request the Water Resources Council to prepare an assessment of water requirements and availability for such project. A report on the assessment shall be published in the Federal Register for public review thirty days prior to the expenditure of Federal funds on the demonstration.

(c) Assessment by Water Resources Council of availability of adequate water resources as precondition for Federal assistance for commercial application of nonnuclear energy technologies

For any proposed Federal assistance for commercial application of energy technologies pursuant to this chapter, the Water Resource [1] Council shall, as a precondition of such Federal assistance, provide to the Secretary an assessment of the availability of adequate water resources for such commercial application and an evaluation of the environmental, social, and economic impacts of the dedication of water to such uses.

(d) Publication of reports of assessments and evaluations by Water Resources Council in Federal Register; public review and comments

Reports of assessments and evaluations prepared by the Council pursuant to subsections (a) and (c) shall be published in the Federal Register and at least ninety days shall be provided for public review and comment. Comments received shall accompany the reports when they are submitted to the Secretary and shall be available to the public.

(e) Inclusion of survey and analysis of regional and national water resource availability in biennial assessment by Water Resources Council

The Council shall include a broad survey and analysis of regional and national water resource availability for energy development in the biennial assessment required by section 1962a–1(a) of this title.

(f) Secretary as member of Water Resources Council

The Secretary shall, upon enactment of this subsection, be a member of the Council.

(Pub. L. 93–577, §13, Dec. 31, 1974, 88 Stat. 1893; Pub. L. 95–39, title I, §110, June 3, 1977, 91 Stat. 186; Pub. L. 109–58, title X, §1009(b)(9), Aug. 8, 2005, 119 Stat. 935.)

EDITORIAL NOTES

AMENDMENTS

2005—Subsecs. (b) to (d), (f). Pub. L. 109–58 substituted "Secretary" for "Administrator".

1977—Subsec. (a). Pub. L. 95–39, §110(1), substituted "The Water Resources Council" for "At the request of the Administrator, the Water Resources Council".

Subsec. (b). Pub. L. 95–39, §110(2), substituted "the Administrator shall, as a precondition of Federal assistance to that project, request the Water Resources Council to prepare an assessment of water requirements and availability for such project" for "the Administrator shall, as a precondition of Federal assistance to that project, prepare or have prepared an assessment of the availability of adequate water resources".

Subsec. (f). Pub. L. 95–39, §110(3), added subsec. (f).

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of Council on Environmental Quality and Office of Environmental Quality relating to evaluation provided for by section 5910 of this title transferred to Administrator of Environmental Protection Agency by Reorg. Plan No. 1 of 1977, §5E, 42 F.R. 56101, 91 Stat. 1634, set out in the Appendix to Title 5, Government Organization and Employees, effective Feb. 26, 1978, pursuant to Ex. Ord. No. 12040, Feb. 24, 1978, 43 F.R. 8097, formerly set out under section 5910 of this title.

[1] *So in original. Probably should be "Resources".*

§5913. Evaluation by National Institute of Standards and Technology of energy-related inventions prior to awarding of grants by Secretary; promulgation of regulations

The National Institute of Standards and Technology shall give particular attention to the evaluation of all promising energy-related inventions, particularly those submitted by individual

inventors and small companies for the purpose of obtaining direct grants from the Secretary. The National Institute of Standards and Technology is authorized to promulgate regulations in the furtherance of this section.

(Pub. L. 93–577, §14, Dec. 31, 1974, 88 Stat. 1894; Pub. L. 95–91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607; Pub. L. 100–418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433.)

EDITORIAL NOTES

AMENDMENTS

1988—Pub. L. 100–418 substituted "National Institute of Standards and Technology" for "National Bureau of Standards" in two places.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Secretary", meaning Secretary of Energy, substituted in text for "Administrator", meaning Administrator of Energy Research and Development Administration, pursuant to sections 301(a), 703, and 707 of Pub. L. 95–91, which are classified to sections 7151(a), 7293, and 7297 of this title and which terminated Energy Research and Development Administration and transferred its functions and functions of Administrator thereof (with certain exceptions) to Secretary of Energy.

§5914. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 93–577, §15, Dec. 31, 1974, 88 Stat. 1894; Pub. L. 95–91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607; Pub. L. 95–238, title II, §206(b), Feb. 25, 1978, 92 Stat. 61, which required the Secretary to submit annually to Congress a report detailing the activities carried out pursuant to this chapter during the preceding fiscal year, a detailed description of the comprehensive plan for nuclear and nonnuclear energy research, development, and demonstration then in effect under section 5905(a) of this title, a detailed description of the comprehensive nonnuclear research, development, and demonstration program then in effect under section 5905(b) of this title, and a detailed description of the environmental and safety research, development, and demonstration activities carried out and in progress and which provided that those reports would satisfy the reporting requirements of section 5877(a) of this title insofar as is concerned activities, goals, priorities, and plans of the Secretary pertaining to nonnuclear energy, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, set out as a note under section 1113 of Title 31, Money and Finance. See, also, the 20th item on page 86 of House Document No. 103–7.

§5915. Authorization of appropriations

There may be appropriated to the Secretary to carry out the purposes of this chapter such sums as may be authorized in annual authorization Acts.

(Pub. L. 93–577, §16, Dec. 31, 1974, 88 Stat. 1894; Pub. L. 109–58, title X, §1009(b)(10), Aug. 8, 2005, 119 Stat. 935.)

EDITORIAL NOTES

AMENDMENTS

2005—Pub. L. 109–58, in section catchline, substituted "Authorization of appropriations" for "Appropriation authorization", and in text, substituted "There may be appropriated to the Secretary" for "(a)

There may be appropriated to the Administrator" and struck out subsecs. (b) and (c), which related to amounts to be made available to the Council on Environmental Quality and the Water Resources Council and amounts which might be appropriated for demonstration projects.

STATUTORY NOTES AND RELATED SUBSIDIARIES

ALTERNATIVE FUELS PRODUCTION; ENERGY SECURITY RESERVE FUND

Pub. L. 96–126, title II, §201, Nov. 27, 1979, 93 Stat. 970, as amended by Pub. L. 99–190, §101(d) [title II, §201], Dec. 19, 1985, 99 Stat. 1224, 1255, provided that:

"In order to expedite the domestic development and production of alternative fuels and to reduce dependence on foreign supplies of energy resources by establishing such domestic production at maximum levels at the earliest time practicable, there is hereby established in the Treasury of the United States a special fund to be designated the 'Energy Security Reserve', to which is appropriated $19,000,000,000, to remain available until expended: *Provided*, That these funds shall be available for obligation only to stimulate domestic commercial production of alternative fuels and only to the extent provided in advance in appropriations Acts: *Provided further*, That of these funds $1,500,000,000 shall be available immediately to the Secretary of Energy to carry out the provisions of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended (42 U.S.C. 5901, et seq.), to remain available until expended, for the purchase or production by way of purchase commitments or price guarantees of alternative fuels: *Provided further*, That the Secretary shall immediately begin the contract process for purchases of, or commitments to purchase, or to resell alternative fuels to the extent of appropriations provided herein: *Provided further*, That of these funds an additional $708,000,000 shall be available immediately to the Secretary of Energy, to remain available until expended, to support preliminary alternative fuels commercialization activities under the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, of which (1) not to exceed $100,000,000 shall be available for project development feasibility studies, such individual awards not to exceed $4,000,000: *Provided*, That the Secretary may require repayment of such funds where studies determine that such project proposals have economic or technical feasibility; (2) not to exceed $100,000,000 shall be available for cooperative agreements with non-Federal entities, such individual agreements not to exceed $25,000,000 to support commercial scale development of alternative fuel facilities; (3) not to exceed $500,000,000 shall be available for a reserve to cover any defaults from loan guarantees issued to finance the construction of alternative fuels production facilities as authorized by the Federal Nonnuclear Energy Research and Development Act of 1974, as amended: *Provided*, That the indebtedness guaranteed or committed to be guaranteed under this appropriation shall not exceed the aggregate of $1,500,000,000; and (4) not to exceed $8,000,000 shall be available for program management.

"This Act [Pub. L. 96–126] shall be deemed to satisfy the requirements for congressional action pursuant to sections 7(c) and 19 of said Act [section 5906(c) and former section 5919 of this title] with respect to any purchase commitment, price guarantee, or loan guarantee for which funds appropriated hereby are utilized or obligated.

"For the purposes of this appropriation the term 'alternative fuels', means gaseous, liquid, or solid fuels and chemical feedstocks derived from coal, shale, tar sands, lignite, peat, biomass, solid waste, unconventional natural gas, and other minerals or organic materials other than crude oil or any derivative thereof.

"Within ninety days following enactment of this Act [Nov. 27, 1979], the Secretary of Energy in his sole discretion shall issue a solicitation for applications which shall include criteria for project development feasibility studies described in this account.

"Loan guarantees for oil shale facilities issued under this appropriation may be used to finance construction of full-sized commercial facilities without regard to the proviso in section 19(b)(1) of said Act [former section 5919(b)(1) of this title] requiring the prior demonstration of a modular facility.

"In any case in which the Government, under the provisions of this appropriation, accepts delivery of and does not resell any alternative fuels, such fuels shall be used by an appropriate Federal agency. Such Federal agency shall pay into the reserve the market price, as determined by the Secretary, for such fuels from sums appropriated to such Federal agency for the purchase of fuels. The Secretary shall pay the contractor, from sums appropriated herein, the contract price for such fuels.

"All amounts received by the Secretary under this appropriation, including fees, any other monies, property, or assets derived by the Secretary from operations under this appropriation shall be deposited in the reserve.

"All payments for obligations and appropriate expenses (including reimbursements to other Government accounts), pursuant to operations of the Secretary under this appropriation shall be paid from the reserve subject to appropriations.

"For the establishment in the Treasury of the United States of a special fund to be designated the 'Solar and

Conservation Reserve', $1,000,000,000 to remain available until expended: *Provided*, That these funds shall be available for obligation only to stimulate solar energy and conservation: *Provided further*, That the withdrawal of said funds shall be subject to the passage of authorizing legislation and only to the extent provided in advance in appropriations Acts."

Additional provisions relating to appropriations for the Energy Security Reserve Fund, purposes for which the Fund is available, and administrative provisions for the Fund and alternative fuels production were contained in the following appropriation Acts:

Pub. L. 98–369, div. B, title I, §2103, July 18, 1984, 98 Stat. 1058.

Pub. L. 97–100, title II, Dec. 23, 1981, 95 Stat. 1407.

Pub. L. 97–12, title I, June 5, 1981, 95 Stat. 48.

Pub. L. 96–369, §121, Oct. 1, 1980, 94 Stat. 1357.

Pub. L. 96–304, title I, July 8, 1980, 94 Stat. 880–882, as amended Pub. L. 96–514, title II, Dec. 12, 1980, 94 Stat. 2974.

§5915a. Expiration of initial authorization to construct fossil energy demonstration plants

Notwithstanding any other applicable provision of law, the initial authorization in this Act or any other Act heretofore or hereafter enacted to construct, pursuant to section 5907 of this title, any fossil energy demonstration plant shall expire at the end of the three full fiscal years following the date of enactment of such authorization, unless (1) funds to construct each such plant are appropriated or otherwise provided pursuant to applicable law prior thereto, or (2) such authorization period is extended by specific Act of Congress hereafter enacted.

(Pub. L. 95–39, title I, §105, June 3, 1977, 91 Stat. 184.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 95–39, June 3, 1977, 91 Stat. 180. The provisions of this Act relating to an initial authorization for construction pursuant to section 5907 of this title are not classified to the Code.

CODIFICATION

Section was not enacted as part of the Federal Nonnuclear Energy Research and Development Act of 1974 which comprises this chapter.

§5916. Central source of nonnuclear energy information

The Secretary shall promptly establish, develop, acquire, and maintain a central source of information on all energy resources and technology in furtherance of the research, development, and demonstration mission carried out directly or indirectly under this chapter. When the Secretary determines that such information is needed to carry out the purposes of this chapter, the Secretary may acquire proprietary and other information (a) by purchase through negotiation or by donation from any person, or (b) from another Federal agency. The information maintained by the Secretary shall be made available to the public, subject to the provisions of section 552 of title 5 and section 1905 of title 18, and to other Government agencies in a manner that will facilitate its dissemination: *Provided*, That upon a showing satisfactory to the Secretary by any person that any information, or portion thereof, obtained under this section by the Secretary directly or indirectly from such person, would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Secretary shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18: *Provided further*, That the Secretary shall, upon request, provide such information to (A) any delegate of the Secretary for the purpose of carrying out this chapter, and (B) the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, the Federal Trade Commission, the Environmental Protection Agency, the Federal Energy Regulatory Commission [1]

the Government Accountability Office, other Federal agencies, when necessary to carry out their duties and responsibilities under this chapter and other statutes, but such agencies and agency heads shall not release such information to the public. This section is not authority to withhold information from Congress or any committee of Congress upon request of the chairman or ranking minority member.

(Pub. L. 93–577, §17, as added Pub. L. 94–187, title III, §312, Dec. 31, 1975, 89 Stat. 1075; amended Pub. L. 109–58, title X, §1009(b)(11), Aug. 8, 2005, 119 Stat. 936.)

EDITORIAL NOTES

AMENDMENTS

2005—Pub. L. 109–58, §1009(b)(11)(A)–(C), (D)(ii), (E), substituted "Secretary shall" for "Administrator shall" wherever appearing, "research, development, and demonstration" for "Administrator's research, development, and demonstration", "Secretary determines" for "Administrator determines", "the Secretary may acquire" for "he may acquire", "Secretary by" for "Administrator by", "Secretary directly" for "Administrator directly", "Secretary for" for "Administrator for", "the Federal Energy Regulatory Commission" for "the Federal Power Commission,", and "Government Accountability Office" for "General Accounting Office", struck out "the Federal Energy Administration," after "the Federal Trade Commission,", and inserted "or ranking minority member" before period at end.

Pub. L. 109–58, §1009(b)(11)(D)(i), which directed the substitution of "section 1905 of title 18" for "section 1905 or title 18", could not be executed because "section 1905 or title 18" does not appear in text.

[1] So in original. Probably should be followed by a comma.

§5917. Repealed. Pub. L. 109–58, title X, §1009(b)(12), Aug. 8, 2005, 119 Stat. 936

Section, Pub. L. 93–577, §18, as added Pub. L. 94–187, title III, §313, Dec. 31, 1975, 89 Stat. 1075; amended Pub. L. 95–91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607, related to energy information.

§5918. Repealed. Pub. L. 104–106, div. D, title XLIII, §4304(b)(5), Feb. 10, 1996, 110 Stat. 664

Section, Pub. L. 93–577, §19, as added Pub. L. 95–39, title IV, §401, June 3, 1977, 91 Stat. 190; amended Pub. L. 95–91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607, related to organizational conflicts.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

For effective date and applicability of repeal, see section 4401 of Pub. L. 104–106, set out as an Effective Date of 1996 Amendment note under section 2220 of Title 10, Armed Forces.

§§5919, 5920. Repealed. Pub. L. 109–58, title X, §1009(b)(12), Aug. 8, 2005, 119 Stat. 936

Section 5919, Pub. L. 93–577, §19, as added Pub. L. 95–238, title II, §207(b), Feb. 25, 1978, 92 Stat. 61; amended Pub. L. 96–470, title I, §109, Oct. 19, 1980, 94 Stat. 2239; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 103–437, §15(c)(9), Nov. 2, 1994, 108 Stat. 4592; Pub. L. 104–316, title I, §122(o), Oct. 19, 1996, 110 Stat. 3838; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814, related to loan guarantees and commitments for alternative fuel demonstration facilities.

Section 5920, Pub. L. 93–577, §20, as added Pub. L. 95–238, title IV, §401, Feb. 25, 1978, 92 Stat. 84;

amended Pub. L. 103–437, §15(c)(9), Nov. 2, 1994, 108 Stat. 4592, related to financial support program for municipal waste reprocessing demonstration facilities.

CHAPTER 75—PROGRAMS FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

EDITORIAL NOTES

CODIFICATION

The Developmental Disabilities Assistance and Bill of Rights Act, formerly comprising this chapter, was title I of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, which was originally enacted by Pub. L. 88–164, Oct. 31, 1963, 77 Stat. 282, at which time title I was known as the Mental Retardation Facilities Construction Act, and parts B and C of such title I were classified to subchapters I (§2661 et seq.) and II (§2670 et seq.), respectively, of chapter 33 of this title. Because of the extensive amendments, reorganization of the subject matter, and expansion of the Act by the acts summarized below, the Act was set out here as having been added by Pub. L. 98–527, without reference to intervening amendments.

Part D of the Act was added by Pub. L. 90–170, §4, Dec. 4, 1967, 81 Stat. 528, and was classified to subchapter IIA (§2678 et seq.) of chapter 33 of this title. Part C of the Act was amended generally and the Act was reorganized and renamed the Developmental Disabilities Services and Facilities Construction Act, by Pub. L. 91–517, Oct. 30, 1970, 84 Stat. 1316.

Parts A, B, and D of the Act were amended generally and the Act was otherwise extensively amended and reorganized by Pub. L. 94–103, Oct. 4, 1975, 89 Stat. 486, and was reclassified to this chapter.

The Act was renamed the Developmental Disabilities Assistance and Bill of Rights Act and was amended and reorganized by Pub. L. 95–602, title V, Nov. 6, 1978, 92 Stat. 3003, and was subsequently amended generally and completely reorganized by Pub. L. 98–527, §2, Oct. 19, 1984, 98 Stat. 2662.

For provisions similar to former chapter 75 of this title, relating to programs for individuals with developmental disabilities, see subchapter I (§15001 et seq.) of chapter 144 of this title.

SUBCHAPTER I—GENERAL PROVISIONS

§§6000, 6001. Repealed. Pub. L. 106–402, title IV, §401(a), Oct. 30, 2000, 114 Stat. 1737

Section 6000, Pub. L. 88–164, title I, §101, as added Pub. L. 98–527, §2, Oct. 19, 1984, 98 Stat. 2662; amended Pub. L. 100–146, title I, §101, Oct. 29, 1987, 101 Stat. 840; Pub. L. 101–496, §3, Oct. 31, 1990, 104 Stat. 1191; Pub. L. 103–230, title I, §102, Apr. 6, 1994, 108 Stat. 285, set out congressional findings, purpose and policy concerning individuals with developmental disabilities.

A prior section 6000, Pub. L. 88–164, title I, §101, as added Pub. L. 95–602, title V, §502, Nov. 6, 1978, 92 Stat. 3004, set out congressional statement of findings and purpose, prior to the general amendment of this chapter by Pub. L. 98–527.

Section 6001, Pub. L. 88–164, title I, §102, as added Pub. L. 98–527, §2, Oct. 19, 1984, 98 Stat. 2663; amended Pub. L. 100–146, title I, §102, Oct. 29, 1987, 101 Stat. 841; Pub. L. 101–496, §4, Oct. 31, 1990, 104 Stat. 1192; Pub. L. 103–230, title I, §103, Apr. 6, 1994, 108 Stat. 288, defined terms for purposes of chapter.

A prior section 6001, Pub. L. 88–164, title I, §102, as added Pub. L. 94–103, title I, §125, Oct. 4, 1975, 89 Stat. 496; amended Pub. L. 95–602, title V, §503(a), (b)(1), (c)–(f), Nov. 6, 1978, 92 Stat. 3004–3006; Pub. L. 98–221, title III, §301, Feb. 22, 1984, 98 Stat. 34, defined terms for purposes of this chapter, prior to the general amendment of this chapter by Pub. L. 98–527.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–183, §1, Aug. 6, 1996, 110 Stat. 1694, provided that: "This Act [amending sections 6030, 6043, 6066, and 6083 of this title] may be cited as the 'Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1996'."

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–230, §1(a), Apr. 6, 1994, 108 Stat. 284, provided that: "This Act [enacting sections 6025a, 6065, and 6066 of this title, amending this section and sections 6001, 6003, 6005 to 6009, 6021, 6022, 6024, 6025, 6026, 6027, 6029, 6030, 6041 to 6043, 6061 to 6064, and 6081 to 6083 of this title, repealing sections 6002, 6004, 6023, and 6028 of this title, enacting provisions set out as a note under section 6025 of this title, and amending provisions set out as a note under this section] may be cited as the 'Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1994'."

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–496, §1, Oct. 31, 1990, 104 Stat. 1191, provided that: "This Act [amending this section and sections 6001, 6002, 6006 to 6009, 6021, 6022, 6024, 6025, 6030, 6042, 6043, 6062 to 6064, and 6081 to 6083 of this title] may be cited as the 'Developmental Disabilities Assistance and Bill of Rights Act of 1990'."

SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100–146, §1, Oct. 29, 1987, 101 Stat. 840, provided that: "This Act [amending this section and sections 6001, 6006, 6021 to 6025, 6027, 6030, 6042, 6043, 6061 to 6064, and 6081 to 6083 of this title, and enacting provisions set out as a note above] may be cited as the 'Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987'."

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–527, §1, Oct. 19, 1984, 98 Stat. 2662, provided: "That this Act [enacting this chapter] may be cited as the 'Developmental Disabilities Act of 1984'."

SHORT TITLE OF 1975 AMENDMENT

Pub. L. 94–103, §1, Oct. 4, 1975, 89 Stat. 486, provided that: "This Act [see Codification note set out above] may be cited as the 'Developmentally Disabled Assistance and Bill of Rights Act'."

SHORT TITLE

Pub. L. 88–164, §1, Oct. 31, 1963, 77 Stat. 282, as amended, provided that: "This Act [enacting this chapter and subchapter III (§2689 et seq.) of chapter 33 of this title, and enacting provisions set out as notes under this section and section 2689 of this title] may be cited as the 'Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963'."

Pub. L. 88–164, title I, §101, as added by Pub. L. 94–103, title I, §125, Oct. 4, 1975, 89 Stat. 496, which provided that title I of Pub. L. 88–164, as added by Pub. L. 94–103 (enacting this chapter) could be cited as the "Developmental Disabilities Services and Facilities Construction Act", was repealed by Pub. L. 95–602, title V, §502, Nov. 6, 1978, 92 Stat. 3003.

Pub. L. 88–164, title I, §100, as added by Pub. L. 98–527, §2, Oct. 19, 1984, 98 Stat. 2662, and amended by Pub. L. 103–230, title I, §101(c), Apr. 6, 1994, 108 Stat. 285, which provided that title I of Pub. L. 88–164, as added by Pub. L. 98–527 (enacting this chapter) could be cited as the "Developmental Disabilities Assistance and Bill of Rights Act", was repealed by Pub. L. 106–402, title IV, §401(a), Oct 30, 2000, 114 Stat. 1737.

§6002. Repealed. Pub. L. 103–230, title I, §104, Apr. 6, 1994, 108 Stat. 293

Section, Pub. L. 88–164, title I, §103, as added Pub. L. 98–527, §2, Oct. 19, 1984, 98 Stat. 2667; amended Pub. L. 101–496, §5, Oct. 31, 1990, 104 Stat. 1194, related to Federal share of costs of projects under subchapters II and IV of this chapter.

A prior section 6002, Pub. L. 88–164, title I, §103, as added Pub. L. 94–103, title I, §125, Oct. 4, 1975, 89 Stat. 498, set out provisions relating to Federal share, prior to the general amendment of this chapter by Pub. L. 98–527.

§6003. Repealed. Pub. L. 106–402, title IV, §401(a), Oct. 30, 2000, 114 Stat. 1737

Section 6003, Pub. L. 88–164, title I, §104, as added Pub. L. 98–527, §2, Oct. 19, 1984, 98 Stat. 2667; amended Pub. L. 103–230, title I, §105, Apr. 6, 1994, 108 Stat. 293, related to records and audits.

A prior section 6003, Pub. L. 88–164, title I, §104, as added Pub. L. 94–103, title I, §125, Oct. 4, 1975, 89 Stat. 498, set forth provisions relating to State control of operations, prior to the general amendment of this chapter by Pub. L. 98–527.

§6004. Repealed. Pub. L. 103–230, title I, §106, Apr. 6, 1994, 108 Stat. 293

Section, Pub. L. 88–164, title I, §105, as added Pub. L. 98–527, §2, Oct. 19, 1984, 98 Stat. 2667, related to recovery of Federal share of costs of facilities constructed under subchapters II and IV of this chapter under certain conditions.

A prior section 6004, Pub. L. 88–164, title I, §105, as added Pub. L. 94–103, title I, §125, Oct. 4, 1975, 89 Stat. 498, related to records and audits, prior to the general amendment of this chapter by Pub. L. 98–527.

§§6005 to 6009. Repealed. Pub. L. 106–402, title IV, §401(a), Oct. 30, 2000, 114 Stat. 1737

Section 6005, Pub. L. 88–164, title I, §106, as added Pub. L. 98–527, §2, Oct. 19, 1984, 98 Stat. 2668; amended Pub. L. 103–230, title I, §107, Apr. 6, 1994, 108 Stat. 293, provided for state control of operations.

A prior section 6005, Pub. L. 88–164, title I, §106, as added Pub. L. 94–103, title I, §125, Oct. 4, 1975, 89 Stat. 498, related to employment of handicapped individuals, prior to the general amendment of this chapter by Pub. L. 98–527.

Section 6006, Pub. L. 88–164, title I, §107, as added Pub. L. 98–527, §2, Oct. 19, 1984, 98 Stat. 2668; amended Pub. L. 100–146, title I, §103, Oct. 29, 1987, 101 Stat. 844; Pub. L. 101–496, §6, Oct. 31, 1990, 104 Stat. 1194; Pub. L. 103–230, title I, §108, Apr. 6, 1994, 108 Stat. 294, provided for various reports.

A prior section 6006, Pub. L. 88–164, title I, §107, as added Pub. L. 94–103, title I, §125, Oct. 4, 1975, 89 Stat. 499, related to recovery of expenditures under certain conditions and liens, prior to the general amendment of this chapter by Pub. L. 98–527.

Section 6007, Pub. L. 88–164, title I, §108, as added Pub. L. 98–527, §2, Oct. 19, 1984, 98 Stat. 2669; amended Pub. L. 101–496, §7, Oct. 31, 1990, 104 Stat. 1195; Pub. L. 103–230, title I, §109, Apr. 6, 1994, 108 Stat. 296, related to responsibilities of the Secretary.

A prior section 6007, Pub. L. 88–164, title I, §108, formerly §133, as added Pub. L. 91–517, title I, §101(b), Oct. 30, 1970, 84 Stat. 1318, and renumbered and amended Pub. L. 94–103, title I, §126(a), Oct. 4, 1975, 89 Stat. 499, established National Advisory Council on Services and Facilities for Developmentally Disabled and provided for membership, terms of office, compensation and traveling expenses, and duties and functions, prior to repeal by Pub. L. 95–602, title V, §504(a), Nov. 6, 1978, 92 Stat. 3006.

Section 6008, Pub. L. 88–164, title I, §109, as added Pub. L. 98–527, §2, Oct. 19, 1984, 98 Stat. 2669; amended Pub. L. 101–496, §8, Oct. 31, 1990, 104 Stat. 1195; Pub. L. 103–230, title I, §110, Apr. 6, 1994, 108 Stat. 296, required recipients to employ qualified individuals with disabilities on the same terms and conditions required by the Rehabilitation Act of 1973.

A prior section 6008, Pub. L. 88–164, title I, §109, formerly §139, as added Pub. L. 91–517, title I, §101(b), Oct. 30, 1970, 84 Stat. 1323; renumbered §109 and amended Pub. L. 94–103, title I, §127, Oct. 4, 1975, 89 Stat. 500; Pub. L. 95–602, title V, §505, Nov. 6, 1978, 92 Stat. 3007, related to promulgation of regulations, prior to the general amendment of this chapter by Pub. L. 98–527.

Section 6009, Pub. L. 88–164, title I, §110, as added Pub. L. 98–527, §2, Oct. 19, 1984, 98 Stat. 2669; amended Pub. L. 101–496, §9, Oct. 31, 1990, 104 Stat. 1195; Pub. L. 103–230, title I, §111, Apr. 6, 1994, 108 Stat. 296, related to rights of individuals with developmental disabilities.

A prior section 6009, Pub. L. 88–164, title I, §110, as added Pub. L. 94–103, title I, §128, Oct. 4, 1975, 89 Stat. 501; amended Pub. L. 95–602, title V, §§504(b)(1), 506, Nov. 6, 1978, 92 Stat. 3006, 3007; Pub. L. 96–32, §3(b), July 10, 1979, 93 Stat. 82, set forth provisions respecting development, etc., of evaluation system, prior to repeal by Pub. L. 97–35, title IX, §912(a), Aug. 13, 1981, 95 Stat. 563.

Prior sections 6010 to 6012 were omitted in the general amendment of this chapter by Pub. L. 98–527.

Section 6010, Pub. L. 88–164, title I, §111, as added Pub. L. 94–103, title II, §201, Oct. 4, 1975, 89 Stat. 502; amended Pub. L. 95–602, title V, §507, Nov. 6, 1978, 92 Stat. 3007, set forth Congressional findings respecting rights of the developmentally disabled.

Section 6011, Pub. L. 88–164, title I, §112, as added Pub. L. 94–103, title II, §202, Oct. 4, 1975, 89 Stat.

503; amended Pub. L. 95–602, title V, §514(a), Nov. 6, 1978, 92 Stat. 3016, related to habilitation plans.

Section 6012, Pub. L. 88–164, title I, §113, as added Pub. L. 94–103, title II, §203, Oct. 4, 1975, 89 Stat. 504; amended Pub. L. 95–602, title V, §508, Nov. 6, 1978, 92 Stat. 3007; Pub. L. 97–35, title IX, §911(a), Aug. 13, 1981, 95 Stat. 563; Pub. L. 98–221, title III, §302, Feb. 22, 1984, 98 Stat. 35, related to protection and advocacy of rights of persons with developmental disabilities.

SUBCHAPTER II—FEDERAL ASSISTANCE TO STATE DEVELOPMENTAL DISABILITIES COUNCILS

§§6021, 6022. Repealed. Pub. L. 106–402, title IV, §401(a), Oct. 30, 2000, 114 Stat. 1737

Section 6021, Pub. L. 88–164, title I, §121, as added Pub. L. 98–527, §2, Oct. 19, 1984, 98 Stat. 2670; amended Pub. L. 100–146, title II, §201(a), Oct. 29, 1987, 101 Stat. 845; Pub. L. 101–496, §10, Oct. 31, 1990, 104 Stat. 1195; Pub. L. 103–230, title II, §202, Apr. 6, 1994, 108 Stat. 297, set forth the purpose of this subchapter.

A prior section 121 of Pub. L. 88–164, title I, as added Pub. L. 94–103, title I, §105, Oct. 4, 1975, 89 Stat. 486; amended Pub. L. 95–602, title V, §509, Nov. 6, 1978, 92 Stat. 3008, related generally to demonstration and training grants and was classified to section 6031 of this title, prior to the general amendment of this chapter by Pub. L. 98–527.

Section 6022, Pub. L. 88–164, title I, §122, as added Pub. L. 98–527, §2, Oct. 19, 1984, 98 Stat. 2670; amended Pub. L. 99–91, §6(b), Aug. 15, 1985, 99 Stat. 391; Pub. L. 100–146, title II, §202, Oct. 29, 1987, 101 Stat. 845; Pub. L. 101–496, §11, Oct. 31, 1990, 104 Stat. 1195; Pub. L. 102–119, §26(b), Oct. 7, 1991, 105 Stat. 607; Pub. L. 103–230, title II, §203, Apr. 6, 1994, 108 Stat. 297; Pub. L. 105–12, §9(l)(1), Apr. 30, 1997, 111 Stat. 28, related to submission and approval of State plans.

A prior section 122 of Pub. L. 88–164, title I, as added Pub. L. 94–103, title I, §105, Oct. 4, 1975, 89 Stat. 487; amended Pub. L. 95–602, title V, §509, Nov. 6, 1978, 92 Stat. 3009, set forth administrative provisions relating to demonstration and training grants for university affiliated facilities and was classified to section 6032 of this title, prior to the general amendment of this chapter by Pub. L. 98–527.

§6023. Repealed. Pub. L. 103–230, title II, §204, Apr. 6, 1994, 108 Stat. 302

Section, Pub. L. 88–164, title I, §123, as added Pub. L. 98–527, §2, Oct. 19, 1984, 98 Stat. 2674; amended Pub. L. 100–146, title II, §203, Oct. 29, 1987, 101 Stat. 849, required habilitation plan as condition to State's receipt of allotment under this subchapter.

§§6024 to 6027. Repealed. Pub. L. 106–402, title IV, §401(a), Oct. 30, 2000, 114 Stat. 1737

Section 6024, Pub. L. 88–164, title I, §124, as added Pub. L. 98–527, §2, Oct. 19, 1984, 98 Stat. 2675; amended Pub. L. 100–146, title II, §204, Oct. 29, 1987, 101 Stat. 849; Pub. L. 101–496, §12, Oct. 31, 1990, 104 Stat. 1197; Pub. L. 102–119, §26(b), Oct. 7, 1991, 105 Stat. 607; Pub. L. 103–230, title II, §205, Apr. 6, 1994, 108 Stat. 302, required each State receiving assistance to establish and maintain a State Developmental Disabilities Council.

Section 6025, Pub. L. 88–164, title I, §125, as added Pub. L. 98–527, §2, Oct. 19, 1984, 98 Stat. 2676; amended Pub. L. 100–146, title II, §205, Oct. 29, 1987, 101 Stat. 850; Pub. L. 101–496, §13, Oct. 31, 1990, 104 Stat. 1197; Pub. L. 103–230, title II, §206, Apr. 6, 1994, 108 Stat. 310, related to State allotments.

Section 6025a, Pub. L. 88–164, title I, §125A, as added Pub. L. 103–230, title II, §207, Apr. 6, 1994, 108 Stat. 312, established Federal and non-Federal shares.

Section 6026, Pub. L. 88–164, title I, §126, as added Pub. L. 98–527, §2, Oct. 19, 1984, 98 Stat. 2677; amended Pub. L. 103–230, title II, §208, Apr. 6, 1994, 108 Stat. 313, provided for payments to States for planning, administration, and services.

Section 6027, Pub. L. 88–164, title I, §127, as added Pub. L. 98–527, §2, Oct. 19, 1984, 98 Stat. 2678; amended Pub. L. 100–146, title II, §207, Oct. 29, 1987, 101 Stat. 851; Pub. L. 103–230, title II, §209, Apr. 6, 1994, 108 Stat. 313, related to withholding of payments to States.

§6028. Repealed. Pub. L. 103–230, title II, §210, Apr. 6, 1994, 108 Stat. 313

Section, Pub. L. 88–164, title I, §128, as added Pub. L. 98–527, §2, Oct. 19, 1984, 98 Stat. 2678, related to nonduplication in determining amount of Federal share of expenditures under State plan approved under section 6022 of this title.

§§6029, 6030. Repealed. Pub. L. 106–402, title IV, §401(a), Oct. 30, 2000, 114 Stat. 1737

Section 6029, Pub. L. 88–164, title I, §129, as added Pub. L. 98–527, §2, Oct. 19, 1984, 98 Stat. 2678; amended Pub. L. 103–230, title II, §211, Apr. 6, 1994, 108 Stat. 313, related to appeals by States.

Section 6030, Pub. L. 88–164, title I, §130, as added Pub. L. 98–527, §2, Oct. 19, 1984, 98 Stat. 2679; amended Pub. L. 100–146, title II, §208, Oct. 29, 1987, 101 Stat. 851; Pub. L. 101–496, §14, Oct. 31, 1990, 104 Stat. 1198; Pub. L. 103–230, title II, §212, Apr. 6, 1994, 108 Stat. 313; Pub. L. 104–183, §2, Aug. 6, 1996, 110 Stat. 1694, authorized appropriations.

Prior sections 6031 to 6033 were omitted in the general amendment of this chapter by Pub. L. 98–527.

Section 6031, Pub. L. 88–164, title I, §121, as added Pub. L. 94–103, title I, §105, Oct. 4, 1975, 89 Stat. 486; amended Pub. L. 95–602, title V, §509, Nov. 6, 1978, 92 Stat. 3008, related to grants for university affiliated facilities.

Section 6032, Pub. L. 88–164, title I, §122, as added Pub. L. 94–103, title I, §105, Oct. 4, 1975, 89 Stat. 487; amended Pub. L. 95–602, title V, §509, Nov. 6, 1978, 92 Stat. 3009, set forth administrative provisions relating to demonstration and training grants for university affiliated facilities.

Section 6033, Pub. L. 88–164, title I, §123, as added Pub. L. 94–103, title I, §105, Oct. 4, 1975, 89 Stat. 487; amended Pub. L. 95–602, title V, §509, Nov. 6, 1978, 92 Stat. 3010; Pub. L. 97–35, title IX, §911(b), Aug. 13, 1981, 95 Stat. 563; Pub. L. 98–221, title III, §303, Feb. 22, 1984, 98 Stat. 35, authorized appropriations for demonstration and training grants for university affiliated facilities.

SUBCHAPTER III—PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

§§6041 to 6043. Repealed. Pub. L. 106–402, title IV, §401(a), Oct. 30, 2000, 114 Stat. 1737

Section 6041, Pub. L. 88–164, title I, §141, as added Pub. L. 98–527, §2, Oct. 19, 1984, 98 Stat. 2679; amended Pub. L. 103–230, title III, §302, Apr. 6, 1994, 108 Stat. 314, stated the purpose of this subchapter.

A prior section 6041, Pub. L. 88–164, title I, §125, as added Pub. L. 94–103, title I, §105, Oct. 4, 1975, 89 Stat. 488, authorized construction, renovation, or modernization of buildings to be used by university-affiliated facilities, prior to the general amendment of former subchapter II of this chapter by Pub. L. 95–602, title V, §509, Nov. 6, 1978, 92 Stat. 3008.

Section 6042, Pub. L. 88–164, title I, §142, as added Pub. L. 98–527, §2, Oct. 19, 1984, 98 Stat. 2679; amended Pub. L. 100–146, title III, §301, Oct. 29, 1987, 101 Stat. 851; Pub. L. 101–496, §15, Oct. 31, 1990, 104 Stat. 1198; Pub. L. 103–230, title III, §303, Apr. 6, 1994, 108 Stat. 314; Pub. L. 105–12, §9(l)(2), Apr. 30, 1997, 111 Stat. 28, related to State systems to protect and advocate the rights of individuals with developmental disabilities.

A prior section 6042, Pub. L. 88–164, title I, §126, as added Pub. L. 94–103, title I, §105, Oct. 4, 1975, 89 Stat. 488, related to grants for projects and to application requirements, prior to the general amendment of former subchapter II of this chapter by Pub. L. 95–602, title V, §509, Nov. 6, 1978, 92 Stat. 3008.

Section 6043, Pub. L. 88–164, title I, §143, as added Pub. L. 98–527, §2, Oct. 19, 1984, 98 Stat. 2680;

amended Pub. L. 100–146, title III, §302, Oct. 29, 1987, 101 Stat. 853; Pub. L. 101–496, §16, Oct. 31, 1990, 104 Stat. 1200; Pub. L. 103–230, title III, §304, Apr. 6, 1994, 108 Stat. 319; Pub. L. 104–183, §3, Aug. 6, 1996, 110 Stat. 1694, authorized appropriations.

A prior section 6043, Pub. L. 88–164, title I, §127, as added Pub. L. 94–103, title I, §105, Oct. 4, 1975, 89 Stat. 488, authorized appropriations for making payments for construction, renovation, or modernization of buildings, prior to the general amendment of former subchapter II of this chapter by Pub. L. 95–602, title V, §509, Nov. 6, 1978, 92 Stat. 3008.

SUBCHAPTER IV—UNIVERSITY AFFILIATED PROGRAMS

§§6061 to 6066. Repealed. Pub. L. 106–402, title IV, §401(a), Oct. 30, 2000, 114 Stat. 1737

Section 6061, Pub. L. 88–164, title I, §151, as added Pub. L. 98–527, §2, Oct. 19, 1984, 98 Stat. 2681; amended Pub. L. 100–146, title IV, §401(a), Oct. 29, 1987, 101 Stat. 853; Pub. L. 103–230, title IV, §402, Apr. 6, 1994, 108 Stat. 319, provided for the purpose and scope of activities under this subchapter.

A prior section 6061, Pub. L. 88–164, title I, §131, as added Pub. L. 91–517, title I, §101(b), Oct. 30, 1970, 84 Stat. 1317; amended Pub. L. 93–45, title III, §301(b), June 18, 1973, 87 Stat. 95; Pub. L. 94–103, title I, §§101(a), 110(a), Oct. 4, 1975, 89 Stat. 486, 489; Pub. L. 95–602, title V, §510(a), Nov. 6, 1978, 92 Stat. 3010; Pub. L. 97–35, title IX, §911(c), Aug. 13, 1981, 95 Stat. 563; Pub. L. 98–221, title III, §304, Feb. 22, 1984, 98 Stat. 35, authorized appropriations for State allotments, prior to the general amendment of this chapter by Pub. L. 98–527.

Section 6062, Pub. L. 88–164, title I, §152, as added Pub. L. 98–527, §2, Oct. 19, 1984, 98 Stat. 2681; amended Pub. L. 100–146, title IV, §402, Oct. 29, 1987, 101 Stat. 853; Pub. L. 101–496, §17, Oct. 31, 1990, 104 Stat. 1200; Pub. L. 103–230, title IV, §403, Apr. 6, 1994, 108 Stat. 320; Pub. L. 105–12, §9(l)(3), Apr. 30, 1997, 111 Stat. 28, provided for administration and operation grants.

A prior section 6062, Pub. L. 88–164, title I, §132, as added Pub. L. 91–517, title I, §101(b), Oct. 30, 1970, 84 Stat. 1317; amended Pub. L. 94–103, title I, §110(b)–(e)(1), title III, §302(b)(1), Oct. 4, 1975, 89 Stat. 489, 490, 506; Pub. L. 94–278, title XI, §1107(a) Apr. 22, 1976, 90 Stat. 416; Pub. L. 95–602, title V, §510(b), Nov. 6, 1978, 92 Stat. 3010, related to allotments to States, prior to the general amendment of this chapter by Pub. L. 98–527.

Section 6063, Pub. L. 88–164, title I, §153, as added Pub. L. 98–527, §2, Oct. 19, 1984, 98 Stat. 2682; amended Pub. L. 100–146, title IV, §403, Oct. 29, 1987, 101 Stat. 855; Pub. L. 101–496, §18, Oct. 31, 1990, 104 Stat. 1203; Pub. L. 103–230, title IV, §404, Apr. 6, 1994, 108 Stat. 324, related to applications.

A prior section 6063, Pub. L. 88–164, title I, §133, formerly §134, as added Pub. L. 91–517, title I, §101(b), Oct. 30, 1970, 84 Stat. 1319; renumbered §133 and amended Pub. L. 94–103, title I, §§110(e)(2), 111, title III, §302(a), (b)(2), Oct. 4, 1975, 89 Stat. 490, 506; Pub. L. 95–602, title V, §511, Nov. 6, 1978, 92 Stat. 3011, related to State plans, prior to the general amendment of this chapter by Pub. L. 98–527.

Section 6064, Pub. L. 88–164, title I, §154, as added Pub. L. 98–527, §2, Oct. 19, 1984, 98 Stat. 2683; amended Pub. L. 100–146, title IV, §404, Oct. 29, 1987, 101 Stat. 857; Pub. L. 101–496, §19, Oct. 31, 1990, 104 Stat. 1203; Pub. L. 103–230, title IV, §405, Apr. 6, 1994, 108 Stat. 326, established the order of priorities for grant awards.

A prior section 6064, Pub. L. 88–164, title I, §134, formerly §137, as added Pub. L. 91–517, title I, §101(b), Oct. 30, 1970, 84 Stat. 1323; amended Pub. L. 93–45, title III, §301(c), June 18, 1973, 87 Stat. 95; renumbered §134 and amended Pub. L. 94–103, title I, §§101(b), 113, title III, §302(a), Oct. 4, 1975, 89 Stat. 486, 492, 506; Pub. L. 94–278, title XI, §1107(b), (c), Apr. 22, 1976, 90 Stat. 416; Pub. L. 95–602, title V, §514(b), Nov. 6, 1978, 92 Stat. 3017, related to payments to the States for planning, administration, and services, prior to the general amendment of this chapter by Pub. L. 98–527.

Section 6065, Pub. L. 88–164, title I, §155, as added Pub. L. 103–230, title IV, §406, Apr. 6, 1994, 108 Stat. 327, defined "State".

A prior section 6065, Pub. L. 88–164, title I, §135, formerly §138, as added Pub. L. 91–517, title I, §101(b), Oct. 30, 1970, 84 Stat. 1323; renumbered §135 and amended Pub. L. 94–103, title I, §§110(e)(3), 114, title III, §302(a), (b)(3), Oct. 4, 1975, 89 Stat. 490, 493, 506; Pub. L. 95–602, title V, §514(c), Nov. 6, 1978, 92 Stat. 3017, related to withholding of payments to States for planning, administration, and services, prior to the general amendment of this chapter by Pub. L. 98–527.

Section 6066, Pub. L. 88–164, title I, §156, as added Pub. L. 103–230, title IV, §406, Apr. 6, 1994, 108 Stat. 327; amended Pub. L. 104–183, §4, Aug. 6, 1996, 110 Stat. 1694, authorized appropriations.

Prior sections 6066 to 6068 were omitted in the general amendment of this chapter by Pub. L. 98–527.

Section 6066, Pub. L. 88–164, title I, §136, formerly §140, as added Pub. L. 91–517, title I, §101(b), Oct. 30, 1970, 84 Stat. 1324; renumbered §136 and amended Pub. L. 94–103, title I, §115, title III, §302(a), (b)(4), Oct. 4, 1975, 89 Stat. 493, 506, related to nonduplication of payments.

Section 6067, Pub. L. 88–164, title I, §137, formerly §141, as added and renumbered §137, Pub. L. 94–103, title I, §116, title III, §302(a), Oct. 4, 1975, 89 Stat. 493, 506; amended Pub. L. 95–602, title V, §512, Nov. 6, 1978, 92 Stat. 3015, related to State Planning Councils.

Section 6068, Pub. L. 88–164, title I, §138, formerly §142, as added, renumbered §138, and amended Pub. L. 94–103, title I, §117, title III, §302(a), (b)(5), Oct. 4, 1975, 89 Stat. 494, 506, related to appeals, petitions, record, jurisdiction of courts of appeals, conclusiveness of findings, review by the Supreme Court, and stay of administrative action.

SUBCHAPTER V—PROJECTS OF NATIONAL SIGNIFICANCE

§§6081 to 6083. Repealed. Pub. L. 106–402, title IV, §401(a), Oct. 30, 2000, 114 Stat. 1737

Section 6081, Pub. L. 88–164, title I, §161, as added Pub. L. 98–527, §2, Oct. 19, 1984, 98 Stat. 2683; amended Pub. L. 100–146, title V, §501(a), Oct. 29, 1987, 101 Stat. 857; Pub. L. 101–496, §20, Oct. 31, 1990, 104 Stat. 1203; Pub. L. 103–230, title V, §502, Apr. 6, 1994, 108 Stat. 328, stated the purpose of this subchapter.

A prior section 6081, Pub. L. 88–164, title I, §145, as added Pub. L. 94–103, title I, §105, Oct. 4, 1975, 89 Stat. 495; amended Pub. L. 95–602, title V, §§504(b)(2), (3), 513, Nov. 6, 1978, 92 Stat. 3006, 3016; Pub. L. 96–32, §3(a), July 10, 1979, 93 Stat. 82; Pub. L. 97–35, title IX, §913, Aug. 13, 1981, 95 Stat. 563; Pub. L. 98–221, title III, §305, Feb. 22, 1984, 98 Stat. 35, set forth grant authority for special projects grants, prior to the general amendment of this chapter by Pub. L. 98–527.

Section 6082, Pub. L. 88–164, title I, §162, as added Pub. L. 98–527, §2, Oct. 19, 1984, 98 Stat. 2683; amended Pub. L. 100–146, title V, §502, Oct. 29, 1987, 101 Stat. 857; Pub. L. 101–496, §21, Oct. 31, 1990, 104 Stat. 1204; Pub. L. 103–230, title V, §503, Apr. 6, 1994, 108 Stat. 328; Pub. L. 105–12, §9(l)(4), Apr. 30, 1997, 111 Stat. 28, related to the Secretary's grant authority.

Section 6083, Pub. L. 88–164, title I, §163, as added Pub. L. 98–527, §2, Oct. 19, 1984, 98 Stat. 2684; amended Pub. L. 100–146, title V, §503, Oct. 29, 1987, 101 Stat. 858; Pub. L. 101–496, §22, Oct. 31, 1990, 104 Stat. 1204; Pub. L. 103–230, title V, §504, Apr. 6, 1994, 108 Stat. 331; Pub. L. 104–183, §5, Aug. 6, 1996, 110 Stat. 1695, authorized appropriations.

CHAPTER 76—AGE DISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Sec.

6101. Statement of purpose.
6102. Prohibition of discrimination.
6103. Regulations.
6104. Enforcement.
6105. Judicial review.
6106. Study of discrimination based on age.
6106a. Reports to the Secretary and Congress.
6107. Definitions.

§6101. Statement of purpose

It is the purpose of this chapter to prohibit discrimination on the basis of age in programs or activities receiving Federal financial assistance.

(Pub. L. 94–135, title III, §302, Nov. 28, 1975, 89 Stat. 728; Pub. L. 95–478, title IV, §401(a), Oct. 18, 1978, 92 Stat. 1555; Pub. L. 99–272, title XIV, §14001(b)(4), Apr. 7, 1986, 100 Stat. 329.)

EDITORIAL NOTES

AMENDMENTS

1986—Pub. L. 99–272 struck out ", including programs or activities receiving funds under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221 et seq.)" after "Federal financial assistance".

1978—Pub. L. 95–478 struck out "unreasonable" before "discrimination".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–272 effective Oct. 18, 1986, see section 14001(e) of Pub. L. 99–272, title XIV, Apr. 7, 1986, 100 Stat. 329.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–478 effective at the close of Sept. 30, 1978, see section 504 of Pub. L. 95–478, set out as a note under section 3001 of this title.

SHORT TITLE

Pub. L. 94–135, title III, §301, Nov. 28, 1975, 89 Stat. 728, provided that: "The provisions of this title [enacting this chapter] may be cited as the 'Age Discrimination Act of 1975'."

§6102. Prohibition of discrimination

Pursuant to regulations prescribed under section 6103 of this title, and except as provided by section 6103(b) and section 6103(c) of this title, no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.

(Pub. L. 94–135, title III, §303, Nov. 28, 1975, 89 Stat. 728.)

§6103. Regulations

(a) Publication in Federal Register of proposed general regulations, final general regulations, and anti-discrimination regulations; effective date

(1) Not later than one year after the transmission of the report required by section 6106(b) of this title, or two and one-half years after November 28, 1975, whichever occurs first, the Secretary of Health and Human Services shall publish in the Federal Register proposed general regulations to carry out the provisions of section 6102 of this title.

(2)(A) The Secretary shall not publish such proposed general regulations until the expiration of a period comprised of—

(i) the forty-five day period specified in section 6106(e) of this title; and

(ii) an additional forty-five day period, immediately following the period described in clause (i), during which any committee of the Congress having jurisdiction over the subject matter involved may conduct hearings with respect to the report which the Commission is required to transmit under section 6106(d) of this title, and with respect to the comments and recommendations submitted by Federal departments and agencies under section 6106(e) of this title.

(B) The forty-five day period specified in subparagraph (A)(ii) shall include only days during

which both Houses of the Congress are in session.

(3) Not later than ninety days after the Secretary publishes proposed regulations under paragraph (1), the Secretary shall publish in the Federal Register final general regulations to carry out the provisions of section 6102 of this title, after taking into consideration any comments received by the Secretary with respect to the regulations proposed under paragraph (1).

(4) Not later than ninety days after the Secretary publishes final general regulations under paragraph (a)(3), the head of each Federal department or agency which extends Federal financial assistance to any program or activity by way of grant, entitlement, loan, or contract other than a contract of insurance or guaranty, shall transmit to the Secretary and publish in the Federal Register proposed regulations to carry out the provisions of section 6102 of this title and to provide appropriate investigative, conciliation, and enforcement procedures. Such regulations shall be consistent with the final general regulations issued by the Secretary, and shall not become effective until approved by the Secretary.

(5) Notwithstanding any other provision of this section, no regulations issued pursuant to this section shall be effective before July 1, 1979.

(b) Nonviolative actions; program or activity exemption

(1) It shall not be a violation of any provision of this chapter, or of any regulation issued under this chapter, for any person to take any action otherwise prohibited by the provisions of section 6102 of this title if, in the program or activity involved—

(A) such action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of such program or activity; or

(B) the differentiation made by such action is based upon reasonable factors other than age.

(2) The provisions of this chapter shall not apply to any program or activity established under authority of any law which (A) provides any benefits or assistance to persons based upon the age of such persons; or (B) establishes criteria for participation in age-related terms or describes intended beneficiaries or target groups in such terms.

(c) Employment practices and labor-management joint apprenticeship training program exemptions; Age Discrimination in Employment Act unaffected

(1) Nothing in this chapter shall be construed to authorize action under this chapter by any Federal department or agency with respect to any employment practice of any employer, employment agency, or labor organization, or with respect to any labor-management joint apprenticeship training program.

(2) Nothing in this chapter shall be construed to amend or modify the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621–634), as amended, or to affect the rights or responsibilities of any person or party pursuant to such Act.

(Pub. L. 94–135, title III, §304, Nov. 28, 1975, 89 Stat. 729; Pub. L. 95–478, title IV, §401(b), Oct. 18, 1978, 92 Stat. 1555; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 97–300, title I, §183, Oct. 13, 1982, 96 Stat. 1357; Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(37)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–427.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Age Discrimination in Employment Act of 1967 (29 U.S.C. 621–634), as amended, referred to in subsec. (c)(2), is Pub. L. 90–202, Dec. 15, 1967, 81 Stat. 602, which is classified generally to chapter 14 (§621 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 29 and Tables.

AMENDMENTS

1998—Subsec. (c)(1). Pub. L. 105–277 substituted "Nothing" for "Except with respect to any program or activity receiving Federal financial assistance for public service employment under the Job Training

Partnership Act, nothing".

1978—Subsec. (a)(4). Pub. L. 95–478, §401(b)(1), provided that the regulations shall not become effective until approved by the Secretary.

Subsec. (a)(5). Pub. L. 95–478, §401(b)(2), substituted "July 1, 1979" for "January 1, 1979".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Secretary of Health and Human Services" substituted for "Secretary of Health, Education, and Welfare" in subsec. (a)(1) pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–478 effective at the close of Sept. 30, 1978, see section 504 of Pub. L. 95–478, set out as a note under section 3001 of this title.

§6104. Enforcement

(a) Methods of achieving compliance with regulations

The head of any Federal department or agency who prescribes regulations under section 6103 of this title may seek to achieve compliance with any such regulation—

(1) by terminating, or refusing to grant or to continue, assistance under the program or activity involved to any recipient with respect to whom there has been an express finding on the record, after reasonable notice and opportunity for hearing, of a failure to comply with any such regulation; or

(2) by any other means authorized by law.

(b) Limitations on termination of, or on refusal to grant or to continue, assistance; disbursement of withheld funds to achiever agencies

Any termination of, or refusal to grant or to continue, assistance under subsection (a)(1) shall be limited to the particular political entity or other recipient with respect to which a finding has been made under subsection (a)(1). Any such termination or refusal shall be limited in its effect to the particular program or activity, or part of such program or activity, with respect to which such finding has been made. No such termination or refusal shall be based in whole or in part on any finding with respect to any program or activity which does not receive Federal financial assistance. Whenever the head of any Federal department or agency who prescribes regulations under section 6103 of this title withholds funds pursuant to subsection (a), he may, in accordance with regulations he shall prescribe, disburse the funds so withheld directly to any public or nonprofit private organization or agency, or State or political subdivision thereof, which demonstrates the ability to achieve the goals of the Federal statute authorizing the program or activity while complying with regulations issued under section 6103 of this title.

(c) Advice as to failure to comply with regulation; determination that compliance cannot be secured by voluntary means

No action may be taken under subsection (a) until the head of the Federal department or agency involved has advised the appropriate person of the failure to comply with the regulation involved and has determined that compliance cannot be secured by voluntary means.

(d) Report to Congressional committees

In the case of any action taken under subsection (a), the head of the Federal department or agency involved shall transmit a written report of the circumstances and grounds of such action to the committees of the House of Representatives and the Senate having legislative jurisdiction over the program or activity involved. No such action shall take effect until thirty days after the transmission of any such report.

(e) Injunctions; notice of violations; costs; conditions for actions

(1) When any interested person brings an action in any United States district court for the district in which the defendant is found or transacts business to enjoin a violation of this Act by any program or activity receiving Federal financial assistance, such interested person shall give notice by registered mail not less than 30 days prior to the commencement of that action to the Secretary of Health and Human Services, the Attorney General of the United States, and the person against whom the action is directed. Such interested person may elect, by a demand for such relief in his complaint, to recover reasonable attorney's fees, in which case the court shall award the costs of suit, including a reasonable attorney's fee, to the prevailing plaintiff.

(2) The notice referred to in paragraph (1) shall state the nature of the alleged violation, the relief to be requested, the court in which the action will be brought, and whether or not attorney's fees are being demanded in the event that the plaintiff prevails. No action described in paragraph (1) shall be brought (A) if at the time the action is brought the same alleged violation by the same defendant is the subject of a pending action in any court of the United States; or (B) if administrative remedies have not been exhausted.

(f) Exhaustion of administrative remedies

With respect to actions brought for relief based on an alleged violation of the provisions of this chapter, administrative remedies shall be deemed exhausted upon the expiration of 180 days from the filing of an administrative complaint during which time the Federal department or agency makes no finding with regard to the complaint, or upon the day that the Federal department or agency issues a finding in favor of the recipient of financial assistance, whichever occurs first.

(Pub. L. 94–135, title III, §305, Nov. 28, 1975, 89 Stat. 730; Pub. L. 95–478, title IV, §401(c), (d), Oct. 18, 1978, 92 Stat. 1555, 1556; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (e)(1), probably means Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 713, known as the Older Americans Amendments of 1975. For complete classification of this Act to the Code, see Short Title of 1975 Amendment note set out under section 3001 of this title and Tables.

AMENDMENTS

1978—Subsec. (b). Pub. L. 95–478, §401(d), authorized disbursement of withheld funds directly to organization or agency demonstrating ability to achieve the goals of the Federal statute authorizing the program or activity while complying with the regulations.

Subsec. (e). Pub. L. 95–478, §401(c), substituted provisions relating to injunctions, notice of violations, and costs for provision making this section the exclusive remedy for the enforcement of the provisions of this chapter.

Subsec. (f). Pub. L. 95–478, §401(c), added subsec. (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Secretary of Health and Human Services" substituted for "Secretary of Health, Education, and Welfare" in subsec. (e)(1) pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–478 effective at the close of Sept. 30, 1978, see section 504 of Pub. L. 95–478, set out as a note under section 3001 of this title.

§6105. Judicial review

(a) Provisions of other laws

Any action by any Federal department or agency under section 6104 of this title shall be subject to such judicial review as may otherwise be provided by law for similar action taken by any such department or agency on other grounds.

(b) Provisions of chapter 7 of title 5; reviewable agency discretion

In the case of any action by any Federal department or agency under section 6104 of this title which is not otherwise subject to judicial review, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with the provisions of chapter 7 of title 5. For purposes of this subsection, any such action shall not be considered committed to unreviewable agency discretion within the meaning of section 701(a)(2) of such title.

(Pub. L. 94–135, title III, §306, Nov. 28, 1975, 89 Stat. 730.)

§6106. Study of discrimination based on age

(a) Study by Commission on Civil Rights

The Commission on Civil Rights shall (1) undertake a study of unreasonable discrimination based on age in programs and activities receiving Federal financial assistance; and (2) identify with particularity any such federally assisted program or activity in which there is found evidence of persons who are otherwise qualified being, on the basis of age, excluded from participation in, denied the benefits of, or subjected to discrimination under such program or activity.

(b) Public hearings

As part of the study required by this section, the Commission shall conduct public hearings to elicit the views of interested parties, including Federal departments and agencies, on issues relating to age discrimination in programs and activities receiving Federal financial assistance, and particularly with respect to the reasonableness of distinguishing, on the basis of age, among potential participants in, or beneficiaries of, specific federally assisted programs.

(c) Publication of results of analyses, research and studies by independent experts; services of voluntary or uncompensated personnel

The Commission is authorized to obtain, through grant or contract, analyses, research and studies by independent experts of issues relating to age discrimination and to publish the results thereof. For purposes of the study required by this section, the Commission may accept and utilize the services of voluntary or uncompensated personnel, without regard to the provisions of section 105(b) of the Civil Rights Act of 1957 (42 U.S.C. 1975d(b)).

(d) Report to President and Congress; copies to affected Federal departments and agencies; information and technical assistance

Not later than two years after November 28, 1975, the Commission shall transmit a report of its findings and its recommendations for statutory changes (if any) and administrative action, including suggested general regulations, to the Congress and to the President and shall provide a copy of its report to the head of each Federal department and agency with respect to which the Commission makes findings or recommendations. The Commission is authorized to provide, upon request, information and technical assistance regarding its findings and recommendations to Congress, to the President, and to the heads of Federal departments and agencies for a ninety-day period following the transmittal of its report.

(e) Comments and recommendations of Federal departments and agencies; submission to President and Congressional committees

Not later than forty-five working days after receiving a copy of the report required by subsection (d), each Federal department or agency with respect to which the Commission makes findings or recommendations shall submit its comments and recommendations regarding such report to the

President and to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives.

(f) Cooperation of Federal departments and agencies with Commission

The head of each Federal department or agency shall cooperate in all respects with the Commission with respect to the study required by subsection (a), and shall provide to the Commission such data, reports, and documents in connection with the subject matter of such study as the Commission may request.

(g) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(Pub. L. 94–135, title III, §307, Nov. 28, 1975, 89 Stat. 731; S. Res. 4, Feb. 4, 1977; Pub. L. 95–65, §1, July 11, 1977, 91 Stat. 269; S. Res. 30, Mar. 7, 1979.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 105(b) of the Civil Rights Act of 1957, referred to in subsec. (c), is section 105(b) of Pub. L. 85–315, pt. I, Sept. 9, 1957, 71 Stat. 636, which was classified to section 1975d(b) of this title and was omitted from the Code. For further details, see Codification note set out preceding section 1975 of this title. Similar provisions are contained in section 4(c) of the Civil Rights Commission Act of 1983, Pub. L. 98–183, Nov. 30, 1983, 97 Stat. 1304, as amended, which is classified to section 1975b(c) of this title.

AMENDMENTS

1977—Subsec. (d). Pub. L. 95–65 substituted "two years" for "eighteen months" and authorized the Commission to provide information and technical assistance regarding its findings and recommendations to Congress, the President, and heads of Federal departments and agencies for a ninety-day period following the transmittal of its report.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999. Previously, Committee on Human Resources of Senate changed to Committee on Labor and Human Resources of Senate effective Mar. 7, 1979, by Senate Resolution No. 30, 96th Congress. See Rule XXV of Standing Rules of Senate adopted Nov. 14, 1979.

Committee on Labor and Public Welfare of Senate abolished and replaced by Committee on Human Resources of Senate, effective Feb. 11, 1977. See Rule XXV of Standing Rules of Senate, as amended by Senate Resolution No. 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

§6106a. Reports to the Secretary and Congress

(a) Not later than December 31 of each year (beginning in 1979), the head of each Federal department or agency shall submit to the Secretary of Health and Human Services a report (1) describing in detail the steps taken during the preceding fiscal year by such department or agency to carry out the provisions of section 6102 of this title; and (2) containing specific data about program participants or beneficiaries, by age, sufficient to permit analysis of how well the department or agency is carrying out the provisions of section 6102 of this title.

(b) Not later than March 31 of each year (beginning in 1980), the Secretary of Health and Human

Services shall compile the reports made pursuant to subsection (a) and shall submit them to the Congress, together with an evaluation of the performance of each department or agency with respect to carrying out the provisions of section 6102 of this title.

(Pub. L. 94–135, title III, §308, as added Pub. L. 95–478, title IV, §401(e), Oct. 18, 1978, 92 Stat. 1556; amended Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 308 of Pub. L. 94–135 was renumbered section 309 and is classified to section 6107 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Secretary of Health and Human Services" substituted for "Secretary of Health, Education, and Welfare" pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE

Section effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95–478, set out as an Effective Date of 1978 Amendment note under section 3001 of this title.

§6107. Definitions

For purposes of this chapter—

(1) the term "Commission" means the Commission on Civil Rights;

(2) the term "Secretary" means the Secretary of Health and Human Services;

(3) the term "Federal department or agency" means any agency as defined in section 551 of title 5 and includes the United States Postal Service and the Postal Regulatory Commission; and

(4) the term "program or activity" means all of the operations of—

(A)(i) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(ii) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(B)(i) a college, university, or other postsecondary institution, or a public system of higher education; or

(ii) a local educational agency (as defined in section 7801 of title 20), system of vocational education, or other school system;

(C)(i) an entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(I) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(II) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(ii) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(D) any other entity which is established by two or more of the entities described in subparagraph (A), (B), or (C);

any part of which is extended Federal financial assistance.

(Pub. L. 94–135, title III, §309, formerly §308, Nov. 28, 1975, 89 Stat. 731; renumbered §309, Pub. L. 95–478, title IV, §401(e), Oct. 18, 1978, 92 Stat. 1556; amended Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 100–259, §5, Mar. 22, 1988, 102 Stat. 30; Pub. L. 103–382, title III, §391(u), Oct. 20, 1994, 108 Stat. 4025; Pub. L. 107–110, title X, §1076(z), Jan. 8, 2002, 115 Stat. 2093; Pub. L. 109–435, title VI, §604(f), Dec. 20, 2006, 120 Stat. 3242; Pub. L. 114–95, title IX, §9215(d), Dec. 10, 2015, 129 Stat. 2166.)

EDITORIAL NOTES

AMENDMENTS

2015—Par. (4)(B)(ii). Pub. L. 114–95 made technical amendment to reference in original act which appears in text as reference to section 7801 of title 20.

2006—Par. (3). Pub. L. 109–435 substituted "Postal Regulatory Commission" for "Postal Rate Commission".

2002—Par. (4)(B)(ii). Pub. L. 107–110 substituted "7801" for "8801".

1994—Par. (4)(B)(ii). Pub. L. 103–382 substituted "section 8801 of title 20" for "section 198(a)(10), of the Elementary and Secondary Education Act of 1965".

1988—Par. (4). Pub. L. 100–259 added par. (4).

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Secretary of Health and Human Services" substituted for "Secretary of Health, Education, and Welfare" in par. (2) pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of Title 20, Education.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of Title 20, Education.

EXCLUSION FROM COVERAGE

Amendment by Pub. L. 100–259 not to be construed to extend application of Age Discrimination Act of 1975 (this chapter) to ultimate beneficiaries of Federal financial assistance excluded from coverage before Mar. 22, 1988, see section 7 of Pub. L. 100–259, set out as a Construction note under section 1687 of Title 20, Education.

ABORTION NEUTRALITY

Amendment by Pub. L. 100–259 not to be construed to force or require any individual or hospital or any other institution, program, or activity receiving Federal funds to perform or pay for an abortion, see section 8 of Pub. L. 100–259, set out as a note under section 1688 of Title 20, Education.

CHAPTER 77—ENERGY CONSERVATION

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The purposes of this chapter are—

(1) to grant specific authority to the President to fulfill obligations of the United States under the international energy program;

(2) to provide for the creation of a Strategic Petroleum Reserve capable of reducing the impact of severe energy supply interruptions;

(3) Repealed. Pub. L. 106–469, title I, §102(2), Nov. 9, 2000, 114 Stat. 2029;

(4) to conserve energy supplies through energy conservation programs, and, where necessary, the regulation of certain energy uses;

(5) to provide for improved energy efficiency of motor vehicles, major appliances, and certain other consumer products;

(6) Repealed. Pub. L. 106–469, title I, §102(2), Nov. 9, 2000, 114 Stat. 2029;

(7) to provide a means for verification of energy data to assure the reliability of energy data; and

(8) to conserve water by improving the water efficiency of certain plumbing products and appliances.

(Pub. L. 94–163, §2, Dec. 22, 1975, 89 Stat. 874; Pub. L. 102–486, title I, §123(a), Oct. 24, 1992, 106 Stat. 2817; Pub. L. 106–469, title I, §102, Nov. 9, 2000, 114 Stat. 2029.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in introductory clause, was in the original "this Act", meaning Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 871, known as the Energy Policy and Conservation Act. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

AMENDMENTS

2000—Par. (1). Pub. L. 106–469, §102(1), struck out "standby" after "grant specific" and ", subject to congressional review, to impose rationing, to reduce demand for energy through the implementation of energy conservation plans, and" after "the President".

Par. (3). Pub. L. 106–469, §102(2), struck out par. (3) which read as follows: "to increase the supply of fossil fuels in the United States, through price incentives and production requirements;".

Par. (6). Pub. L. 106–469, §102(2), struck out par. (6) which read as follows: "to reduce the demand for petroleum products and natural gas through programs designed to provide greater availability and use of this Nation's abundant coal resources;".

1992—Par. (8). Pub. L. 102–486 added par. (8).

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 2018 AMENDMENT

Pub. L. 115–115, §1, Jan. 12, 2018, 131 Stat. 2280, provided that: "This Act [amending sections 6291, 6294, 6295, 6311, and 6313 of this title] may be cited as the 'EPS Improvement Act of 2017'."

SHORT TITLE OF 2017 AMENDMENT

Pub. L. 115–78, §1, Nov. 2, 2017, 131 Stat. 1256, provided that: "This Act [amending section 6295 of this title] may be cited as the 'Power And Security Systems (PASS) Act'."

SHORT TITLE OF 2014 AMENDMENT

Pub. L. 113–263, §1, Dec. 18, 2014, 128 Stat. 2937, provided that: "This Act [amending section 6295 of this title] may be cited as the 'EPS Service Parts Act of 2014'."

Pub. L. 113–79, title XII, §12401, Feb. 7, 2014, 128 Stat. 997, provided that: "This subtitle [subtitle D (§§12401–12410) of title XII of Pub. L. 113–79, amending provisions set out as a note under this section] may be cited as the 'Oilheat Efficiency, Renewable Fuel Research and Jobs Training Act of 2014'."

SHORT TITLE OF 2012 AMENDMENT

Pub. L. 112–210, §1, Dec. 18, 2012, 126 Stat. 1514, provided that: "This Act [enacting section 6351 of this title, amending sections 6291, 6294, 6295, 6297, 6311, 6313, 6314, 6316, and 8253 of this title, and enacting provisions set out as notes under sections 6291 and 6295 of this title] may be cited as the 'American Energy Manufacturing Technical Corrections Act'."

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–469, §1, Nov. 9, 2000, 114 Stat. 2029, provided that: "This Act [see Tables for classification] may be cited as the 'Energy Act of 2000'."

Pub. L. 106–469, title I, §101, Nov. 9, 2000, 114 Stat. 2029, provided that: "This title [amending this section and sections 6231, 6232, 6234, 6239 to 6241, 6245 to 6247, 6249, 6249a, 6251, 6276 and 6285 of this title, repealing sections 6211, 6214, 6233, 6235 to 6238, 6244, 6249b, 6261 to 6264, 6281 and 6282 of this title, and repealing provisions set out as notes under section 4511 of Title 50, War and National Defense] may be cited as the 'Energy Policy and Conservation Act Amendments of 2000'."

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–388, §1, Nov. 13, 1998, 112 Stat. 3477, provided that: "This Act [enacting section 13220 of this title, amending sections 2296a, 2296a–2, 2297g–1, 6241, 6291, 6292, 6294, 6295, 6306, 6316, 6322, 6325, 6371, 6371c, 6371f, 6371i, 6372c, 6372h, 6374, 6383, 6422, 6802, 6872, 8217, 8231, 8235e, 8259, 8287, 8287c, and 13218 of this title and section 3503 of Title 25, Indians, enacting provisions set out as notes under section 6241 of this title, and amending and repealing provisions set out as notes under section 4511 of Title 50, War and National Defense] may be cited as the 'Energy Conservation Reauthorization Act of 1998'."

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–406, §1, Oct. 22, 1994, 108 Stat. 4209, provided: "That this Act [amending sections 6251 and 6285 of this title and enacting provisions set out as a note below] may be cited as the 'Energy Policy and Conservation Act Amendments Act of 1994'."

Pub. L. 103–406, title I, §101, Oct. 22, 1994, 108 Stat. 4209, provided that: "This title [amending sections 6251 and 6285 of this title] may be cited as the 'Energy Policy and Conservation Act Amendments of 1994'."

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–440, §1, Oct. 18, 1990, 104 Stat. 1006, provided that: "This Act [amending sections 6322, 6323, 6324 to 6326, 6371, 6371e, 6371f, 6861 to 6865, 6871, and 6872 of this title and repealing section 6327 of this title] may be cited as the 'State Energy Efficiency Programs Improvement Act of 1990'."

Pub. L. 101–383, §1, Sept. 15, 1990, 104 Stat. 727, provided that: "This Act [enacting sections 6249 to 6249c of this title, amending sections 6202, 6232, 6239 to 6241, 6247, 6251, and 6285 of this title, and amending provisions set out as a note under section 4511 of Title 50, War and National Defense] may be referred to as the 'Energy Policy and Conservation Act Amendments of 1990'."

Pub. L. 101–360, §1, Aug. 10, 1990, 104 Stat. 421, provided: "That this Act [amending sections 6251 and 6285 of this title and provisions set out as a note under section 4511 of Title 50, War and National Defense]

may be referred to as the 'Energy Policy and Conservation Act Short-Term Extension Amendment of 1990'."

Pub. L. 101–262, §1, Mar. 31, 1990, 104 Stat. 124, provided: "That this Act [amending sections 6251 and 6285 of this title and provisions set out as a note under section 4511 of Title 50, War and National Defense] may be referred to as the 'Energy Policy and Conservation Act Extension Amendment of 1990'."

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–494, §1, Oct. 14, 1988, 102 Stat. 2441, provided that: "This Act [enacting sections 6374 to 6374d of this title and section 2013 of Title 15, Commerce and Trade, amending sections 2001, 2002, and 2006 of Title 15, and enacting provisions set out as notes under section 6374 of this title and sections 2006, 2013, and 2512 of Title 15] may be cited as the 'Alternative Motor Fuels Act of 1988'."

Pub. L. 100–357, §1, June 28, 1988, 102 Stat. 671, provided that: "This Act [amending sections 6291 to 6295 and 6297 of this title] may be referred to as the 'National Appliance Energy Conservation Amendments of 1988'."

SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100–12, §1, Mar. 17, 1987, 101 Stat. 103, provided that: "This Act [amending sections 6291 to 6297, 6299, 6302, 6303, 6305, 6306, 6308, and 6309 of this title] may be referred to as the 'National Appliance Energy Conservation Act of 1987'."

SHORT TITLE OF 1985 AMENDMENT

Pub. L. 99–58, §1, July 2, 1985, 99 Stat. 102, provided that: "This Act [enacting sections 6251, 6264, 6285, and 7277 of this title, amending sections 6239, 6240, 6241, 6247, and 6272 of this title, repealing section 6401 of this title, enacting provisions set out as notes under section 7277 of this title, and amending provisions set out as a note under section 4511 of Title 50, War and National Defense] may be cited as the 'Energy and Conservation Amendments Act of 1985'."

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–370, §1, July 18, 1984, 98 Stat. 1211, provided: "That this Act [enacting section 6276 of this title and a provision set out as a note under section 627] may be cited as the 'Renewable Energy Industry Development Act of 1983'."

SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97–229, §1, Aug. 3, 1982, 96 Stat. 248, provided that: "This Act [enacting sections 6281, 6282, and 6385 of this title, amending sections 6239, 6240, 6247, 6271, and 6272 of this title, and enacting provisions set out as notes under sections 6234, 6240, and 6245 of this title] may be cited as the 'Energy Emergency Preparedness Act of 1982'."

SHORT TITLE OF 1981 AMENDMENT

Pub. L. 97–35, title X, §1031, Aug. 13, 1981, 95 Stat. 618, provided that: "This subtitle [subtitle C (§§1031–1038) of title X of Pub. L. 97–35, enacting section 6247 of this title, amending sections 6240, 6245, and 6246 of this title, and enacting provisions set out as notes under sections 6231, 6240, and 6247 of this title] may be cited as the 'Strategic Petroleum Reserve Amendments Act of 1981'."

SHORT TITLE

Pub. L. 94–163, §1, Dec. 22, 1975, 89 Stat. 871, provided in part: "That this Act [enacting this chapter and sections 757 to 760h and 2001 to 2012 of Title 15, Commerce and Trade, amending sections 753, 754, 755, 792, 796, and 1901 of Title 15 and section 4511 of Title 50, War and National Defense, enacting provisions set out as notes under this section, sections 753 and 796 of Title 15, and section 4511 of Title 50, and repealing provisions formerly set out as a note under section 1904 of Title 12, Banks and Banking] may be cited as the 'Energy Policy and Conservation Act'."

NATIONAL OILHEAT RESEARCH ALLIANCE

Pub. L. 106–469, title VII, Nov. 9, 2000, 114 Stat. 2043, as amended by Pub. L. 109–58, title III, §302, Aug. 8, 2005, 119 Stat. 685; Pub. L. 113–79, title XII, §§12402–12410, Feb. 7, 2014, 128 Stat. 997–1005; Pub. L. 115–334, title XII, §12531, Dec. 20, 2018, 132 Stat. 5002, provided that:

"SEC. 701. SHORT TITLE.

"This title may be cited as the 'National Oilheat Research Alliance Act of 2000'.

"SEC. 702. FINDINGS.

"Congress finds that—

"(1) oilheat fuel is an important commodity relied on by approximately 30,000,000 Americans as an efficient and economical energy source for commercial and residential space and hot water heating;

"(2) oilheat fuel equipment operates at efficiencies among the highest of any space heating energy source, reducing fuel costs and making oilheat fuel an economical means of space heating;

"(3) the production, distribution, and marketing of oilheat fuel and oilheat fuel equipment plays a significant role in the economy of the United States, accounting for approximately $12,900,000,000 in expenditures annually and employing millions of Americans in all aspects of the oilheat fuel industry;

"(4) only very limited Federal resources have been made available for oilheat fuel research, development, safety, training, and education efforts, to the detriment of both the oilheat fuel industry and its 30,000,000 consumers;

"(5) the cooperative development, self-financing, and implementation of a coordinated national oilheat fuel industry program of research and development, training, and consumer education is necessary and important for the welfare of the oilheat fuel industry, the general economy of the United States, and the millions of Americans that rely on oilheat fuel for commercial and residential space and hot water heating;

"(6) consumers of oilheat fuel fuel [sic] are provided service by thousands of small businesses that are unable to individually develop training programs to facilitate the entry of new and qualified workers into the oilheat fuel fuel [sic] industry;

"(7) small businesses and trained employees are in an ideal position—

"(A) to provide information to consumers about the benefits of improved efficiency; and

"(B) to encourage consumers to value efficiency in energy choices and assist individuals in conserving energy;

"(8) additional research is necessary—

"(A) to improve oilheat fuel fuel [sic] equipment; and

"(B) to develop domestic renewable resources that can be used to safely and affordably heat homes;

"(9) since there are no Federal resources available to assist the oilheat fuel fuel [sic] industry, it is necessary and appropriate to develop a self-funded program dedicated—

"(A) to improving efficiency in customer homes;

"(B) to assist individuals to gain employment in the oilheat fuel fuel [sic] industry; and

"(C) to develop domestic renewable resources;

"(10) both consumers of oilheat fuel fuel [sic] and retailers would benefit from the self-funded program; and

"(11) the oilheat fuel fuel [sic] industry is committed to providing appropriate funding necessary to carry out the purposes of this title without passing additional costs on to residential consumers.

"SEC. 703. DEFINITIONS.

"In this title:

"(1) ALLIANCE.—The term 'Alliance' means a national oilheat fuel research alliance established under section 704.

"(2) CONSUMER EDUCATION.—The term 'consumer education' means the provision of information to assist consumers and other persons in making evaluations and decisions regarding oilheat fuel and other nonindustrial commercial or residential space or hot water heating fuels.

"(3) COST-EFFECTIVE.—The term 'cost-effective', with respect to a program or activity carried out under section 707(f)(4), means that the program or activity meets a total resource cost test under which—

"(A) the net present value of economic benefits over the life of the program or activity, including avoided supply and delivery costs and deferred or avoided investments; is greater than

"(B) the net present value of the economic costs over the life of the program or activity, including program costs and incremental costs borne by the energy consumer.

"(4) EXCHANGE.—The term 'exchange' means an agreement that—

"(A) entitles each party or its customers to receive oilheat fuel from the other party; and

"(B) requires only an insubstantial portion of the volumes involved in the exchange to be settled in cash or property other than the oilheat fuel.

"(5) INDUSTRY TRADE ASSOCIATION.—The term 'industry trade association' means an organization described in paragraph (3) or (6) of section 501(c) of the Internal Revenue Code of 1986 [26 U.S.C. 501(c)(3), (6)] that is exempt from taxation under section 501(a) of that Code and is organized for the purpose of representing the oilheat fuel industry.

"(6) NO. 1 DISTILLATE.—The term 'No. 1 distillate' means fuel oil classified as No. 1 distillate by the American Society for Testing and Materials.

"(7) NO. 2 DYED DISTILLATE.—The term 'No. 2 dyed distillate' means fuel oil classified as No. 2 distillate by the American Society for Testing and Materials that is indelibly dyed in accordance with regulations prescribed by the Secretary of the Treasury under section 4082(a)(2) of the Internal Revenue Code of 1986 [26 U.S.C. 4082(a)(2)].

"(8) OILHEAT FUEL.—The term 'oilheat fuel' means fuel that—

"(A) is—

"(i) No. 1 distillate;

"(ii) No. 2 dyed distillate;

"(iii) a liquid blended with No. 1 distillate or No. 2 dyed distillate; or

"(iv) a biobased liquid; and

"(B) is used as a fuel for nonindustrial commercial or residential space or hot water heating.

"(9) OILHEAT FUEL INDUSTRY.—

"(A) IN GENERAL.—The term 'oilheat fuel industry' means—

"(i) persons in the production, transportation, or sale of oilheat fuel; and

"(ii) persons engaged in the manufacture or distribution of oilheat fuel utilization equipment.

"(B) EXCLUSION.—The term 'oilheat fuel industry' does not include ultimate consumers of oilheat fuel.

"(10) PUBLIC MEMBER.—The term 'public member' means a member of the Alliance described in section 705(c)(1)(F).

"(11) QUALIFIED INDUSTRY ORGANIZATION.—The term 'qualified industry organization' means the National Association for Oilheat Research and Education or a successor organization.

"(12) QUALIFIED STATE ASSOCIATION.—The term 'qualified State association' means the industry trade association or other organization that the qualified industry organization or the Alliance determines best represents retail marketers in a State.

"(13) RETAIL MARKETER.—The term 'retail marketer' means a person engaged primarily in the sale of oilheat fuel to ultimate consumers.

"(14) SECRETARY.—The term 'Secretary' means the Secretary of Energy.

"(15) WHOLESALE DISTRIBUTOR.—The term 'wholesale distributor' means a person that—

"(A)(i) produces No. 1 distillate or No. 2 dyed distillate;

"(ii) imports No. 1 distillate or No. 2 dyed distillate; or

"(iii) transports No. 1 distillate or No. 2 dyed distillate across State boundaries or among local marketing areas; and

"(B) sells the distillate to another person that does not produce, import, or transport No. 1 distillate or No. 2 dyed distillate across State boundaries or among local marketing areas.

"(16) STATE.—The term 'State' means the several States, except the State of Alaska.

"SEC. 704. REFERENDA.

"(a) CREATION OF PROGRAM.—

"(1) IN GENERAL.—The oilheat fuel industry, through the qualified industry organization, may conduct, at its own expense, a referendum among retail marketers and wholesale distributors for the establishment of a national oilheat fuel research alliance.

"(2) REIMBURSEMENT OF COST.—The Alliance, if established, shall reimburse the qualified industry organization for the cost of accounting and documentation for the referendum.

"(3) CONDUCT.—A referendum under paragraph (1) shall be conducted by an independent auditing firm.

"(4) VOTING RIGHTS.—

"(A) RETAIL MARKETERS.—Voting rights of retail marketers in a referendum under paragraph (1) shall be based on the volume of oilheat fuel sold in a State by each retail marketer in the calendar year previous to the year in which the referendum is conducted or in another representative period.

"(B) WHOLESALE DISTRIBUTORS.—Voting rights of wholesale distributors in a referendum under paragraph (1) shall be based on the volume of No. 1 distillate and No. 2 dyed distillate sold in a State by each wholesale distributor in the calendar year previous to the year in which the referendum is conducted or in another representative period, weighted by the ratio of the total volume of No. 1 distillate and No. 2 dyed distillate sold for nonindustrial commercial and residential space and hot water heating in the State to the total volume of No. 1 distillate and No. 2 dyed distillate sold in that State.

"(5) ESTABLISHMENT BY APPROVAL OF TWO-THIRDS.—

"(A) IN GENERAL.—Subject to subparagraph (B), on approval of persons representing two-thirds of the total volume of oilheat fuel voted in the retail marketer class and two-thirds of the total

weighted volume of No. 1 distillate and No. 2 dyed distillate voted in the wholesale distributor class, the Alliance shall be established and shall be authorized to levy assessments under section 707.

"(B) REQUIREMENT OF MAJORITY OF RETAIL MARKETERS.—Except as provided in subsection (b), the oilheat fuel industry in a State shall not participate in the Alliance if less than 50 percent of the retail marketer vote in the State approves establishment of the Alliance.

"(6) CERTIFICATION OF VOLUMES.—Each person voting in the referendum shall certify to the independent auditing firm the volume of oilheat fuel, No. 1 distillate, or No. 2 dyed distillate represented by the vote of the person.

"(7) NOTIFICATION.—Not later than 90 days after the date of the enactment of this title [Nov. 9, 2000], a qualified State association may notify the qualified industry organization in writing that a referendum under paragraph (1) will not be conducted in the State.

"(b) SUBSEQUENT STATE PARTICIPATION.—The oilheat fuel industry in a State that has not participated initially in the Alliance may subsequently elect to participate by conducting a referendum under subsection (a).

"(c) TERMINATION OR SUSPENSION.—

"(1) IN GENERAL.—On the initiative of the Alliance or on petition to the Alliance by retail marketers and wholesale distributors representing 25 percent of the volume of oilheat fuel or weighted No. 1 distillate and No. 2 dyed distillate in each class, the Alliance shall, at its own expense, hold a referendum, to be conducted by an independent auditing firm selected by the Alliance, to determine whether the oilheat fuel industry favors termination or suspension of the Alliance.

"(2) VOLUME PERCENTAGES REQUIRED TO TERMINATE OR SUSPEND.—Termination or suspension shall not take effect unless termination or suspension is approved by persons representing more than one-half of the total volume of oilheat fuel voted in the retail marketer class or more than one-half of the total volume of weighted No. 1 distillate and No. 2 dyed distillate voted in the wholesale distributor class.

"(3) TERMINATION BY A STATE.—A State may elect to terminate participation by notifying the Alliance that 50 percent of the oilheat fuel volume in the State has voted in a referendum to withdraw.

"(d) CALCULATION OF OILHEAT FUEL SALES.—For the purposes of this section and section 705, the volume of oilheat fuel sold annually in a State shall be determined on the basis of information provided by the Energy Information Administration with respect to a calendar year or other representative period.

"SEC. 705. MEMBERSHIP.

"(a) SELECTION.—

"(1) LIST.—

"(A) IN GENERAL.—The Alliance shall provide to the Secretary a list of qualified nominees for membership in the Alliance.

"(B) REQUIREMENT.—Except as provided in subsection (c)(1)(C), members of the Alliance shall be representatives of the oilheat fuel industry in a State, selected from a list of nominees submitted by the qualified State association in the State.

"(2) VACANCIES.—A vacancy in the Alliance shall be filled in the same manner as the original selection.

"(3) SECRETARIAL ACTION.—

"(A) IN GENERAL.—The Secretary shall have 60 days to review nominees provided under paragraph (1).

"(B) FAILURE TO ACT.—If the Secretary takes no action during the 60-day period described in subparagraph (A), the nominees shall be considered to be members of the Alliance.

"(b) REPRESENTATION.—In selecting members of the Alliance, the Alliance shall make best efforts to select members that are representative of the oilheat fuel industry, including representation of—

"(1) interstate and intrastate operators among retail marketers;

"(2) wholesale distributors of No. 1 distillate and No. 2 dyed distillate;

"(3) large and small companies among wholesale distributors and retail marketers; and

"(4) diverse geographic regions of the country.

"(c) NUMBER OF MEMBERS.—

"(1) IN GENERAL.—The Alliance shall be composed of the following members:

"(A) 1 member representing each State participating in the Alliance.

"(B) 5 representatives of retail marketers, of whom 1 shall be selected by each of the qualified State associations of the 5 States with the highest volume of annual oilheat fuel sales.

"(C) 5 additional representatives of retail marketers.

"(D) 21 representatives of wholesale distributors.

"(E) 6 public members, who shall be representatives of significant users of oilheat fuel, the oilheat fuel research community, State energy officials, or other groups with expertise in oilheat fuel, including consumer and low-income advocacy groups.

"(2) FULL-TIME OWNERS OR EMPLOYEES.—Other than the public members, Alliance members shall be full-time owners or employees of members of the oilheat fuel industry, except that members described in subparagraphs (C), (D), and (E) of paragraph (1) may be employees of an industry trade association.

"(d) COMPENSATION.—Alliance members shall receive no compensation for their service, nor shall Alliance members be reimbursed for expenses relating to their service, except that public members, on request, may be reimbursed for reasonable expenses directly related to participation in meetings of the Alliance.

"(e) TERMS.—

"(1) IN GENERAL.—Subject to paragraph (4), a member of the Alliance shall serve a term of 3 years, except that a member filling an unexpired term may serve a total of 7 consecutive years.

"(2) TERM LIMIT.—A member may serve not more than two full consecutive terms.

"(3) FORMER MEMBERS.—A former member of the Alliance may be returned to the Alliance if the member has not been a member for a period of 2 years.

"(4) INITIAL APPOINTMENTS.—Initial appointments to the Alliance shall be for terms of 1, 2, and 3 years, as determined by the qualified industry organization, staggered to provide for the subsequent selection of one-third of the members each year.

"SEC. 706. FUNCTIONS.

"(a) IN GENERAL.—

"(1) PROGRAMS, PROJECTS; CONTRACTS AND OTHER AGREEMENTS.—The Alliance—

"(A) shall develop programs and projects and enter into contracts or other agreements with other persons and entities for implementing this title, including programs—

"(i) to enhance consumer and employee safety and training;

"(ii) to provide for research, development, and demonstration of clean and efficient oilheat fuel utilization equipment; and

"(iii) for consumer education; and

"(B) may provide for the payment of the costs of carrying out subparagraph (A) with assessments collected under section 707.

"(2) COORDINATION.—The Alliance shall coordinate its activities with industry trade associations and other persons as appropriate to provide efficient delivery of services and to avoid unnecessary duplication of activities.

"(3) ACTIVITIES.—

"(A) EXCLUSIONS.—Activities under clause (i) or (ii) of paragraph (1)(A) shall not include advertising, promotions, or consumer surveys in support of advertising or promotions.

"(B) RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACTIVITIES.—

"(i) IN GENERAL.—Research, development, and demonstration activities under paragraph (1)(A)(ii) shall include—

"(I) all activities incidental to research, development, and demonstration of clean and efficient oilheat fuel utilization equipment, including research to develop renewable fuels and to examine the compatibility of different renewable fuels with oilheat fuel utilization equipment, with priority given to research on the development and use of advanced biofuels; and

"(II) the obtaining of patents, including payment of attorney's fees for making and perfecting a patent application.

"(ii) EXCLUDED ACTIVITIES.—Research, development, and demonstration activities under paragraph (1)(A)(ii) shall not include research, development, and demonstration of oilheat fuel utilization equipment with respect to which technically feasible and commercially feasible operations have been verified, except that funds may be provided for improvements to existing equipment until the technical feasibility and commercial feasibility of the operation of those improvements have been verified.

"(b) PRIORITIES.—In the development of programs and projects, the Alliance shall give priority to issues relating to—

"(1) research, development, and demonstration;

"(2) safety;

"(3) consumer education; and

"(4) training.

"(c) ADMINISTRATION.—

"(1) OFFICERS; COMMITTEES; BYLAWS.—The Alliance—

"(A) shall select from among its members a chairperson and other officers as necessary;

"(B) may establish and authorize committees and subcommittees of the Alliance to take specific actions that the Alliance is authorized to take; and

"(C) shall adopt bylaws for the conduct of business and the implementation of this title.

"(2) SOLICITATION OF OILHEAT FUEL INDUSTRY COMMENT AND RECOMMENDATIONS.—The Alliance shall establish procedures for the solicitation of oilheat fuel industry comment and recommendations on any significant contracts and other agreements, programs, and projects to be funded by the Alliance.

"(3) ADVISORY COMMITTEES.—The Alliance may establish advisory committees consisting of persons other than Alliance members.

"(4) VOTING.—Each member of the Alliance shall have one vote in matters before the Alliance.

"(d) ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—The administrative expenses of operating the Alliance (not including costs incurred in the collection of assessments under section 707) plus amounts paid under paragraph (2) shall not exceed 7 percent of the amount of assessments collected in any calendar year that are permitted to be obligated in that calendar year.

"(2) REIMBURSEMENT OF THE SECRETARY.—

"(A) IN GENERAL.—The Alliance shall annually reimburse the Secretary for costs incurred by the Federal Government relating to the Alliance.

"(B) LIMITATION.—Reimbursement under subparagraph (A) for any calendar year shall not exceed the amount that the Secretary determines is twice the average annual salary of one employee of the Department of Energy.

"(e) BUDGET.—

"(1) PUBLICATION OF PROPOSED BUDGET.—Not later than August 1, 2014, and every 2 years thereafter, the Alliance shall, in consultation with the Secretary, develop and publish for public review and comment a proposed biennial budget for the next 2 calendar years, including the probable operating and planning costs of all programs, projects, and contracts and other agreements.

"(2) SUBMISSION TO THE SECRETARY AND CONGRESS.—After review and comment under paragraph (1), the Alliance shall submit the proposed budget to the Secretary and Congress.

"(3) RECOMMENDATIONS BY THE SECRETARY.—The Secretary may recommend for inclusion in the budget programs and activities that the Secretary considers appropriate.

"(4) IMPLEMENTATION.—

"(A) IN GENERAL.—The Alliance shall not implement a proposed budget until the expiration of 60 days after submitting the proposed budget to the Secretary.

"(B) RECOMMENDATIONS FOR CHANGES BY SECRETARY.—

"(i) IN GENERAL.—The Secretary may recommend to the Alliance changes to the budget programs and activities of the Alliance that the Secretary considers appropriate.

"(ii) RESPONSE BY ALLIANCE.—Not later than 30 days after the receipt of any recommendations made under clause (i), the Alliance shall submit to the Secretary a final budget for the next 2 calendar years that incorporates or includes a description of the response of the Alliance to any changes recommended under clause (i).

"(f) RECORDS; AUDITS.—

"(1) RECORDS.—The Alliance shall—

"(A) keep records that clearly reflect all of the acts and transactions of the Alliance; and

"(B) make the records available to the public.

"(2) AUDITS.—

"(A) IN GENERAL.—The records of the Alliance (including fee assessment reports and applications for refunds under section 707(b)(4)) shall be audited by a certified public accountant at least once each year and at such other times as the Alliance may designate.

"(B) AVAILABILITY OF AUDIT REPORTS.—Copies of each audit report shall be provided to the Secretary, the members of the Alliance, and the qualified industry organization, and, on request, to other members of the oilheat fuel industry.

"(C) POLICIES AND PROCEDURES.—

"(i) IN GENERAL.—The Alliance shall establish policies and procedures for auditing compliance with this title.

"(ii) CONFORMITY WITH GAAP.—The policies and procedures established under clause

(i) shall conform with generally accepted accounting principles.

"(g) PUBLIC ACCESS TO ALLIANCE PROCEEDINGS.—

"(1) PUBLIC NOTICE.—The Alliance shall give at least 30 days' public notice of each meeting of the Alliance.

"(2) MEETINGS OPEN TO THE PUBLIC.—Each meeting of the Alliance shall be open to the public.

"(3) MINUTES.—The minutes of each meeting of the Alliance shall be made available to and readily accessible by the public.

"(h) ANNUAL REPORT.—Each year the Alliance shall prepare and make publicly available a report that–

"(1) includes a description of all programs, projects, and contracts and other agreements undertaken by the Alliance during the previous year and those planned for the current year; and

"(2) details the allocation of Alliance resources for each such program and project.

"SEC. 707. ASSESSMENTS.

"(a) RATE.—The assessment rate shall be equal to 2/10 of 1 cent per gallon of oilheat fuel.

"(b) COLLECTION RULES.—

"(1) COLLECTION AT POINT OF SALE.—The assessment shall be collected at the point of sale of No. 1 distillate and No. 2 dyed distillate by a wholesale distributor to a person other than a wholesale distributor, including a sale made pursuant to an exchange.

"(2) RESPONSIBILITY FOR PAYMENT.—A wholesale distributor—

"(A) shall be responsible for payment of an assessment to the Alliance on a quarterly basis; and

"(B) shall provide to the Alliance certification of the volume of fuel sold.

"(3) NO OWNERSHIP INTEREST.—A person that has no ownership interest in No. 1 distillate or No. 2 dyed distillate shall not be responsible for payment of an assessment under this section.

"(4) FAILURE TO RECEIVE PAYMENT.—

"(A) REFUND.—A wholesale distributor that does not receive payments from a purchaser for No. 1 distillate or No. 2 dyed distillate within 1 year of the date of sale may apply for a refund from the Alliance of the assessment paid.

"(B) AMOUNT.—The amount of a refund shall not exceed the amount of the assessment levied on the No. 1 distillate or No. 2 dyed distillate for which payment was not received.

"(5) IMPORTATION AFTER POINT OF SALE.—The owner of No. 1 distillate or No. 2 dyed distillate imported after the point of sale—

"(A) shall be responsible for payment of the assessment to the Alliance at the point at which the product enters the United States; and

"(B) shall provide to the Alliance certification of the volume of fuel imported.

"(6) LATE PAYMENT CHARGE.—The Alliance may establish a late payment charge and rate of interest to be imposed on any person who fails to remit or pay to the Alliance any amount due under this title.

"(7) ALTERNATIVE COLLECTION RULES.—The Alliance may establish, or approve a request of the oilheat fuel industry in a State for, an alternative means of collecting the assessment if another means is determined to be more efficient or more effective.

"(8) PROHIBITION ON PASS THROUGH.—None of the assessments collected under this title may be passed through or otherwise required to be paid by residential consumers of oilheat fuel.

"(c) SALE FOR USE OTHER THAN AS OILHEAT FUEL.—No. 1 distillate and No. 2 dyed distillate sold for uses other than as oilheat fuel are excluded from the assessment.

"(d) INVESTMENT OF FUNDS.—Pending disbursement under a program, project or contract or other agreement the Alliance may invest funds collected through assessments, and any other funds received by the Alliance, only–

"(1) in obligations of the United States or any agency of the United States;

"(2) in general obligations of any State or any political subdivision of a State;

"(3) in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

"(4) in obligations fully guaranteed as to principal and interest by the United States.

"(e) STATE, LOCAL, AND REGIONAL PROGRAMS.—

"(1) COORDINATION.—The Alliance shall establish a program coordinating the operation of the Alliance with the operator of any similar State, local, or regional program created under State law (including a regulation), or similar entity.

"(2) FUNDS MADE AVAILABLE TO QUALIFIED STATE ASSOCIATIONS.—

"(A) IN GENERAL.—

"(i) BASE AMOUNT.—The Alliance shall make available to the qualified State association

of each State an amount equal to 15 percent of the amount of assessments collected in the State that are permitted to be obligated.

"(ii) ADDITIONAL AMOUNT.—

"(I) IN GENERAL.—A qualified State association may request that the Alliance provide to the association any portion of the remaining 85 percent of the amount of assessments collected in the State that are permitted to be obligated.

"(II) REQUEST REQUIREMENTS.—A request under this clause shall—

"(aa) specify the amount of funds requested;

"(bb) describe in detail the specific uses for which the requested funds are sought;

"(cc) include a commitment to comply with this title in using the requested funds; and

"(dd) be made publicly available.

"(III) DIRECT BENEFIT.—The Alliance shall not provide any funds in response to a request under this clause unless the Alliance determines that the funds will be used to directly benefit the oilheat fuel industry.

"(IV) MONITORING; TERMS, CONDITIONS, AND REPORTING REQUIREMENTS.—The Alliance shall—

"(aa) monitor the use of funds provided under this clause; and

"(bb) impose whatever terms, conditions, and reporting requirements that the Alliance considers necessary to ensure compliance with this title.

"(B) SEPARATE ACCOUNTS.—As a condition of receipt of funds made available to a qualified State association under this title, the qualified State association shall deposit the funds in an account that is separate from other funds of the qualified State association.

"(f) USE OF ASSESSMENTS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary and the Alliance shall ensure that assessments collected and permitted to be obligated for each calendar year under this title are allocated and used in accordance with this subsection.

"(2) RESEARCH, DEVELOPMENT, AND DEMONSTRATION.—

"(A) IN GENERAL.—The Alliance shall ensure that not less than 30 percent of the assessments collected and permitted to be obligated for each calendar year under this title are used by qualified State associations or the Alliance to conduct research, development, and demonstration activities relating to oilheat fuel, including the development of energy-efficient heating and the transition and facilitation of the entry of energy efficient heating systems into the marketplace.

"(B) COORDINATION.—The Alliance shall coordinate with the Secretary to develop priorities for the use of assessments under this paragraph.

"(C) PLAN.—The Alliance shall develop a coordinated research plan to carry out research programs and activities under this section.

"(D) REPORT.—

"(i) IN GENERAL.—No later than 1 year after the date of enactment of this subsection [Feb. 7, 2014], the Alliance shall prepare a report on the use of biofuels in oilheat fuel utilization equipment.

"(ii) CONTENTS.—The report required under clause (i) shall—

"(I) provide information on the environmental benefits, economic benefits, and any technical limitations on the use of biofuels in oilheat fuel utilization equipment; and

"(II) describe market acceptance of the fuel, and information on State and local governments that are encouraging the use of biofuels in oilheat fuel utilization equipment.

"(iii) COPIES.—The Alliance shall submit a copy of the report required under clause (i) to—

"(I) Congress;

"(II) the Governor of each State, and other appropriate State leaders, in which the Alliance is operating; and

"(III) the Administrator of the Environmental Protection Agency.

"(E) CONSUMER EDUCATION MATERIALS.—The Alliance, in conjunction with an institution or organization engaged in biofuels research, shall develop consumer education materials describing the benefits of using biofuels as or in oilheat fuel based on the technical information developed in the report required under subparagraph (D) and other information generally available.

"(3) COST SHARING.—

"(A) IN GENERAL.—In carrying out a research, development, demonstration, or commercial application program or activity that is commenced after the date of enactment of this subsection, the Alliance shall require cost-sharing in accordance with this section.

"(B) RESEARCH AND DEVELOPMENT.—

"(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the Alliance shall require that not less than 20 percent of the cost of a research or development program or activity described in subparagraph (A) to be provided by a source other than the Alliance.

"(ii) EXCLUSION.—Clause (i) shall not apply to a research or development program or activity described in subparagraph (A) that is of a basic or fundamental nature, as determined by the Alliance.

"(iii) REDUCTION.—The Alliance may reduce or eliminate the requirement of clause (i) for a research and development program or activity of an applied nature if the Alliance determines that the reduction is necessary and appropriate.

"(C) DEMONSTRATION AND COMMERCIAL APPLICATION.—The Alliance shall require that not less than 50 percent of the cost of a demonstration or commercial application program or activity described in subparagraph (A) to be provided by a source other than the Alliance.

"(4) HEATING OIL EFFICIENCY AND UPGRADE PROGRAM.—

"(A) IN GENERAL.—The Alliance shall ensure that not less than 15 percent of the assessments collected and permitted to be obligated for each calendar year under this title are used by qualified State associations or the Alliance to carry out programs to assist consumers—

"(i) to make cost-effective upgrades to more fuel efficient heating oil systems or otherwise make cost-effective modifications to an existing heating system to improve the efficiency of the system;

"(ii) to improve energy efficiency or reduce energy consumption through cost-effective energy efficiency programs for consumers; or

"(iii) to improve the safe operation of a heating system.

"(B) PLAN.—The Alliance shall, to the maximum extent practicable, coordinate, develop, and implement the programs and activities of the Alliance in conjunction with existing State energy efficiency program administrators.

"(C) ADMINISTRATION.—

"(i) IN GENERAL.—In carrying out this paragraph, the Alliance shall, to the maximum extent practicable, ensure that heating system conversion assistance is coordinated with, and developed after consultation with, persons or organizations responsible for administering—

"(I) the low-income home energy assistance program established under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.);

"(II) the Weatherization Assistance Program for Low-Income Persons established under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.); or

"(III) other energy efficiency programs administered by the State or other parties in the State.

"(ii) DISTRIBUTION OF FUNDS.—The Alliance shall ensure that funds distributed to carry out this paragraph are—

"(I) distributed equitably to States based on the proportional contributions of the States through collected assessments;

"(II) used to supplement (and not supplant) State or alternative sources of funding for energy efficiency programs; and

"(III) used only to carry out this paragraph.

"(5) CONSUMER EDUCATION, SAFETY, AND TRAINING.—The Alliance shall ensure that not more than 30 percent of the assessments collected and permitted to be obligated for each calendar year under this title are used—

"(A) to conduct consumer education activities relating to oilheat fuel, including providing information to consumers on—

"(i) energy conservation strategies;

"(ii) safety;

"(iii) new technologies that reduce consumption or improve safety and comfort;

"(iv) the use of biofuels blends; and

"(v) Federal, State, and local programs designed to assist oilheat fuel consumers;

"(B) to conduct worker safety and training activities relating to oilheat fuel, including energy efficiency training (including classes to obtain Building Performance Institute or Residential Energy Services Network certification);

"(C) to carry out other activities recommended by the Secretary; or

"(D) to the maximum extent practicable, a data collection process established, in collaboration with the Secretary or other appropriate Federal agencies, to track equipment, service, and related safety issues and to develop measures to improve safety.

"(6) ADMINISTRATIVE COSTS.—

"(A) IN GENERAL.—The Alliance shall ensure that not more than 5 percent of the assessments collected and permitted to be obligated for each calendar year under this title are used for—

"(i) administrative costs; or

"(ii) indirect costs incurred in carrying out paragraphs (1) through (5).

"(B) ADMINISTRATION.—Activities under this section shall be documented pursuant to a transparent process and procedures developed in coordination with the Secretary.

"(7) REPORTS.—

"(A) ANNUAL REPORTS.—

"(i) IN GENERAL.—Each qualified State association or the Alliance shall prepare an annual report describing he development and administration of this section, and yearly expenditures under this section.

"(ii) CONTENTS.—Each report required under clause (i) shall include a description of the use of proceeds under this section, including a description of—

"(I) advancements made in energy-efficient heating systems and biofuel heating oil blends; and

"(II) heating system upgrades and modifications and energy efficiency programs funded under this section.

"(iii) VERIFICATION.—

"(I) IN GENERAL.—The Alliance shall ensure that an independent third-party reviews each report described in clause (i) and verifies the accuracy of the report.

"(II) COUNCILS.—If a State has a stakeholder efficiency oversight council, the council shall be the entity that reviews and verifies the report of the State association or Alliance for the State under clause (i).

"(B) REPORTS ON HEATING OIL EFFICIENCY AND UPGRADE PROGRAM.—At least once every 3 years, the Alliance shall prepare a detailed report describing the consumer savings, cost-effectiveness of, and the lifetime and annual energy savings achieved by heating system upgrades and modifications and energy efficiency programs funded under paragraph (4).

"(C) AVAILABILITY.—Each report, and any subsequent changes to the report, described in this paragraph shall be made publically available, with notice of availability provided to the Secretary, and posted on the website of the Alliance.

"SEC. 708. LIMITATION ON OBLIGATION OF FUNDS.

"(a) IN GENERAL.—In each calendar year of the covered period, the Alliance may not obligate an amount greater than the sum of—

"(1) 75 percent of the amount of assessments estimated to be collected under section 707 in that calendar year;

"(2) 75 percent of the amount of assessments actually collected under section 707 in the most recent calendar year for which an audit report has been submitted under section 706(f)(2)(B) as of the beginning of the calendar year for which the amount that may be obligated is being determined, less the estimate made pursuant to paragraph (1) for that most recent calendar year; and

"(3) amounts permitted in preceding calendar years to be obligated pursuant to this subsection that have not been obligated.

"(b) EXCESS AMOUNTS DEPOSITED IN ESCROW ACCOUNT.—Assessments collected under section 707 in excess of the amount permitted to be obligated under subsection (a) in a calendar year shall be deposited in an escrow account for the duration of the covered period.

"(c) TREATMENT OF AMOUNTS IN ESCROW ACCOUNT.—

"(1) IN GENERAL.—During the covered period, the Alliance may not obligate, expend, or borrow against amounts required under subsection (b) to be deposited in the escrow account.

"(2) INTEREST.—Any interest earned on amounts described in paragraph (1) shall be—

"(A) deposited in the escrow account; and

"(B) unavailable for obligation for the duration of the covered period.

"(d) RELEASE OF AMOUNTS IN ESCROW ACCOUNT.—Beginning on October 1, 2028, the Alliance may withdraw and obligate any amount in the escrow account.

"(e) COVERED PERIOD DEFINED.—In this section, the term 'covered period' means the period that begins on February 6, 2019, and ends on September 30, 2028.

"SEC. 709. COMPLIANCE.

"(a) IN GENERAL.—The Alliance may bring a civil action in United States district court to compel payment of an assessment under section 707.

"(b) COSTS.—A successful action for compliance under this section may also require payment by the defendant of the costs incurred by the Alliance in bringing the action.

"SEC. 710. LOBBYING RESTRICTIONS.

"(a) IN GENERAL.—No funds derived from assessments under section 707 collected by the Alliance shall be used to influence legislation or elections or to lobby, except that the Alliance may use such funds to formulate and submit to the Secretary recommendations for amendments to this title or other laws that would further the purposes of this title.

"(b) ASSESSMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), no funds derived from assessments collected by the Alliance under section 707 shall be used, directly or indirectly, to influence Federal, State, or local legislation or elections, or the manner of administering of a law.

"(2) INFORMATION.—The Alliance may use funds described in paragraph (1) to provide information requested by a Member of Congress, or an official of any Federal, State, or local agency, in the course of the official business of the Member or official.

"SEC. 711. DISCLOSURE.

"Any consumer education activity undertaken with funds provided by the Alliance shall include a statement that the activities were supported, in whole or in part, by the Alliance.

"SEC. 712. VIOLATIONS.

"(a) PROHIBITION.—It shall be unlawful for any person to conduct a consumer education activity, undertaken with funds derived from assessments collected by the Alliance under section 707, that includes—

"(1) a reference to a private brand name;

"(2) a false or unwarranted claim on behalf of oilheat fuel or related products; or

"(3) a reference with respect to the attributes or use of any competing product.

"(b) COMPLAINTS.—

"(1) IN GENERAL.—A public utility that is aggrieved by a violation described in subsection (a) may file a complaint with the Alliance.

"(2) TRANSMITTAL TO QUALIFIED STATE ASSOCIATION.—A complaint shall be transmitted concurrently to any qualified State association undertaking the consumer education activity with respect to which the complaint is made.

"(3) CESSATION OF ACTIVITIES.—On receipt of a complaint under this subsection, the Alliance, and any qualified State association undertaking the consumer education activity with respect to which the complaint is made, shall cease that consumer education activity until—

"(A) the complaint is withdrawn; or

"(B) a court determines that the conduct of the activity complained of does not constitute a violation of subsection (a).

"(c) RESOLUTION BY PARTIES.—

"(1) IN GENERAL.—Not later than 10 days after a complaint is filed and transmitted under subsection (b), the complaining party, the Alliance, and any qualified State association undertaking the consumer education activity with respect to which the complaint is made shall meet to attempt to resolve the complaint.

"(2) WITHDRAWAL OF COMPLAINT.—If the issues in dispute are resolved in those discussions, the complaining party shall withdraw its complaint.

"(d) JUDICIAL REVIEW.—

"(1) IN GENERAL.—A public utility filing a complaint under this section, the Alliance, a qualified State association undertaking the consumer education activity with respect to which a complaint under this section is made, or any person aggrieved by a violation of subsection (a) may seek appropriate relief in United States district court.

"(2) RELIEF.—A public utility filing a complaint under this section shall be entitled to temporary and injunctive relief enjoining the consumer education activity with respect to which a complaint under this section is made until—

"(A) the complaint is withdrawn; or

"(B) the court has determined that the consumer education activity complained of does not constitute a violation of subsection (a).

"(e) ATTORNEY'S FEES.—

"(1) MERITORIOUS CASE.—In a case in Federal court in which the court grants a public utility injunctive relief under subsection (d), the public utility shall be entitled to recover an attorney's fee from the Alliance and any qualified State association undertaking the consumer education activity with respect to which a complaint under this section is made.

"(2) NONMERITORIOUS CASE.—In any case under subsection (d) in which the court determines a

complaint under subsection (b) to be frivolous and without merit, the prevailing party shall be entitled to recover an attorney's fee.

"(f) SAVINGS CLAUSE.—Nothing in this section shall limit causes of action brought under any other law.

"(g) NONCOMPLIANCE.—If the Alliance, a qualified State association, or any other entity or person violates this title, the Secretary shall—

"(1) notify Congress of the noncompliance; and

"(2) provide notice of the noncompliance on the Alliance website.

"SEC. 713. SUNSET.

"This title shall cease to be effective as of the date that is 28 years after the date on which the Alliance is established."

EXECUTIVE DOCUMENTS

EX. ORD. NO. 11912. DELEGATION OF AUTHORITIES

Ex. Ord. No. 11912, April 13, 1976, 41 F.R. 15825, as amended by Ex. Ord. No. 12003, July 20, 1977, 42 F.R. 37523; Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957; Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 4323 Ex. Ord. No. 12375, Aug. 4, 1982, 47 F.R. 34105; Ex. Ord. No. 12919, §904(a)(7), June 3, 1994, 59 F.R. 29533, provided:

By virtue of the authority vested in me by the Constitution and the statutes of the United States of America, including the Energy Policy and Conservation Act (Public Law 94–163, 89 Stat. 8, 42 U.S.C. 6201 et seq.), the Motor Vehicle Information and Cost Savings Act, as amended (15 U.S.C. 1901 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.) [now 50 U.S.C. 4501 et seq.], and section 301 of Title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. (a) The Administrator of General Services is designated and empowered to perform without approval, ratification, or other action by the President, the functions vested in the President by Section 510 of the Motor Vehicle Information and Cost Savings Act, as amended (89 Stat. 915, 15 U.S.C. 2010). The Administrator shall exercise that authority to ensure that passenger automobiles acquired by all Executive agencies in each fiscal year achieve a fleet average fuel economy standard that is not less than the average fuel economy standard for automobiles manufactured for the model year which includes January 1 of each fiscal year.

(b) The Administrator of General Services shall also promulgate rules which will ensure that each class of nonpassenger automobiles acquired by all Executive agencies in each fiscal year achieves a fleet average fuel economy that is not less than the average fuel economy standard for uch class, established pursuant to Section 502(b) of the Motor Vehicle Information and Cost Savings Act, as amended (89 Stat. 903, 15 U.S.C. 2002(b)), for the model year which includes January 1 of such fiscal year. Such rules shall not apply to nonpassenger automobiles intended for use in combat-related missions for the Armed Forces or intended for use in law enforcement work or emergency rescue work. The Administrator may provide for granting exceptions for individual nonpassenger automobiles or categories of nonpassenger automobiles as he determines to be appropriate in terms of energy conservation, economy, efficiency, or service.

(c) In performing these functions, the Administrator of General Services shall consult with the Secretary of Transportation and the Secretary of Energy.

SEC. 2. The Secretary of Commerce is designated and empowered to perform without approval, ratification, or other action by the President, the functions vested in the President by section 103 of the Energy Policy and Conservation Act (89 Stat. 877, [former] 42 U.S.C. 6212). In performing each of these functions, the Secretary of Commerce shall consult with appropriate Executive agencies, as set forth in the provisions of section 5(a) of the Export Administration Act of 1969, as amended ([former] 50 U.S.C. App. 2404(a)).

SEC. 3. The Administrator of the Office of Federal Procurement Policy, in the exercise of his statutory responsibility to provide overall direction of procurement policy (41 U.S.C. 405), shall, after consultation with the heads of appropriate agencies, including those responsible for developing energy conservation and efficiency standards, and to the extent he considers appropriate and with due regard to the program activities of the Executive agencies, provide policy guidance governing the application of energy conservation and efficiency standards in the Federal procurement process in accord with section 381(a)(1) of the Energy Policy and Conservation Act (89 Stat. 939, 42 U.S.C. 6361(a)(1)).

SEC. 4. (a) The Secretary of Energy, in consultation with the heads of appropriate agencies, is hereby authorized and directed to develop for the President's consideration, in accord with section 201 of the Energy Policy and Conservation Act (89 Stat. 890, 42 U.S.C. 6261), the energy conservation and rationing

contingency plans prescribed under sections 202 and 203 of the Energy Policy and Conservation Act (89 Stat. 892, 42 U.S.C. 6262 and 6263).

(b) The Secretary of Energy shall prepare, with the assistance of the heads of appropriate agencies, for the President's consideration, the annual reports provided by section 381(c) of the Energy Policy and Conservation Act (89 Stat. 939, 42 U.S.C. 6361(c)).

SEC. 5. The Secretary of State is hereby delegated the authority vested in the President by Section 252(c)(1)(A)(iii) of the Energy Policy and Conservation Act (89 Stat. 895, 42 U.S.C. 6272(c)(1)(A)(iii)).

SEC. 6. The Secretary of Energy is designated and empowered to perform without approval, ratification, or other action by the President, the functions vested in the President by:

(a) Section 251 of the Energy Policy and Conservation Act (89 Stat. 894, 42 U.S.C. 6271), except the making of the findings provided by subparagraph (b)(1)(B) thereof; however, in performing these functions, the Secretary shall consult with the Secretary of Commerce with respect to the international allocation of petroleum products which are within the territorial jurisdiction of the United States; and *provided that* the Secretary of Commerce shall promulgate rules, pursuant to the procedures established by the Export Administration Act of 1969, as amended [former 50 U.S.C. App. 2401 et seq.], to authorize the export of petroleum and petroleum products, as may be necessary for implementation of the obligations of the United States under the International Energy Program, and in accordance with the rules promulgated under Section 251 of the Energy Policy and Conservation Act by the Secretary pursuant to this subsection.

(b) Section 253(c) of the Energy Policy and Conservation Act (89 Stat. 898, 42 U.S.C. 6273);

(c) Section 254(a) of the Energy Policy and Conservation Act (89 Stat. 899, 42 U.S.C. 6274(a)), including the receipt of petitions under section 254(a)(3)(B); *provided that*, the authority under section 254(a) may be exercised only after consultation with the Secretary of State;

(d) Section 254(b) of the Energy Policy and Conservation Act (89 Stat. 900, 42 U.S.C. 6274(b)); *provided that*, in determining whether the transmittal of data would prejudice competition or violate the antitrust laws, the Secretary shall consult with the Attorney General, and in determining whether the transmittal of data would be inconsistent with national security interests, he shall consult with the Secretaries of State and Defense, and the heads of such other agencies as he deems appropriate;

(e) Section 523(a)(2)(A) of the Energy Policy and Conservation Act (89 Stat. 962, 42 U.S.C. 6393(a)(2)(A)), but only to the extent applicable to other functions delegated or assigned by this Order to the Secretary of Energy.

[SECS. 7 and 8. Revoked by Ex. Ord. No. 12919, §904(a)(7), June 3, 1994, 59 F.R. 29533.]

SEC. 9. All orders, regulations, circulars or other directives issued and all other action taken prior to the date of this order that would be valid under the authority delegated by this Order, are hereby confirmed and ratified and shall be deemed to have been issued under this order.

SEC. 10. (a)(1) The Secretary of Energy, hereinafter referred to as the Secretary, shall develop, with the concurrence of the Director of the Office of Management and Budget, and in consultation with the Secretary of Defense, the Secretary of Housing and Urban Development, the Administrator of Veterans' Affairs, the Administrator of General Services, and the heads of such other Executive agencies as he deems appropriate, the ten-year plan for energy conservation with respect to Government buildings, as provided by section 381(a)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6361(a)(2)).

(2) The goals established in subsection (b) shall apply to the following categories of Federally-owned buildings: (i) office buildings, (ii) hospitals, (iii) schools, (iv) prison facilities, (v) multi-family dwellings, (vi) storage facilities, and (vii) such other categories of buildings for which the Administrator determines the establishment of energy-efficiency performance goals is feasible.

(b) The Secretary shall establish requirements and procedures, which shall be observed by each agency unless a waiver is granted by the Secretary, designed to ensure that each agency to the maximum extent practicable aims to achieve the following goals:

(1) For the total of all Federally-owned existing buildings the goal shall be a reduction of 20 percent in the average annual energy use per gross square foot of floor area in 1985 from the average energy use per gross square foot of floor area in 1975. This goal shall apply to all buildings for which construction was or design specifications were completed prior to the date of promulgation of the guidelines pursuant to subsection (d) of this Section.

(2) For the total of all Federally-owned new buildings the goal shall be a reduction of 45 percent in the average annual energy requirement per gross square foot of floor area in 1985 from the average annual energy use per gross square foot of floor area in 1975. This goal shall apply to all new buildings for which design specifications are completed after the date of promulgation of the guidelines pursuant to subsection (d) of this Section.

(c) The Secretary with the concurrence of the Director of the Office of Management and Budget, in

consultation with the heads of the Executive agencies specified in subsection (a) and the Director of the National Bureau of Standards, shall establish, for purposes of developing the ten-year plan, a practical and effective method for estimating and comparing life cycle capital and operating costs for Federal buildings, including residential, commercial, and industrial type categories. Such method shall be consistent with the Office of Management and Budget Circular No. A–94, and shall be adopted and used by all agencies in developing their plans pursuant to subsection (e), annual reports pursuant to subsection (g), and budget estimates pursuant to subsection (h). For purposes of this paragraph, the term "life cycle cost" means the total costs of owning, operating, and maintaining a building over its economic life, including its fuel and energy costs, determined on the basis of a systematic evaluation and comparison of alternative building systems. [References to National Bureau of Standards deemed to refer to National Institute of Standards and Technology pursuant to section 5115(c) of Pub. L. 100–418, set out as a Change of Name note under 15 U.S.C. 271.]

(d) Not later than November 1, 1977, the Secretary, with the concurrence of the Director of the Office of Management and Budget, and after consultation with the Administrator of General Services and the heads of the Executive agencies specified in subsection (a) shall issue guidelines for the plans to be submitted pursuant to subsection (e).

(e)(1) The head of each Executive agency that maintains any existing building or will maintain any new building shall submit no later than six months after the issuance of guidelines pursuant to subsection (d), to the Secretary a ten-year plan designed to the maximum extent practicable to meet the goals in subsection (b) for the total of existing or new Federal buildings. Such ten-year plans shall only consider improvements that are cost-effective consistent with the criteria established by the Director of the Office of Management and Budget (OMB Circular A–94) and the method established pursuant to subsection (c) of this Section. The plan submitted shall specify appropriate energy-saving initiatives and shall estimate the expected improvements by fiscal year in terms of specific accomplishments—energy savings and cost savings—together with the estimated costs of achieving the savings.

(2) The plans submitted shall, to the maximum extent practicable, include the results of preliminary energy audits of all existing buildings with over 30,000 gross square feet of space owned and maintained by Executive agencies. Further, the second annual report submitted under subsection (g)(2) of this Section shall, to the maximum extent practicable, include the results of preliminary energy audits of all existing buildings with more than 5,000 but not more than 30,000 gross square feet of space. The purpose of such preliminary energy audits shall be to identify the type, size, energy use level and major energy using systems of existing Federal buildings.

(3) The Secretary shall evaluate agency plans relative to the guidelines established pursuant to subsection (d) for such plans and relative to the cost estimating method established pursuant to subsection (c). Plans determined to be deficient by the Secretary will be returned to the submitting agency head for revision and resubmission within 60 days.

(4) The head of any Executive agency submitting a plan, should he disagree with the Secretary's determination with respect to that plan, may appeal to the Director of the Office of Management and Budget for resolution of the disagreement.

(f) The head of each agency submitting a plan or revised plan determined not deficient by the Secretary or, on appeal, by the Director of the Office of Management and Budget, shall implement the plan in accord with approved budget estimates.

(g)(1) Each Executive agency shall submit to the Secretary an overall plan for conserving fuel and energy in all operations of the agency. This overall plan shall be in addition to and include any ten-year plan for energy conservation in Government buildings submitted in accord with Subsection (e).

(2) By July 1 of each year, each Executive agency shall submit a report to the Secretary on progress made toward achieving the goals established in the overall plan required by paragraph (1) of this subsection. The annual report shall include quantitative measures and accomplishment with respect to energy saving actions taken, the cost of these actions, the energy saved, the costs saved, and other benefits realized.

(3) The Secretary shall prepare a consolidated annual report on Federal government progress toward achieving the goals, including aggregate quantitative measures of accomplishment as well as suggested revisions to the ten-year plan, and submit the report to the President by August 15 of each year.

(h) Each agency required to submit a plan shall submit to the Director of the Office of Management and Budget with the agency's annual budget submission, and in accordance with procedures and requirements that the Director shall establish, estimates for implementation of the agency's plan. The Director of the Office of Management and Budget shall consult with the Secretary about the agency budget estimates.

(i) Each agency shall program its proposed energy conservation improvements of buildings so as to give the highest priority to the most cost-effective projects.

(j) No agency of the Federal government may enter into a lease or a commitment to lease a building the construction of which has not commenced by the effective date of this Order unless the building will likely meet or exceed the general goal set forth in subsection (b)(2).

(k) The provisions of this Section do not apply to housing units repossessed by the Federal Government.

EXECUTIVE ORDER NO. 12759

Ex. Ord. No. 12759, Apr. 17, 1991, 56 F.R. 16257, as amended by Ex. Ord. No. 12902, §701, Mar. 8, 1994, 59 F.R. 11471, which provided for minimization of petroleum use in Federal facilities, vehicle fuel efficiency outreach programs, and Federal vehicle fuel efficiency, was revoked by Ex. Ord. No. 13123, §604, June 3, 1999, 64 F.R. 30859, formerly set out as a note under section 8251 of this title.

EXECUTIVE ORDER NO. 12902

Ex. Ord. No. 12902, Mar. 8, 1994, 59 F.R. 11463, which directed executive agencies to implement programs to reduce energy consumption, increase energy efficiency, and conserve water, was revoked by Ex. Ord. No. 13123, §604, June 3, 1999, 64 F.R. 30859, formerly set out as a note under section 8251 of this title.

§6202. Definitions

As used in this chapter:

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "person" includes (A) any individual, (B) any corporation, company, association, firm, partnership, society, trust, joint venture, or joint stock company, and (C) the government and any agency of the United States or any State or political subdivision thereof.

(3) The term "petroleum product" means crude oil, residual fuel oil, or any refined petroleum product (including any natural liquid and any natural gas liquid product).

(4) The term "State" means a State, the District of Columbia, Puerto Rico, the Trust Territory of the Pacific Islands, or any territory or possession of the United States.

(5) The term "United States" when used in the geographical sense means all of the States and the Outer Continental Shelf.

(6) The term "Outer Continental Shelf" has the same meaning as such term has under section 1331 of title 43.

(7) The term "international energy program" means the Agreement on an International Energy Program, signed by the United States on November 18, 1974, including (A) the annex entitled "Emergency Reserves", (B) any amendment to such Agreement which includes another nation as a party to such Agreement, and (C) any technical or clerical amendment to such Agreement.

(8) The term "severe energy supply interruption" means a national energy supply shortage which the President determines—

(A) is, or is likely to be, of significant scope and duration, and of an emergency nature;

(B) may cause major adverse impact on national safety or the national economy; and

(C) results, or is likely to result, from (i) an interruption in the supply of imported petroleum products, (ii) an interruption in the supply of domestic petroleum products, or (iii) sabotage, an act of terrorism, or an act of God.

(9) The term "antitrust laws" includes—

(A) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1, et seq.);

(B) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12, et seq.);

(C) the Federal Trade Commission Act (15 U.S.C. 41, et seq.);

(D) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purpose", approved August 27, 1894 (15 U.S.C. 8 and 9); and

(E) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21A).

(10) The term "Federal land" means all lands owned or controlled by the United States,

including the Outer Continental Shelf, and any land in which the United States has reserved mineral interests, except lands—

(A) held in trust for Indians or Alaska Natives,

(B) owned by Indians or Alaska Natives with Federal restrictions on the title,

(C) within any area of the National Park System, the National Wildlife Refuge System, the National Wilderness Preservation System, the National System of Trails, or the Wild and Scenic Rivers System, or

(D) within military reservations.

(Pub. L. 94–163, §3, Dec. 22, 1975, 89 Stat. 874; Pub. L. 95–619, title VI, §691(a), Nov. 9, 1978, 92 Stat. 3287; Pub. L. 98–454, title VI, §601(f), Oct. 5, 1984, 98 Stat. 1736; Pub. L. 101–383, §3(a), Sept. 15, 1990, 104 Stat. 727; Pub. L. 114–74, title IV, §401(b), Nov. 2, 2015, 129 Stat. 589.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in introductory clause, was in the original "this Act", meaning Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 871, known as the Energy Policy and Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

Act approved July 2, 1890, referred to in par. (9)(A), is act July 2, 1890, ch. 647, 26 Stat. 209, known as the Sherman Act, which is classified to sections 1 to 7 of Title 15. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables.

Act approved October 15, 1914, referred to in par. (9)(B), is act Oct. 15, 1914, ch. 323, 38 Stat. 730, known as the Clayton Act, which is classified generally to sections 12, 13, 14 to 19, 21, and 22 to 27 of Title 15, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables.

The Federal Trade Commission Act, referred to in par. (9)(C), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of Title 15. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

Act of June 19, 1936, chapter 592, referred to in par. (9)(E), is act June 19, 1936, ch. 592, 49 Stat. 1526, popularly known as the Robinson-Patman Antidiscrimination Act and also as the Robinson-Patman Price Discrimination Act, which enacted sections 13a, 13b, and 21a of Title 15, Commerce and Trade, and amended section 13 of Title 15. For complete classification of this Act to the Code, see Short Title note set out under section 13 of Title 15 and Tables.

AMENDMENTS

2015—Par. (8)(C)(iii). Pub. L. 114–74 substituted "sabotage, an act of terrorism, or an act of God" for "sabotage or an act of God".

1990—Par. (8)(C). Pub. L. 101–383 inserted "(i)" before "an interruption" and substituted "(ii) an interruption in the supply of domestic petroleum products, or (iii)" for "or from".

1984—Par. (4). Pub. L. 98–454 inserted reference to Trust Territory of the Pacific Islands.

1978—Par. (1). Pub. L. 95–619 substituted definition of "Secretary", meaning the Secretary of Energy, for definition of "Administrator", meaning Administrator of the Federal Energy Administration.

EXECUTIVE DOCUMENTS

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

SUBCHAPTER I—DOMESTIC SUPPLY AVAILABILITY

PART A—DOMESTIC SUPPLY

§6211. Repealed. Pub. L. 106–469, title I, §103(1), Nov. 9, 2000, 114 Stat. 2029

Section, Pub. L. 94–163, title I, §102, Dec. 22, 1975, 89 Stat. 876; Pub. L. 94–385, title I, §164, Aug. 14, 1976, 90 Stat. 1142; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 95–620, title VIII, §802, Nov. 9, 1978, 92 Stat. 3347, provided for incentives to develop underground coal mines.

§6212. Repealed. Pub. L. 114–113, div. O, title I, §101(a), Dec. 18, 2015, 129 Stat. 2987

Section, Pub. L. 94–163, title I, §103, Dec. 22, 1975, 89 Stat. 877; Pub. L. 96–72, §22(b)(1), Sept. 29, 1979, 93 Stat. 535, related to domestic use of energy supplies and related materials and equipment.

§6212a. Oil exports, safety valve, and maritime security

(a) Omitted

(b) National policy on oil export restriction

Notwithstanding any other provision of law, except as provided in subsections (c) and (d), to promote the efficient exploration, production, storage, supply, marketing, pricing, and regulation of energy resources, including fossil fuels, no official of the Federal Government shall impose or enforce any restriction on the export of crude oil.

(c) Savings clause

Nothing in this section limits the authority of the President under the Constitution, the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) or regulations issued under that Act (other than section 754.2 of title 15, Code of Federal Regulations), the National Emergencies Act (50 U.S.C. 1601 et seq.), part B of title II of the Energy Policy and Conservation Act (42 U.S.C. 6271 et seq.), the Trading With the Enemy Act (50 U.S.C. App. 1 et seq.),[1] or any other provision of law that imposes sanctions on a foreign person or foreign government (including any provision of law that prohibits or restricts United States persons from engaging in a transaction with a sanctioned person or government), including a foreign government that is designated as a state sponsor of terrorism, to prohibit exports.

(d) Exceptions and presidential authority

(1) In general

The President may impose export licensing requirements or other restrictions on the export of crude oil from the United States for a period of not more than 1 year, if—

(A) the President declares a national emergency and formally notices the declaration of a national emergency in the Federal Register;

(B) the export licensing requirements or other restrictions on the export of crude oil from the United States under this subsection apply to 1 or more countries, persons, or organizations in the context of sanctions or trade restrictions imposed by the United States for reasons of national security by the Executive authority of the President or by Congress; or

(C) the Secretary of Commerce, in consultation with the Secretary of Energy, finds and reports to the President that—

(i) the export of crude oil pursuant to this Act has caused sustained material oil supply shortages or sustained oil prices significantly above world market levels that are directly attributable to the export of crude oil produced in the United States; and

(ii) those supply shortages or price increases have caused or are likely to cause sustained material adverse employment effects in the United States.

(2) Renewal

Any requirement or restriction imposed pursuant to subparagraph (A) of paragraph (1) may be renewed for 1 or more additional periods of not more than 1 year each.

(Pub. L. 114–113, div. O, title I, §101, Dec. 18, 2015, 129 Stat. 2987.)

EDITORIAL NOTES

REFERENCES IN TEXT

The International Emergency Economic Powers Act, referred to in subsec. (c), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

The National Emergencies Act, referred to in subsec. (c), is Pub. L. 94–412, Sept. 14, 1976, 90 Stat. 1255, which is classified principally to chapter 34 (§1601 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 50 and Tables.

The Energy Policy and Conservation Act, referred to in subsec. (c), is Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 871. Part B of title II of the Act is classified generally to part B (§6271 et seq.) of subchapter II of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

The Trading With the Enemy Act, referred to in subsec. (c), is act Oct. 6, 1917, ch. 106, 40 Stat. 411, which was classified to sections 1 to 6, 7 to 39 and 41 to 44 of the former Appendix to Title 50, War and National Defense, prior to editorial reclassification and renumbering as chapter 53 (§4301 et seq.) of Title 50. For complete classification of this Act to the Code, see Tables.

This Act, referred to in subsec. (d)(1)(C)(i), is div. O of Pub. L. 114–113, Dec. 18, 2015, 129 Stat. 2986. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Consolidated Appropriations Act, 2016, and not as part of the Energy Policy and Conservation Act which comprises this chapter.

Section is comprised of section 101 of div. O of Pub. L. 114–113. Subsec. (a) of section 101 of div. O of Pub. L. 114–113 repealed section 6212 of this title. Subsec. (e) of section 101 of div. O of Pub. L. 114–113 amended sections 53106 and 53111 of Title 46, Shipping.

[1] *See References in Text note below.*

§6213. Certain lease bidding arrangements prohibited

(a) Promulgation of rule by Secretary of the Interior

The Secretary of the Interior shall, not later than 30 days after December 22, 1975, prescribe and make effective a rule which prohibits the bidding for any right to develop crude oil, natural gas, and natural gas liquids on any lands located on the Outer Continental Shelf by any person if more than one major oil company, more than one affiliate of a major oil company, or a major oil company and any affiliate of a major oil company, has or have a significant ownership interest in such person. Such rule shall define affiliate relationships and significant ownership interests.

(b) Definitions

As used in this section:

(1) The term "major oil company" means any person who, individually or together with any other person with respect to which such person has an affiliate relationship or significant ownership interest, produced during a prior 6–month period specified by the Secretary, an average daily volume of 1,600,000 barrels of crude oil, natural gas liquids equivalents, and natural gas equivalents.

(2) One barrel of natural gas equivalent equals 5,626 cubic feet of natural gas measured at 14.73

pounds per square inch (MSL) and 60 degrees Fahrenheit.

(3) One barrel of natural gas liquids equivalent equals 1.454 barrels of natural gas liquids at 60 degrees Fahrenheit.

(c) Exemptions

The Secretary may, in his discretion, consider a request from any person described in subsection (a) of this section for an exemption from the prohibition of this section. In considering any such request, the Secretary may exempt bidding for leases for lands in any area only if the Secretary finds, on the record after opportunity for an agency hearing, that—

(1) such lands have extremely high cost exploration or development problems; and

(2) exploration and development will not occur on such lands unless such exemption is granted.

Findings of the Secretary under this subsection shall be final, and shall not be invalidated unless found to be arbitrary or capricious.

(d) Unitization of producing fields

This section shall not be construed to prohibit the unitization of producing fields to increase production or maximize ultimate recovery of oil or natural gas, or both.

(e) Report to Congress covering extension of restrictions on joint bidding

The Secretary shall study and report to the Congress, not later than 6 months after December 22, 1975, with respect to the feasibility and desirability of extending the prohibition on joint bidding to—

(1) bidding for any right to develop crude oil, natural gas, and natural gas liquids on Federal lands other than those located on the Outer Continental Shelf; and

(2) bidding for any right to develop coal and oil shale on such lands.

(Pub. L. 94–163, title I, §105, Dec. 22, 1975, 89 Stat. 879; Pub. L. 95–372, title II, §205(c), Sept. 18, 1978, 92 Stat. 646.)

EDITORIAL NOTES

AMENDMENTS

1978—Subsec. (c). Pub. L. 95–372 substituted "in his discretion, consider a request from any person described in subsection (a) of this section for an exemption from the prohibition of this section" for "by amendment to the rule, exempt bidding for leases for lands located in frontier or other areas determined by the Secretary to be extremely high risk lands or to present unusually high cost exploration, or development, problems" in existing provisions and inserted provisions setting out the requisite finding of the Secretary and making arbitrariness and capriciousness of the Secretary's findings the only bases for invalidation of those findings.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior to promulgate regulations under this chapter relating to fostering of competition for Federal leases and to implementation of alternative bidding systems authorized for award of Federal leases transferred to Secretary of Energy by section 7152(b) of this title. Section 7152(b) of this title repealed by Pub. L. 97–100, title II, §201, Dec. 23, 1981, 95 Stat. 1407, and functions of Secretary of Energy returned to Secretary of the Interior. See House Report No. 97–315, pp. 25, 26, Nov. 5, 1981.

§6214. Repealed. Pub. L. 106–469, title I, §103(3), Nov. 9, 2000, 114 Stat. 2029

Section, Pub. L. 94–163, title I, §106, Dec. 22, 1975, 89 Stat. 880, related to production of oil or gas at the maximum efficient rate and temporary emergency production rate.

§6215. Major fuel burning stationary source

(a) Restrictions on issuance of orders or rules by Governor pursuant to section 7425 of this title

No Governor of a State may issue any order or rule pursuant to section 7425 of this title to any major fuel burning stationary source (or class or category thereof)—

(1) prohibiting such source from using fuels other than locally or regionally available coal or coal derivatives, or

(2) requiring such source to enter into a contract (or contracts) for supplies of locally or regionally available coal or coal derivatives.

(b) Petition to President

(1) The Governor of any State may petition the President to exercise the President's authorities pursuant to section 7425 of this title with respect to any major fuel burning stationary source located in such State.

(2) Any petition under paragraph (1) shall include documentation which could support a finding that significant local or regional economic disruption or unemployment would result from use by such source of—

(A) coal or coal derivatives other than locally or regionally available coal,

(B) petroleum products,

(C) natural gas, or

(D) any combination of fuels referred to in subparagraphs (A) through (C), to comply with the requirements of a State implementation plan pursuant to section 7410 of this title.

(c) Action to be taken by President

Within 90 days after the submission of a Governor's petition under subsection (b), the President shall either issue an order or rule pursuant to section 7425 of this title or deny such petition, stating in writing his reasons for such denial. In making his determination to issue such an order or rule pursuant to this subsection, the President must find that such order or rule would—

(1) be consistent with section 7425 of this title;

(2) result in no significant increase in the consumption of energy;

(3) not subject the ultimate consumer to significantly higher energy costs; and

(4) not violate any contractual relationship between such source and any supplier or transporter of fuel to such source.

(d) Effect on authority of President to allocate coal or coal derivatives

Nothing in subsection (a) or (b) of this section shall affect the authority of the President or the Secretary of the Department of Energy to allocate coal or coal derivatives under any provision of law.

(e) Definitions

The terms "major fuel burning stationary source (or class or category thereof)" and "locally or regionally available coal or coal derivatives" shall have the meanings assigned to them for the purposes of section 7425 of this title.

(Pub. L. 94–163, title I, §107, as added Pub. L. 95–619, title VI, §661, Nov. 9, 1978, 92 Stat. 3285; amended Pub. L. 106–469, title VI, §605(b)(2), Nov. 9, 2000, 114 Stat. 2043.)

EDITORIAL NOTES

AMENDMENTS

2000—Pub. L. 106–469 inserted section catchline.

§6216. Annual Home Heating Readiness Reports

(a) In general

On or before September 1 of each year, the Secretary, acting through the Administrator of the Energy Information Agency, shall submit to Congress a Home Heating Readiness Report on the readiness of the natural gas, heating oil and propane industries to supply fuel under various weather conditions, including rapid decreases in temperature.

(b) Contents

The Home Heating Readiness Report shall include—

(1) estimates of the consumption, expenditures, and average price per gallon of heating oil and propane and thousand cubic feet of natural gas for the upcoming period of October through March for various weather conditions, with special attention to extreme weather, and various regions of the country;

(2) an evaluation of—

(A) global and regional crude oil and refined product supplies;

(B) the adequacy and utilization of refinery capacity;

(C) the adequacy, utilization, and distribution of regional refined product storage capacity;

(D) weather conditions;

(E) the refined product transportation system;

(F) market inefficiencies; and

(G) any other factor affecting the functional capability of the heating oil industry and propane industry that has the potential to affect national or regional supplies and prices;

(3) recommendations on steps that the Federal, State, and local governments can take to prevent or alleviate the impact of sharp and sustained increases in the price of natural gas, heating oil, and propane; and

(4) recommendations on steps that companies engaged in the production, refining, storage, transportation of heating oil or propane, or any other activity related to the heating oil industry or propane industry, can take to prevent or alleviate the impact of sharp and sustained increases in the price of heating oil and propane.

(c) Information requests

The Secretary may request information necessary to prepare the Home Heating Readiness Report from companies described in subsection (b)(4).

(Pub. L. 94–163, title I, §108, as added Pub. L. 106–469, title VI, §605(a), Nov. 9, 2000, 114 Stat. 2042.)

§6217. Scientific inventory of oil and gas reserves

(a) In general

The Secretary of the Interior, in consultation with the Secretaries of Agriculture and Energy, shall conduct an inventory of all onshore Federal lands. The inventory shall identify—

(1) the United States Geological Survey estimates of the oil and gas resources underlying these lands;

(2) the extent and nature of any restrictions or impediments to the development of the resources, including—

(A) impediments to the timely granting of leases;

(B) post-lease restrictions, impediments, or delays on development for conditions of approval, applications for permits to drill, or processing of environmental permits; and

(C) permits or restrictions associated with transporting the resources for entry into commerce; and

(3) the quantity of resources not produced or introduced into commerce because of the restrictions.

(b) Regular update

Once completed, the USGS resource estimates and the surface availability data as provided in subsection (a)(2) shall be regularly updated and made publicly available.

(c) Inventory

The inventory shall be provided to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate within 2 years after November 9, 2000.

(d) Assessments

Using the inventory, the Secretary of Energy shall make periodic assessments of economically recoverable resources accounting for a range of parameters such as current costs, commodity prices, technology, and regulations.

(Pub. L. 106–469, title VI, §604, Nov. 9, 2000, 114 Stat. 2041; Pub. L. 109–58, title III, §364(a), Aug. 8, 2005, 119 Stat. 723.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Energy Act of 2000, and not as part of the Energy Policy and Conservation Act which comprises this chapter.

AMENDMENTS

2005—Subsec. (a)(1). Pub. L. 109–58, §364(a)(1)(A), struck out "reserve" before "estimates" and "and" after the semicolon.

Subsec. (a)(2), (3). Pub. L. 109–58, §364(a)(1)(B), added pars. (2) and (3) and struck out former par. (2) which read as follows: "the extent and nature of any restrictions or impediments to the development of such resources."

Subsec. (b). Pub. L. 109–58, §364(a)(2), substituted "resource" for "reserve" and "publicly" for "publically".

Subsec. (d). Pub. L. 109–58, §364(a)(3), added subsec. (d) and struck out heading and text of former subsec. (d). Text read as follows: "There are authorized to be appropriated such sums as may be necessary to implement this section."

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

PART B—STRATEGIC PETROLEUM RESERVE

§6231. Congressional finding and declaration of policy

(a) The Congress finds that the storage of substantial quantities of petroleum products will diminish the vulnerability of the United States to the effects of a severe energy supply interruption, and provide limited protection from the short-term consequences of interruptions in supplies of petroleum products.

(b) It is the policy of the United States to provide for the creation of a Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products to reduce the impact of disruptions in supplies of petroleum products, to carry out obligations of the United States under the international energy program, and for other purposes as provided for in this chapter.

(Pub. L. 94–163, title I, §151, Dec. 22, 1975, 89 Stat. 881; Pub. L. 106–469, title I, §103(4), Nov. 9, 2000, 114 Stat. 2029.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 871, known as the Energy Policy and Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

AMENDMENTS

2000—Subsec. (b). Pub. L. 106–469 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "It is hereby declared to be the policy of the United States to provide for the creation of a Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products, but not less than 150 million barrels of petroleum products by the end of the 3-year period which begins on December 22, 1975, for the purpose of reducing the impact of disruptions in supplies of petroleum products or to carry out obligations of the United States under the international energy program. It is further declared to be the policy of the United States to provide for the creation of an Early Storage Reserve, as part of the Reserve, for the purpose of providing limited protection from the impact of near-term disruptions in supplies of petroleum products or to carry out obligations of the United States under the international energy program."

STATUTORY NOTES AND RELATED SUBSIDIARIES

STUDY OF A STRATEGIC ETHANOL RESERVE

Pub. L. 99–198, title XVII, §1778, Dec. 23, 1985, 99 Stat. 1659, provided that:

"(a) The Secretary of Agriculture shall conduct a study of the cost effectiveness, the economic benefits, and the feasibility of establishing, maintaining, and utilizing a Strategic Ethanol Reserve relative to the existing Strategic Petroleum Reserve.

"(b) The study shall be completed within one year after the enactment of this section [Dec. 23, 1985] and shall include, among other considerations—

"(1) the benefits and losses related to the U.S. economy, farm income, employment, government commodity programs, and the trade deficit of utilizing a Strategic Ethanol Reserve, as opposed to the Strategic Petroleum Reserve; and

"(2) the savings from storing ethanol as opposed to storing the amount of CCC-held grain necessary to produce the ethanol.

"(c) If the study shows that the Strategic Ethanol Reserve is cost effective, beneficial to the U.S. economy, and feasible in comparison with the Strategic Petroleum Reserve, the Secretary of Agriculture may establish, maintain, and utilize a Strategic Ethanol Reserve."

ADDITIONAL CONGRESSIONAL FINDINGS

Pub. L. 97–35, title X, §1032, Aug. 13, 1981, 95 Stat. 618, provided that: "The Congress finds that—

"(1) the Strategic Petroleum Reserve should be considered a national security asset; and

"(2) enlarging the capacity and filling of the Strategic Petroleum Reserve should be accelerated (to the extent technically and economically practicable) to take advantage of any increased availability of crude oil in the world market from time to time."

§6232. Definitions

As used in this part and part C:

(1) Repealed. Pub. L. 106–469, title I, §103(5)(A), Nov. 9, 2000, 114 Stat. 2029.

(2) The term "importer" means any person who owns, at the first place of storage, any petroleum product imported into the United States.

(3) Repealed. Pub. L. 106–469, title I, §103(5)(A), Nov. 9, 2000, 114 Stat. 2029.

(4) The term "interest in land" means any ownership or possessory right with respect to real property, including ownership in fee, an easement, a leasehold, and any subsurface or mineral rights.

(5) The term "readily available inventories" means stocks and supplies of petroleum products which can be distributed or used without affecting the ability of the importer or refiner to operate at normal capacity; such term does not include minimum working inventories or other unavailable stocks.

(6) The term "refiner" means any person who owns, operates, or controls the operation of any refinery.

(7) Repealed. Pub. L. 106–469, title I, §103(5)(A), Nov. 9, 2000, 114 Stat. 2029.

(8) The term "related facility" means any necessary appurtenance to a storage facility, including pipelines, roadways, reservoirs, and salt brine lines.

(9) The term "Reserve" means the Strategic Petroleum Reserve.

(10) The term "storage facility" means any facility or geological formation which is capable of storing significant quantities of petroleum products.

(11) The term "Strategic Petroleum Reserve" means petroleum products stored in storage facilities pursuant to this part.

(Pub. L. 94–163, title I, §152, Dec. 22, 1975, 89 Stat. 882; Pub. L. 101–383, §6(a)(1), Sept. 15, 1990, 104 Stat. 729; Pub. L. 106–469, title I, §103(5), Nov. 9, 2000, 114 Stat. 2029.)

EDITORIAL NOTES

AMENDMENTS

2000—Par. (1). Pub. L. 106–469, §103(5)(A), struck out par. (1) which read as follows: "The term 'Early Storage Reserve' means that portion of the Strategic Petroleum Reserve which consists of petroleum products stored pursuant to section 6235 of this title."

Par. (3). Pub. L. 106–469, §103(5)(A), struck out par. (3) which read as follows: "The term 'Industrial Petroleum Reserve' means that portion of the Strategic Petroleum Reserve which consists of petroleum products owned by importers or refiners and acquired, stored, or maintained pursuant to section 6236 of this title."

Par. (7). Pub. L. 106–469, §103(5)(A), struck out par. (7) which read as follows: "The term 'Regional Petroleum Reserve' means that portion of the Strategic Petroleum Reserve which consists of petroleum products stored pursuant to section 6237 of this title."

Par. (11). Pub. L. 106–469, §103(5)(B), struck out "; such term includes the Industrial Petroleum Reserve, the Early Storage Reserve, and the Regional Petroleum Reserve" before period at end.

1990—Pub. L. 101–383 inserted "and part C" after "this part".

§6233. Repealed. Pub. L. 106–469, title I, §103(6), Nov. 9, 2000, 114 Stat. 2030

Section, Pub. L. 94–163, title I, §153, Dec. 22, 1975, 89 Stat. 882; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288, related to the Strategic Petroleum Reserve Office.

§6234. Strategic Petroleum Reserve

(a) Establishment

A Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products shall be created pursuant to this part.

(b) Authority of Secretary

The Secretary, in accordance with this part, shall exercise authority over the development, operation, and maintenance of the Reserve.

(c) to (e) Repealed. Pub. L. 106–469, title I, §103(7)(C), Nov. 9, 2000, 114 Stat. 2030

(f) Purpose of drawdown and distribution; requests for funds for storage

(1) The drawdown and distribution of petroleum products from the Strategic Petroleum Reserve is authorized only under section 6241 of this title, and drawdown and distribution of petroleum

products for purposes other than those described in section 6241 of this title shall be prohibited.

(2) In the Secretary's annual budget submission, the Secretary shall request funds for acquisition, transportation, and injection of petroleum products for storage in the Reserve. If no requests for funds are made, the Secretary shall provide a written explanation of the reason therefore.

(Pub. L. 94–163, title I, §154, Dec. 22, 1975, 89 Stat. 882; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 102–486, title XIV, §1402, Oct. 24, 1992, 106 Stat. 2994; Pub. L. 105–177, §1(6), June 1, 1998, 112 Stat. 106; Pub. L. 106–469, title I, §103(7), Nov. 9, 2000, 114 Stat. 2030.)

EDITORIAL NOTES

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–469, §103(7)(A), amended subsec. (a) generally. Prior to amendment, subsec. (a) provided for the creation of a Strategic Petroleum Reserve of up to 1 billion barrels of petroleum products and required that the Reserve contain not less than 150 million barrels of petroleum products by the end of the 3-year period beginning on Dec. 22, 1975, and that the President take actions to enlarge the Reserve to 1,000,000,000 barrels as rapidly as possible beginning Oct. 24, 1992.

Subsec. (b). Pub. L. 106–469, §103(7)(B), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "The Secretary, not later than December 15, 1976, shall prepare and transmit to the Congress, in accordance with section 6421 of this title, a Strategic Petroleum Reserve Plan. Such Plan shall comply with the provisions of this section and shall detail the Secretary's proposals for designing, constructing, and filling the storage and related facilities of the Reserve."

Subsecs. (c) to (e). Pub. L. 106–469, §103(7)(C), struck out subsecs. (c) to (e) which related to the levels of crude oil to be stored, plan objectives, and plan provisions.

1998—Subsec. (f). Pub. L. 105–177 added subsec. (f).

1992—Subsec. (a). Pub. L. 102–486 designated existing provisions as par. (1) and added par. (2).

1978—Subsecs. (b), (d). Pub. L. 95–619 substituted "Secretary" and "Secretary's" for "Administrator" and "Administrator's", respectively, meaning Administrator of the Federal Energy Administration, wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

STRATEGIC PETROLEUM RESERVE DRAWDOWN PLAN

Pub. L. 97–229, §4(c), Aug. 3, 1982, 96 Stat. 252, required the President to transmit to Congress, on or before Dec. 1, 1982, and as an amendment to the Strategic Petroleum Reserve Plan, a drawdown plan for the Strategic Petroleum Reserve consistent with the requirements of this section, to take effect on the date of transmittal and not be subject to section 6239(e) of this title relating to Congressional review.

§§6235 to 6238. Repealed. Pub. L. 106–469, title I, §103(8)–(11), Nov. 9, 2000, 114 Stat. 2030

Section 6235, Pub. L. 94–163, title I, §155, Dec. 22, 1975, 89 Stat. 884; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288, related to the Early Storage Reserve.

Section 6236, Pub. L. 94–163, title I, §156, Dec. 22, 1975, 89 Stat. 885; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288, related to the Industrial Petroleum Reserve.

Section 6237, Pub. L. 94–163, title I, §157, Dec. 22, 1975, 89 Stat. 885; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 102–486, title XIV, §1405, Oct. 24, 1992, 106 Stat. 2995, related to the Regional Petroleum Reserve.

Section 6238, Pub. L. 94–163, title I, §158, Dec. 22, 1975, 89 Stat. 886; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288, related to a report on the establishment of Utility Reserves, Coal Reserves, Remote Crude Oil and Natural Gas Reserves.

§6239. Development, operation, and maintenance of the Reserve

(a) to (e) Repealed. Pub. L. 106–469, title I, §103(13)(A), Nov. 9, 2000, 114 Stat. 2030

(f) Powers of Secretary to develop and operate the Strategic Petroleum Reserve

In order to develop, operate, or maintain the Strategic Petroleum Reserve, the Secretary may—

(1) issue rules, regulations, or orders;

(2) acquire by purchase, condemnation, or otherwise, land or interests in land for the location of storage and related facilities;

(3) construct, purchase, lease, or otherwise acquire storage and related facilities;

(4) use, lease, maintain, sell or otherwise dispose of land or interests in land, or of storage and related facilities acquired under this part, under such terms and conditions as the Secretary considers necessary or appropriate;

(5) acquire, subject to the provisions of section 6240 of this title, by purchase, exchange, or otherwise, petroleum products for storage in the Strategic Petroleum Reserve;

(6) store petroleum products in storage facilities owned and controlled by the United States or in storage facilities owned by others if those facilities are subject to audit by the United States;

(7) execute any contracts necessary to develop, operate, or maintain the Strategic Petroleum Reserve;

(8) bring an action, when the Secretary considers it necessary, in any court having jurisdiction over the proceedings, to acquire by condemnation any real or personal property, including facilities, temporary use of facilities, or other interests in land, together with any personal property located on or used with the land.

(g) Acquisition of property by negotiation as prerequisite to condemnation

Before any condemnation proceedings are instituted, an effort shall be made to acquire the property involved by negotiation, unless, the effort to acquire such property by negotiation would, in the judgement of the Secretary be futile or so time-consuming as to unreasonably delay the development of the Strategic Petroleum Reserve, because of (1) reasonable doubt as to the identity of the owners, (2) the large number of persons with whom it would be necessary to negotiate, or (3) other reasons.

(h), (i) Repealed. Pub. L. 106–469, title I, §103(13)(D), Nov. 9, 2000, 114 Stat. 2031

(j) Expansion beyond 700,000,000 barrels

If the Secretary determines expansion beyond 700,000,000 barrels of petroleum product inventory is appropriate, the Secretary shall submit a plan for expansion to the Congress.

(k) Exemption from subtitle IV of title 49

A storage or related facility of the Strategic Petroleum Reserve owned by or leased to the United States is not subject to the Interstate Commerce Act.

(l) Rulemaking during drawdown and sale

During a drawdown and sale of Strategic Petroleum Reserve petroleum products, the Secretary may issue implementing rules, regulations, or orders in accordance with section 553 of title 5, without regard to rulemaking requirements in section 6393 of this title, and section 7191 of this title.

(Pub. L. 94–163, title I, §159, Dec. 22, 1975, 89 Stat. 886; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 97–229, §4(b)(1), (2)(B), Aug. 3, 1982, 96 Stat. 251, 252; Pub. L. 99–58, title I, §102(a), July 2, 1985, 99 Stat. 102; Pub. L. 101–383, §§4(a), 9, 11, Sept. 15, 1990, 104 Stat. 728, 735; Pub. L. 106–469, title I, §103(12), (13), Nov. 9, 2000, 114 Stat. 2030.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Interstate Commerce Act, referred to in subsec. (k), is act Feb. 4, 1887, ch. 104, 24 Stat. 379, which was classified generally to chapters 1, 8, 12, 13, and 19 (§§1 et seq., 301 et seq., 901 et seq., 1001 et seq., and 1231 et seq., respectively) of former Title 49, Transportation. The Act was repealed (subject to an exception) by Pub. L. 95–473, §4(b), Oct. 17, 1978, 92 Stat. 1466, the first section of which enacted subtitle IV (§10101

et seq.) of Title 49. Section 4(c) of Pub. L. 95–473 excepted from repeal those provisions of the Interstate Commerce Act that vested functions in the Interstate Commerce Commission, or the chairman or members of the Commission, related to transportation of oil by pipeline and that were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission by sections 7155 and 7172(b) of this title.

AMENDMENTS

2000—Pub. L. 106–469, §103(12), amended section catchline generally.

Subsecs. (a) to (e). Pub. L. 106–469, §103(13)(A), struck out subsecs. (a) to (e) which related to congressional review and effective date of the Strategic Petroleum Reserve Plan, preparation and transmittal to Congress of proposals for designing, constructing, and filling facilities and of Plan amendments, and 60-day waiting period for effectiveness of amendments.

Subsec. (f). Pub. L. 106–469, §103(13)(B), amended subsec. (f) generally. Prior to amendment, subsec. (f) set out powers of the Secretary to implement the Strategic Petroleum Reserve Plan, the Early Storage Reserve Plan, proposals for designing, constructing, and filling facilities, amendments to the Plans, and the storage of petroleum products in interim storage facilities.

Subsec. (g). Pub. L. 106–469, §103(13)(C), substituted "development" for "implementation" and struck out "Plan" after "Strategic Petroleum Reserve".

Subsecs. (h), (i). Pub. L. 106–469, §103(13)(D), struck out subsecs. (h) and (i) which related to use of interim storage facilities and environmental considerations for existing facilities, and report to Congress on results of negotiations for enlargement of Strategic Petroleum Reserve to one billion barrels.

Subsec. (j). Pub. L. 106–469, §103(13)(E), amended subsec. (j) generally. Prior to amendment, subsec. (j) read as follows: "No later than 24 months after September 15, 1990, the Secretary shall amend the Strategic Petroleum Reserve Plan to prescribe plans for completion of storage of one billion barrels of petroleum product in the Reserve. Such amendment shall comply with the provisions of this section and shall detail the Secretary's plans for the design, construction, leasing or other acquisition, and fill of storage and related facilities of the Reserve to achieve such one billion barrels of storage. Such amendment shall not be subject to the congressional review procedures contained in section 6421 of this title. In assessing alternatives in the development of such plans, the Secretary shall consider leasing privately owned storage facilities."

Subsec. (l). Pub. L. 106–469, §103(13)(F), amended subsec. (l) generally. Prior to amendment, subsec. (l) read as follows: "Notwithstanding subsection (d) of this section, during any period in which the Distribution Plan is being implemented, the Secretary may amend the plan and promulgate rules, regulations, or orders to implement such amendments in accordance with section 6393 of this title, without regard to the requirements of section 553 of title 5 and section 7191 of this title. Such amendments shall be transmitted to the Congress together with a statement explaining the need for such amendments."

1990—Subsecs. (i), (j). Pub. L. 101–383, §4(a), added subsecs. (i) and (j).

Subsec. (k). Pub. L. 101–383, §9, added subsec. (k).

Subsec. (l). Pub. L. 101–383, §11, added subsec. (l).

1985—Subsec. (e). Pub. L. 99–58 amended subsec. (e) generally, substituting provisions directing that amendments transmitted pursuant to subsec. (d) of this section not become effective until 60 days after transmittal except in the case of enumerated presidential determinations for provisions which had formerly empowered Congress to disapprove of transmitted proposals and amendments in accordance with the procedures specified in section 6421 of this title.

1982—Subsec. (f)(5). Pub. L. 97–229, §4(b)(1), added par. (5).

Subsec. (h). Pub. L. 97–229, §4(b)(2)(B), added subsec. (h).

1978—Subsecs. (a)(1), (c), (d), (e)(1), (f), (f)(I), (g). Pub. L. 95–619 substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration, wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

ENERGY SECURITY AND INFRASTRUCTURE MODERNIZATION FUND

Pub. L. 114–74, title IV, §404, Nov. 2, 2015, 129 Stat. 590, as amended by Pub. L. 116–136, div. B, title IV, §14002(a), Mar. 27, 2020, 134 Stat. 526, provided that:

"(a) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a fund to be known as the Energy Security and Infrastructure Modernization Fund (referred to in this section as the 'Fund'), consisting of—

"(1) collections deposited in the Fund under subsection (c); and

"(2) amounts otherwise appropriated to the Fund.

"(b) PURPOSE.—The purpose of the Fund is to provide for the construction, maintenance, repair, and

replacement of Strategic Petroleum Reserve facilities.

"(c) COLLECTION AND DEPOSIT OF SALE PROCEEDS IN FUND.—

"(1) DRAWDOWN AND SALE.—Notwithstanding section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241), to the extent provided in advance in appropriation Acts, the Secretary of Energy shall draw down and sell crude oil from the Strategic Petroleum Reserve in amounts as authorized under subsection (e), except as provided in paragraph (2). Amounts received for a sale under this paragraph shall be deposited into the Fund during the fiscal year in which the sale occurs. Such amounts shall remain available in the Fund without fiscal year limitation.

"(2) EMERGENCY PROTECTION.—The Secretary shall not draw down and sell crude oil under this subsection in amounts that would limit the authority to sell petroleum products under section 161(h) of the Energy Policy and Conservation Act (42 U.S.C. 6241(h)) in the full amount authorized by that subsection.

"(d) AUTHORIZED USES OF FUND.—

"(1) IN GENERAL.—Amounts in the Fund may be used for, or may be credited as offsetting collections for amounts used for, carrying out the program described in paragraph (2)(B), to the extent provided in advance in appropriation Acts.

"(2) PROGRAM TO MODERNIZE THE STRATEGIC PETROLEUM RESERVE.—

"(A) FINDINGS.—Congress finds the following:

"(i) The Strategic Petroleum Reserve is one of the Nation's most valuable energy security assets.

"(ii) The age and condition of the Strategic Petroleum Reserve have diminished its value as a Federal energy security asset.

"(iii) Global oil markets and the location and amount of United States oil production and refining capacity have dramatically changed in the 40 years since the establishment of the Strategic Petroleum Reserve.

"(iv) Maximizing the energy security value of the Strategic Petroleum Reserve requires a modernized infrastructure that meets the drawdown and distribution needs of changed domestic and international oil and refining market conditions.

"(B) PROGRAM.—The Secretary of Energy shall establish a Strategic Petroleum Reserve modernization program to protect the United States economy from the impacts of emergency product supply disruptions. The program may include—

"(i) operational improvements to extend the useful life of surface and subsurface infrastructure;

"(ii) maintenance of cavern storage integrity; and

"(iii) addition of infrastructure and facilities to optimize the drawdown and incremental distribution capacity of the Strategic Petroleum Reserve.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated (and drawdowns and sales under subsection (c) in an equal amount are authorized) for carrying out subsection (d)(2)(B), $2,000,000,000 for the period encompassing fiscal years 2017 through 2022.

"(f) TRANSMISSION OF DEPARTMENT BUDGET REQUESTS.—The Secretary of Energy shall prepare and submit in the Department's annual budget request to Congress—

"(1) an itemization of the amounts of funds necessary to carry out subsection (d); and

"(2) a designation of any activities thereunder for which a multiyear budget authority would be appropriate.

"(g) SUNSET.—The authority of the Secretary to draw down and sell crude oil from the Strategic Petroleum Reserve under this section shall expire at the end of fiscal year 2022."

§6240. Petroleum products for storage, transport, or exchange

(a) Eligibility of petroleum products

The Secretary may acquire, place in storage, transport, or exchange petroleum products acquired by purchase or exchange.

(b) Objectives in determining manner of acquisition

The Secretary shall, to the greatest extent practicable, acquire petroleum products for the Reserve in a manner consonant with the following objectives:

(1) minimization of the cost of the Reserve;

(2) Repealed. Pub. L. 106–469, title I, §103(14)(C), Nov. 9, 2000, 114 Stat. 2031;

(3) minimization of the Nation's vulnerability to a severe energy supply interruption;
(4) minimization of the impact of such acquisition upon supply levels and market forces; and
(5) encouragement of competition in the petroleum industry.

(c) Procedures

The Secretary shall develop, with public notice and opportunity for comment, procedures consistent with the objectives of this section to acquire petroleum for the Reserve. Such procedures shall take into account the need to—

(1) maximize overall domestic supply of crude oil (including quantities stored in private sector inventories);

(2) avoid incurring excessive cost or appreciably affecting the price of petroleum products to consumers;

(3) minimize the costs to the Department of the Interior and the Department of Energy in acquiring such petroleum products (including foregone revenues to the Treasury when petroleum products for the Reserve are obtained through the royalty-in-kind program);

(4) protect national security;
(5) avoid adversely affecting current and futures prices, supplies, and inventories of oil; and
(6) address other factors that the Secretary determines to be appropriate.

(d), (e) Repealed. Pub. L. 106–469, title I, §103(14)(D), Nov. 9, 2000, 114 Stat. 2031

(f) Predrawdown diversion

If the Secretary finds that a severe energy supply interruption may be imminent, the Secretary may suspend the acquisition of petroleum product for, and the injection of petroleum product into, the Reserve and may sell any petroleum product acquired for and in transit to, but not injected into, the Reserve.

(g) Repealed. Pub. L. 106–469, title I, §103(14)(D), Nov. 9, 2000, 114 Stat. 2031

(h) Purchase from stripper well properties

(1) If the President finds that declines in the production of oil from domestic resources pose a threat to national energy security, the President may direct the Secretary to acquire oil from domestic production of stripper well properties for storage in the Strategic Petroleum Reserve. Except as provided in paragraph (2), the Secretary may set such terms and conditions as he deems necessary for such acquisition.

(2) Crude oil purchased by the Secretary pursuant to this subsection shall be by competitive bid. The price paid by the Secretary—

(A) shall take into account the cost of production including costs of reservoir and well maintenance; and

(B) shall not exceed the price that would have been paid if the Secretary had acquired petroleum products of a similar quality on the open market under competitive bid procedures without regard to the source of the petroleum products.

(Pub. L. 94–163, title I, §160, Dec. 22, 1975, 89 Stat. 888; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 96–294, title VIII, §§801(a), 802(a), 803, June 30, 1980, 94 Stat. 775, 776; Pub. L. 97–35, title X, §1033, Aug. 13, 1981, 95 Stat. 618; Pub. L. 97–229, §4(a)(1), (b)(2)(C), Aug. 3, 1982, 96 Stat. 250, 252; Pub. L. 99–58, title I, §§102(b), 103(b)(1), July 2, 1985, 99 Stat. 103, 104; Pub. L. 99–88, title I, §100, Aug. 15, 1985, 99 Stat. 342; Pub. L. 99–272, title VII, §7102, Apr. 7, 1986, 100 Stat. 141; Pub. L. 99–509, title III, §3202, Oct. 21, 1986, 100 Stat. 1889; Pub. L. 101–383, §§4(b), (c), 5(a), (b)(3), 7, Sept. 15, 1990, 104 Stat. 728, 729, 734; Pub. L. 101–548, §1, Nov. 14, 1990, 104 Stat. 2398; Pub. L. 102–486, title XIV, §1404(a), (b)(2), Oct. 24, 1992, 106 Stat. 2994, 2995; Pub. L. 104–66, title I, §1051(f), Dec. 21, 1995, 109 Stat. 716; Pub. L. 106–469, title I, §103(14), Nov. 9, 2000, 114 Stat. 2031; Pub. L. 109–58, title III, §301(e)(2)(A), Aug. 8, 2005, 119 Stat. 684; Pub. L. 113–67, div. A, title III, §306(a), Dec. 26, 2013, 127 Stat. 1183.)

EDITORIAL NOTES

AMENDMENTS

2013—Subsec. (a). Pub. L. 113–67 amended subsec. (a) generally. Prior to amendment, text read as follows: "The Secretary may acquire, place in storage, transport, or exchange—

"(1) crude oil produced from Federal lands

"(2) crude oil which the United States is entitled to receive in kind as royalties from production on Federal lands; and

"(3) petroleum products acquired by purchase, exchange, or otherwise."

2005—Subsec. (c). Pub. L. 109–58 added subsec. (c).

2000—Subsec. (a). Pub. L. 106–469, §103(14)(A), in introductory provisions, substituted "The Secretary may acquire, place in storage, transport, or exchange" for "The Secretary is authorized, for purposes of implementing the Strategic Petroleum Reserve Plan or the Early Storage Reserve Plan, to place in storage, transport, or exchange".

Subsec. (a)(1). Pub. L. 106–469, §103(14)(B), struck out ", including crude oil produced from the Naval Petroleum Reserves to the extent that such production is authorized by law;" after "Federal lands".

Subsec. (b). Pub. L. 106–469, §103(14)(C), struck out ", including the Early Storage Reserve and the Regional Petroleum Reserve" before "in a manner consonant" in introductory provisions.

Subsec. (b)(2). Pub. L. 106–469, §103(14)(C), struck out par. (2) which read as follows: "orderly development of the Naval Petroleum Reserves to the extent authorized by law;".

Subsecs. (c) to (e). Pub. L. 106–469, §103(14)(D), struck out subsecs. (c) to (e) which related to fill operations by the President, disposition of crude oil from Naval Petroleum Reserve Numbered 1, and suspensions of fill operations during emergency situations.

Subsec. (g). Pub. L. 106–469, §103(14)(D), struck out subsec. (g) which required the Secretary to conduct a test program of storage of refined petroleum products within the Reserve.

1995—Subsec. (g)(7). Pub. L. 104–66 struck out par. (7) which read as follows: "No later than January 31, 1994, the Secretary shall transmit to the Congress a report on the test program. The report shall evaluate the mechanisms demonstrated under the test program, other potential mechanisms, and the purchase of facilities. The report shall include an assessment of the costs and benefits of the various mechanisms. The report shall also make recommendations with regard to future storage of refined petroleum products and contain drafts of any legislative provisions which the Secretary wishes to recommend."

1992—Subsec. (d)(2). Pub. L. 102–486, §1405, redesignated cls. (i) to (iii) as pars. (A) to (C), respectively, and struck out former par. (A) designation after "(2)".

Subsec. (h). Pub. L. 102–486, §1404(a), added subsec. (h).

1990—Subsec. (c)(3). Pub. L. 101–383, §4(b)(1), substituted "fiscal year 1994" for "fiscal years 1988 and 1989" and "1,000,000,000" for "at least 750,000,000".

Subsec. (d)(1)(A). Pub. L. 101–383, §4(c), inserted "Government owned facilities of" after "within".

Subsec. (d)(1)(B). Pub. L. 101–383, §4(b)(2), inserted before period at end "and the Secretary has amended the Strategic Petroleum Reserve Plan as required by section 6239(j) of this title".

Subsec. (d)(4). Pub. L. 101–383, §5(b)(3), added par. (4).

Subsec. (f). Pub. L. 101–383, §5(a), added subsec. (f).

Subsec. (g). Pub. L. 101–548 inserted "with regard to future storage of refined petroleum products and" after "recommendations" in par. (7).

Pub. L. 101–383, §7, added subsec. (g).

1986—Subsec. (c)(3). Pub. L. 99–509, §3202(a), substituted "fiscal year 1987 and continuing through fiscal years 1988 and 1989" for "fiscal year 1986 and continuing through fiscal years 1987 and 1988", "750,000,000 barrels" for "527,000,000 barrels", and "at the highest practicable fill rate achievable, subject to the availability of appropriated funds" for "at a level sufficient to assure a minimum average annual fill-rate of at least 35,000 barrels per day in addition to any petroleum products acquired for the Reserve to replace petroleum products withdrawn from the Reserve as a result of a test drawdown and distribution".

Pub. L. 99–272, §7102(a), added par. (3).

Subsec. (d)(1)(A). Pub. L. 99–509, §3202(b)(1), substituted "750,000,000 barrels" for "527,000,000 barrels".

Pub. L. 99–272, §7102(b)(1), substituted "527,000,000 barrels" for "500,000,000 barrels".

Subsec. (d)(1)(B). Pub. L. 99–509, §3202(b)(2), substituted "75,000 barrels" for "100,000 barrels", and substituted a period for "; or".

Subsec. (d)(1)(C). Pub. L. 99–509, §3202(b)(3), struck out subpar. (C) which read as follows: "acquisition, transportation, and injection activities for the Reserve are being undertaken, beginning in fiscal year 1986 and continuing through fiscal years 1987 and 1988 until the quantity of crude oil in storage within the Reserve is at least 527,000,000 barrels, at a level sufficient to assure that petroleum products in storage in the Reserve

will be increased at a minimum annual average rate of at least 35,000 barrels per day in addition to any petroleum products acquired for the Reserve to replace petroleum products withdrawn from the Reserve as a result of a test drawdown and distribution".

Pub. L. 99–272, §7102(b)(2), added subpar. (C) and struck out former subpar. (C) which read as follows: "the fill rate is sufficient to attain a level of 500,000,000 barrels by the end of the fiscal year during which the fill rate falls below the rate established in (B)."

1985—Subsec. (d)(1)(C). Pub. L. 99–88 added subpar. (C).

Subsec. (d)(3). Pub. L. 99–58, §103(b)(1), added par. (3).

Subsec. (e)(1)(B). Pub. L. 99–58, §102(b)(1), (2), inserted "and" at end of cl. (i), inserted a period following "to the Congress", and struck out "in accordance with section 6422 of this title, together with a request for a suspension of such provisions; and" in cl. (ii), and struck out cl. (iii) which directed that provisions of subsecs. (c) and (d) of this section would not apply if a Presidential request for the suspension of such provisions was approved by a resolution of each House of Congress within 60 days of continuous session after the date of its transmittal in accordance with provisions of section 6422 of this title applicable to energy conservation contingency plans.

Subsec. (e)(2). Pub. L. 99–58, §102(b)(3), substituted "may become effective on the day the finding is transmitted to the Congress and shall terminate nine months thereafter or on such earlier date as is specified in such finding" for "shall take effect on the date on which a resolution approving that request is adopted by the second House to have so approved that request and shall terminate 9 months thereafter, or such earlier date as is specified in the request transmitted under paragraph (1)(B)(ii)".

Subsec. (e)(3), (4). Pub. L. 99–58, §102(b)(3), (4), redesignated par. (4) as (3). Former par. (3), which related to application of section 6422 of this title for purposes of par. (1)(B), was struck out.

1982—Subsec. (c). Pub. L. 97–229, §4(a)(1), substituted provisions directing the President to fill the Strategic Petroleum Reserve with petroleum products at a level sufficient to assure an increase at an annual rate of at least the minimum required fill rate, 300,000 barrels per day, until the quantity of petroleum products stored is at least 500,000,000 barrels, allowing for a lower minimum required fill rate of 220,000 barrels per day if the President finds that compliance with the 300,000 barrels per day rate would not be in the national interest, specifying the effective period of such a Presidential finding, authorizing a higher minimum required rate than the 220,000 barrels per day if funds are available in any fiscal year after fiscal year 1982, making the Impoundment Control Act of 1974 applicable to funds available under section 6247(b) and (e) of this title, and providing that, after the Strategic Petroleum Reserve reaches 500,000,000 barrels, the President shall seek to fill the Reserve at an annual rate of at least 300,000 barrels per day of petroleum products until the Reserve reaches 750,000,000 barrels for provisions directing the President to seek to fill the Strategic Petroleum Reserve with crude oil at a level sufficient to assure that crude oil in storage will be increased at an average annual rate of at least 300,000 barrels per day until the Reserve is at least 750,000,000 barrels.

Subsec. (e)(4). Pub. L. 97–229, §4(b)(2)(C), substituted "petroleum product" for "crude oil".

1981—Subsec. (c). Pub. L. 97–35 substituted provisions respecting fill operation at a rate of 300,000 barrels per day for provisions respecting fill operation at a rate of 100,000 barrels per day.

1980—Subsec. (c). Pub. L. 96–294, §801(a), added subsec. (c).

Subsec. (d). Pub. L. 96–294, §802(a), added subsec. (d).

Subsec. (e). Pub. L. 96–294, §803, added subsec. (e).

1978—Pub. L. 95–619 substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration, wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97–229, §4(a)(2), Aug. 3, 1982, 96 Stat. 251, provided that: "The amendment made by paragraph (1) [amending this section] shall take effect July 1, 1982."

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97–35, title X, §1038, Aug. 13, 1981, 95 Stat. 621, provided that: "The provisions of this title [enacting sections 6247, 8341, and 8484 of this title, amending this section and sections 6245, 6246, 6831 to 6833, 6835, 6837 to 6839, 8372, 8421, 8422, and 8803 of this title, repealing sections 6834, 6836 and 8341 of this title, and enacting provisions set out as notes under sections 6201, 6231, 6247, 7270, and 8341 of this title, section 3620 of Title 12, Banks and Banking, and section 719e of Title 15, Commerce and Trade] shall take effect on the date of enactment of this Act [Aug. 13, 1981]."

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96–294, title VIII, §801(b), June 30, 1980, 94 Stat. 775, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [June 30, 1980], and shall apply with respect to the entirety of fiscal year 1981 (and each fiscal year thereafter)."

Pub. L. 96–294, title VIII, §802(b), June 30, 1980, 94 Stat. 776, provided that: "The amendments made by subsection (a) [amending this section] shall take effect October 1, 1980."

FILLING STRATEGIC PETROLEUM RESERVE TO CAPACITY

Pub. L. 109–58, title III, §301(e)(1), Aug. 8, 2005, 119 Stat. 684, provided that: "The Secretary [of Energy] shall, as expeditiously as practicable, without incurring excessive cost or appreciably affecting the price of petroleum products to consumers, acquire petroleum in quantities sufficient to fill the Strategic Petroleum Reserve to the 1,000,000,000-barrel capacity authorized under section 154(a) of the Energy Policy and Conservation Act (42 U.S.C. 6234(a)), in accordance with the sections 159 and 160 of that Act (42 U.S.C. 6239, 6240)."

PROCEDURES FOR ACQUISITION OF PETROLEUM FOR RESERVE

Pub. L. 109–58, title III, §301(e)(2)(B), (C), Aug. 8, 2005, 119 Stat. 684, 685, provided that:

"(B) REVIEW OF REQUESTS FOR DEFERRALS OF SCHEDULED DELIVERIES.—The procedures developed under section 160(c) of the Energy Policy and Conservation Act [42 U.S.C. 6240(c)], as added by subparagraph (A), shall include procedures and criteria for the review of requests for the deferrals of scheduled deliveries.

"(C) DEADLINES.—The Secretary [of Energy] shall—

"(i) propose the procedures required under the amendment made by subparagraph (A) [amending this section] not later than 120 days after the date of enactment of this Act [Aug. 8, 2005];

"(ii) promulgate the procedures not later than 180 days after the date of enactment of this Act; and

"(iii) comply with the procedures in acquiring petroleum for the Reserve effective beginning on the date that is 180 days after the date of enactment of this Act."

SUSPENSION OF TEST PROGRAM REQUIREMENTS DURING FISCAL YEAR 1994

Pub. L. 103–138, title II, Nov. 11, 1993, 107 Stat. 1406, provided in part that requirements of subsec. (g) of this section would not apply in fiscal year 1994.

STUDY AND REPORT ON OIL LEASING AND OTHER ARRANGEMENTS TO FILL SPR TO ONE BILLION BARRELS

Pub. L. 101–46, §2, June 30, 1989, 103 Stat. 132, directed Secretary of Energy to conduct a study on potential financial arrangements, including long-term leasing of crude oil and storage facilities, that could be used to provide additional, alternative means of financing the filling of the Strategic Petroleum Reserve to one billion barrels and directed Secretary to transmit an interim report to Committee on Energy and Natural Resources of Senate and Committee on Energy and Commerce of House of Representatives no later than Oct. 15, 1989, and no later than Feb. 1, 1990, to transmit to such committees a copy of the preliminary written solicitations for proposed alternative financial arrangements to assist in filling the Strategic Petroleum Reserve to one billion barrels and a final report containing findings and conclusions together with a draft of legislative changes necessary to authorize the most significant alternative financial arrangements.

EXCHANGE OF AGRICULTURAL PRODUCTS FOR CRUDE OIL TO BE DELIVERED TO STRATEGIC PETROLEUM RESERVE

Pub. L. 99–190, §101(d) [title II], Dec. 19, 1985, 99 Stat. 1224, 1254, provided that: "Notwithstanding any other provision of law, the Secretary of Agriculture, at the request of the Secretary of Energy, may exchange agricultural products owned by the Commodity Credit Corporation for crude oil to be delivered to the Strategic Petroleum Reserve: *Provided*, That the Secretary of Energy shall approve the quantity, quality, delivery method, scheduling, market value and other aspects of the exchange of such agricultural products: *Provided further*, That if the volume of agricultural products to be exchanged has a value in excess of the market value of the crude oil acquired by such exchange, then the Secretary of Agriculture shall require as part of the terms and conditions of the exchange that the party or entity providing such crude oil shall agree to purchase, within six months following the exchange, current crop commodities or value-added food products from United States producers or processors in an amount equal to at least one-half the difference between the value of the commodities received in exchange and the market value of the crude oil acquired for the Strategic Petroleum Reserve."

ALLOCATION TO STRATEGIC PETROLEUM RESERVE OF LOWER TIER CRUDE OIL AND FEDERAL ROYALTY OIL; PROCEDURES APPLICABLE, AUTHORITIES, ETC.

Pub. L. 96–294, title VIII, §805, June 30, 1980, 94 Stat. 777, provided that:

"(a)(1) In order to carry out the requirement of the amendment made by section 801 of this Act [amending this section and enacting provision set out as a note above] and to carry out the policies and objectives established in sections 151 and 160(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6231 and 6240(b)(1)) the President shall, within 60 days after the date of the enactment of this Act [June 30, 1980], promulgate and make effective an amendment to the provisions of the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973 [15 U.S.C. 753(a)] relating to entitlements, which has the same effect as allocating lower tier crude oil to the Government for storage in the Strategic Petroleum Reserve. Such amendment shall not apply with respect to crude oil purchased after September 30, 1981, for storage in such reserve.

"(2) The authority provided by this subsection shall be in addition to, and shall not be deemed to limit, any other authority available to the President under the Emergency Petroleum Allocation Act of 1973 [15 U.S.C. 751 et seq.] or any other law.

"(3) The President or his delegate may promulgate and make effective rules or orders to implement this subsection without regard to the requirements of section 501 of the Department of Energy Organization Act [42 U.S.C. 7191] or any other law or regulation specifying procedural requirements.

"(b) In addition to the requirement under subsection (a), the President may direct that—

"(1) all or any portion of Federal royalty oil be placed in storage in the Reserve,

"(2) all or any portion of Federal royalty oil be exchanged, directly or indirectly, for other crude oil for storage in the Reserve, or

"(3) all or any portion of the proceeds from the sales of Federal royalty oil be transferred to the account established under subsection (c) for use for the purchase of crude oil for the Reserve, as provided in subsection (c).

"(c)(1) Any proceeds—

"(A) from the sale of entitlements received by the Government under the amendment to the regulation made under subsection (a), and

"(B) to the extent provided in subsection (b), from the sale of Federal royalty oil,

shall be deposited in a special account which the Secretary of the Treasury shall establish on the books of the Treasury of the United States.

"(2)(A) Subject to the provisions of any Act enacted pursuant to section 660 of the Department of Energy Organization Act [42 U.S.C. 7270], such account shall be available (except as provided in subparagraph (B)) for use by the Secretary of Energy, without fiscal year limitation, for the purchase of crude oil for the Strategic Petroleum Reserve, to the extent provided in advance in appropriation Acts.

"(B) Amounts in such account attributable to the proceeds from the sale of entitlements under the amendment to the regulation under subsection (a) are hereby appropriated for fiscal year 1981 for acquisition of crude oil for the Strategic Petroleum Reserve pursuant to subsection (a).

"(d) For purposes of this section—

"(1) the terms 'entitlements', 'crude oil', and 'allocation' shall have the same meaning as those terms have as used in the Emergency Petroleum Allocation Act of 1973 [15 U.S.C. 751 et seq.] (and the regulation thereunder);

"(2) the term 'lower tier crude oil' means crude oil which is subject to the price ceiling established under section 212.73 of title 10, Code of Federal Regulations;

"(3) the term 'Federal royalty oil' means crude oil which the United States is entitled to receive in kind as royalties from production on Federal land (as such term is defined in section 3(10) of the Energy Policy and Conservation Act (42 U.S.C. 6202(10)); and

"(4) the term 'proceeds from the sale of Federal royalty oil' means that portion of the amounts deposited into the Treasury of the United States from the sale of Federal royalty oil which is not otherwise required to be disposed of (other than as miscellaneous receipts) pursuant to (A) the provisions of section 35 of the Act of February 25, 1920, as amended (41 Stat. 450; 30 U.S.C. 191), commonly known as the Mineral Lands Leasing Act, or (B) the provisions of any other law."

RATE OF FILL OF STRATEGIC PETROLEUM RESERVE

Pub. L. 96–514, title II, Dec. 12, 1980, 94 Stat. 2976, provided in part: "That the President shall immediately seek to undertake, and thereafter continue, crude oil acquisition, transportation, and injection activities at a level sufficient to assure that crude oil storage in the Strategic Petroleum Reserve will be increased to an average annual rate of at least 300,000 barrels per day or a sustained average annual daily rate

of fill which would fully utilize appropriated funds: *Provided*, That the requirements of the preceding provision shall be in addition to the provisions of title VIII of the Energy Security Act [title VIII of Pub. L. 96–294, which amended this section and section 7430 of Title 10, Armed Forces, and enacted provisions set out as a note above] and shall not affect such provisions of the Energy Security Act in any way."

EXECUTIVE DOCUMENTS

EX. ORD. NO. 12231. STRATEGIC PETROLEUM RESERVE

Ex. Ord. No. 12231, Aug. 4, 1980, 45 F.R. 52139, provided:

By the authority vested in me as President of the United States of America by Title VIII of the Energy Security Act (Public Law 96–294) [title VIII of Pub. L. 96–294, which amended this section and section 7430 of Title 10, Armed Forces, and enacted provisions set out as a note above] and by Section 301 of Title 3 of the United States Code, and in order to meet the goals and requirements for the strategic petroleum reserve, it is hereby ordered as follows:

1–101. The functions vested in the President by Section 160(c) of the Energy Policy and Conservation Act, as amended, are delegated to the Secretary of Energy (42 U.S.C. 6240(c); see Section 801 of the Energy Security Act).

1–102. The functions vested in the President by Section 7430(k) of Title 10 of the United States Code are delegated to the Secretary of Energy (see Section 804(b) of the Energy Security Act).

1–103. The functions vested in the President by Section 805(a) of the Energy Security Act [section 805(a) of Pub. L. 96–294, set out as a note above] are, consistent with Section 2 of Executive Order No. 11790, as amended [set out as a note under section 761 of Title 15, Commerce and Trade], delegated to the Secretary of Energy.

JIMMY CARTER.

§6241. Drawdown and sale of petroleum products

(a) Power of Secretary

The Secretary may drawdown and sell petroleum products in the Reserve only in accordance with the provisions of this section.

(b), (c) Repealed. Pub. L. 106–469, title I, §103(15)(C), Nov. 9, 2000, 114 Stat. 2031

(d) Presidential finding prerequisite to drawdown and sale

(1) Drawdown and sale of petroleum products from the Strategic Petroleum Reserve may not be made unless the President has found drawdown and sale are required by a severe energy supply interruption or by obligations of the United States under the international energy program.

(2) For purposes of this section, in addition to the circumstances set forth in section 6202(8) of this title, a severe energy supply interruption shall be deemed to exist if the President determines that—

(A) an emergency situation exists and there is a significant reduction in supply which is of significant scope and duration;

(B) a severe increase in the price of petroleum products has resulted from such emergency situation; and

(C) such price increase is likely to cause a major adverse impact on the national economy.

(e) Sales procedures

(1) The Secretary shall sell petroleum products withdrawn from the Strategic Petroleum Reserve at public sale to the highest qualified bidder in the amounts, for the period, and after a notice of sale considered appropriate by the Secretary, and without regard to Federal, State, or local regulations controlling sales of petroleum products.

(2) The Secretary may cancel in whole or in part any offer to sell petroleum products as part of any drawdown and sale under this section.

(f) Repealed. Pub. L. 106–469, title I, §103(15)(C), Nov. 9, 2000, 114 Stat. 2031

(g) Directive to carry out test drawdown and sale

(1) The Secretary shall conduct a continuing evaluation of the drawdown and sales procedures. In the conduct of an evaluation, the Secretary is authorized to carry out a test drawdown and sale or exchange of petroleum products from the Reserve. Such a test drawdown and sale or exchange may not exceed 5,000,000 barrels of petroleum products.

(2) Repealed. Pub. L. 106–469, title I, §103(15)(F)(ii), Nov. 9, 2000, 114 Stat. 2031.

(3) At least part of the crude oil that is sold or exchanged under this subsection shall be sold or exchanged to or with entities that are not part of the Federal Government.

(4) The Secretary may not sell any crude oil under this subsection at a price less than that which the Secretary determines appropriate and, in no event, at a price less than 95 percent of the sales price, as estimated by the Secretary, of comparable crude oil being sold in the same area at the time the Secretary is offering crude oil for sale in such area under this subsection.

(5) The Secretary may cancel any offer to sell or exchange crude oil as part of any test under this subsection if the Secretary determines that there are insufficient acceptable offers to obtain such crude oil.

(6) In the case of a sale of any petroleum products under this subsection, the Secretary shall, to the extent funds are available in the SPR Petroleum Account as a result of such sale, acquire petroleum products for the Reserve within the 12-month period beginning after completion of the sale.

(7) Rules, regulations, or orders issued in order to carry out this subsection which have the applicability and effect of a rule as defined in section 551(4) of title 5 shall not be subject to the requirements of subchapter II of chapter 5 of such title or to section 6393 of this title.

(8) NOTICE TO CONGRESS.—

(A) PRIOR NOTICE.—Not less than 14 days before the date on which a test is carried out under this subsection, the Secretary shall notify both Houses of Congress of the test.

(B) EMERGENCY.—The prior notice requirement in subparagraph (A) shall not apply if the Secretary determines that an emergency exists which requires a test to be carried out, in which case the Secretary shall notify both Houses of Congress of the test as soon as possible.

(C) DETAILED DESCRIPTION.—

(i) IN GENERAL.—Not later than 180 days after the date on which a test is completed under this subsection, the Secretary shall submit to both Houses of Congress a detailed description of the test.

(ii) REPORT.—A detailed description submitted under clause (i) may be included as part of a report made to the President and Congress under section 6245 of this title.

(h) Prevention or reduction of adverse impact of severe domestic energy supply interruptions

(1) If the President finds that—

(A) a circumstance, other than those described in subsection (d), exists that constitutes, or is likely to become, a domestic or international energy supply shortage of significant scope or duration;

(B) action taken under this subsection would assist directly and significantly in preventing or reducing the adverse impact of such shortage;

(C) the Secretary has found that action taken under this subsection will not impair the ability of the United States to carry out obligations of the United States under the international energy program; and

(D) the Secretary of Defense has found that action taken under this subsection will not impair national security,

then the Secretary may, subject to the limitations of paragraph (2), draw down and sell petroleum products from the Strategic Petroleum Reserve.

(2) Petroleum products from the Reserve may not be drawn down under this subsection—

(A) in excess of an aggregate of 30,000,000 barrels with respect to each such shortage;

(B) for more than 60 days with respect to each such shortage;

(C) if there are fewer than 252,400,000 barrels of petroleum product stored in the Reserve; or

(D) below the level of an aggregate of 252,400,000 barrels of petroleum product stored in the Reserve.

(3) During any period in which there is a drawdown and sale of the Reserve in effect under this subsection, the Secretary shall transmit a monthly report to the Congress containing an account of the drawdown and sale of petroleum products under this subsection and an assessment of its effect.

(4) In no case may the drawdown under this subsection be extended beyond 60 days with respect to any domestic energy supply shortage.

(i) Exchange of withdrawn products

Notwithstanding any other law, the President may permit any petroleum products withdrawn from the Strategic Petroleum Reserve in accordance with this section to be sold and delivered for refining or exchange outside of the United States, in connection with an arrangement for the delivery of refined petroleum products to the United States.

(j) Purchases from Strategic Petroleum Reserve by entities in insular areas of United States and Freely Associated States

(1) Definitions

In this subsection:

(A) Binding offer

The term "binding offer" means a bid submitted by the State of Hawaii for an assured award of a specific quantity of petroleum product, with a price to be calculated pursuant to paragraph (2) of this subsection, that obligates the offeror to take title to the petroleum product without further negotiation or recourse to withdraw the offer.

(B) Category of petroleum product

The term "category of petroleum product" means a master line item within a notice of sale.

(C) Eligible entity

The term "eligible entity" means an entity that owns or controls a refinery that is located within the State of Hawaii.

(D) Full tanker load

The term "full tanker load" means a tanker of approximately 700,000 barrels of capacity, or such lesser tanker capacity as may be designated by the State of Hawaii.

(E) Insular area

The term "insular area" means the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Freely Associated States of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(F) Offering

The term "offering" means a solicitation for bids for a quantity or quantities of petroleum product from the Strategic Petroleum Reserve as specified in the notice of sale.

(G) Notice of sale

The term "notice of sale" means the document that announces—

(i) the sale of Strategic Petroleum Reserve products;

(ii) the quantity, characteristics, and location of the petroleum product being sold;

(iii) the delivery period for the sale; and

(iv) the procedures for submitting offers.

(2) In general

In the case of an offering of a quantity of petroleum product during a drawdown of the Strategic Petroleum Reserve—

(A) the State of Hawaii, in addition to having the opportunity to submit a competitive bid, may—

(i) submit a binding offer, and shall on submission of the offer, be entitled to purchase a category of a petroleum product specified in a notice of sale at a price equal to the volumetrically weighted average of the successful bids made for the remaining quantity of the petroleum product within the category that is the subject of the offering; and

(ii) submit one or more alternative offers, for other categories of the petroleum product, that will be binding if no price competitive contract is awarded for the category of petroleum product on which a binding offer is submitted under clause (i); and

(B) at the request of the Governor of the State of Hawaii, a petroleum product purchased by the State of Hawaii at a competitive sale or through a binding offer shall have first preference in scheduling for lifting.

(3) Limitation on quantity

(A) In general

In administering this subsection, in the case of each offering, the Secretary may impose the limitation described in subparagraph (B) or (C) that results in the purchase of the lesser quantity of petroleum product.

(B) Portion of quantity of previous imports

The Secretary may limit the quantity of a petroleum product that the State of Hawaii may purchase through a binding offer at any offering to 1/12 of the total quantity of imports of the petroleum product brought into the State during the previous year (or other period determined by the Secretary to be representative).

(C) Percentage of offering

The Secretary may limit the quantity that may be purchased through binding offers at any offering to 3 percent of the offering.

(4) Adjustments

(A) In general

Notwithstanding any limitation imposed under paragraph (3), in administering this subsection, in the case of each offering, the Secretary shall, at the request of the Governor of the State of Hawaii, or an eligible entity certified under paragraph (7), adjust the quantity to be sold to the State of Hawaii in accordance with this paragraph.

(B) Upward adjustment

The Secretary shall adjust upward to the next whole number increment of a full tanker load if the quantity to be sold is—

(i) less than 1 full tanker load; or

(ii) greater than or equal to 50 percent of a full tanker load more than a whole number increment of a full tanker load.

(C) Downward adjustment

The Secretary shall adjust downward to the next whole number increment of a full tanker load if the quantity to be sold is less than 50 percent of a full tanker load more than a whole number increment of a full tanker load.

(5) Delivery to other locations

The State of Hawaii may enter into an exchange or a processing agreement that requires delivery to other locations, if a petroleum product of similar value or quantity is delivered to the State of Hawaii.

(6) Standard sales provisions

Except as otherwise provided in this chapter, the Secretary may require the State of Hawaii to comply with the standard sales provisions applicable to purchasers of petroleum products at competitive sales.

(7) Eligible entities

(A) In general

Subject to subparagraphs (B) and (C) and notwithstanding any other provision of this paragraph, if the Governor of the State of Hawaii certifies to the Secretary that the State has entered into an agreement with an eligible entity to carry out this chapter, the eligible entity may act on behalf of the State of Hawaii to carry out this subsection.

(B) Limitation

The Governor of the State of Hawaii shall not certify more than one eligible entity under this paragraph for each notice of sale.

(C) Barred company

If the Secretary has notified the Governor of the State of Hawaii that a company has been barred from bidding (either prior to, or at the time that a notice of sale is issued), the Governor shall not certify the company under this paragraph.

(8) Supplies of petroleum products

At the request of the Governor of an insular area, the Secretary shall, for a period not to exceed 180 days following a drawdown of the Strategic Petroleum Reserve, assist the insular area or the President of a Freely Associated State in its efforts to maintain adequate supplies of petroleum products from traditional and nontraditional suppliers.

(Pub. L. 94–163, title I, §161, Dec. 22, 1975, 89 Stat. 888; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 99–58, title I, §103(a), (b)(2), July 2, 1985, 99 Stat. 103, 104; Pub. L. 101–383, §§3(b), 8, 10, Sept. 15, 1990, 104 Stat. 727, 735; Pub. L. 102–486, title XIV, §1401, Oct. 24, 1992, 106 Stat. 2993; Pub. L. 105–388, §9(a), Nov. 13, 1998, 112 Stat. 3482; Pub. L. 106–469, title I, §103(15), Nov. 9, 2000, 114 Stat. 2031; Pub. L. 114–74, title IV, §401(a), Nov. 2, 2015, 129 Stat. 588; Pub. L. 114–255, div. A, title V, §5010(c), Dec. 13, 2016, 130 Stat. 1198; Pub. L. 115–123, div. C, title II, §30204(c), Feb. 9, 2018, 132 Stat. 127; Pub. L. 115–141, div. O, title V, §501(c), Mar. 23, 2018, 132 Stat. 1080; Pub. L. 117–58, div. I, §90002(c)(2), Nov. 15, 2021, 135 Stat. 1342.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (j)(6), (7)(A), was in the original "this Act", meaning Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 871, known as the Energy Policy and Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

AMENDMENTS

2021—Subsec. (h)(2)(C), (D). Pub. L. 117–58 substituted "252,400,000" for "340,000,000".

2018—Subsec. (h)(1)(C), (D). Pub. L. 115–123, §30204(c)(1), added subpar. (C) and redesignated former subpar. (C) as (D).

Subsec. (h)(2)(C), (D). Pub. L. 115–141 substituted "340,000,000" for "350,000,000".

Pub. L. 115–123, §30204(c)(2), substituted "350,000,000" for "450,000,000".

2016—Subsec. (h)(2)(C), (D). Pub. L. 114–255 substituted "450,000,000" for "500,000,000".

2015—Subsec. (g)(8). Pub. L. 114–74 added par. (8) and struck out former par. (8) which read as follows: "The Secretary shall transmit to both Houses of the Congress a detailed explanation of the test carried out under this subsection. Such explanation may be a part of any report made to the President and the Congress under section 6245 of this title."

2000—Pub. L. 106–469, §103(15)(A), substituted "sale of petroleum products" for "distribution of the Reserve" in section catchline.

Subsec. (a). Pub. L. 106–469, §103(15)(B), substituted "drawdown and sell petroleum products in" for "drawdown and distribute".

Subsec. (b). Pub. L. 106–469, §103(15)(C), struck out subsec. (b) which read as follows: "Except as provided in subsections (c), (f), and (g) of this section, no drawdown and distribution of the Reserve may be

made except in accordance with the provisions of the Distribution Plan contained in the Strategic Petroleum Reserve Plan which has taken effect pursuant to section 6239(a) of this title."

Subsec. (c). Pub. L. 106–469, §103(15)(C), struck out subsec. (c) which read as follows: "Drawdown and distribution of the Early Storage Reserve may be made in accordance with the provisions of the Distribution Plan contained in the Early Storage Reserve Plan until the Strategic Petroleum Reserve Plan has taken effect pursuant to section 6239(a) of this title."

Subsec. (d)(1). Pub. L. 106–469, §103(15)(D), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "Neither the Distribution Plan contained in the Strategic Petroleum Reserve Plan nor the Distribution Plan contained in the Early Storage Reserve Plan may be implemented, and no drawdown and distribution of the Reserve or the Early Storage Reserve may be made, unless the President has found that implementation of either such Distribution Plan is required by a severe energy supply interruption or by obligations of the United States under the international energy program."

Subsec. (e). Pub. L. 106–469, §103(15)(E), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: "The Secretary may, by rule, provide for the allocation of any petroleum product withdrawn from the Strategic Petroleum Reserve in amounts specified in (or determined in a manner prescribed by) and at prices specified in (or determined in a manner prescribed by) such rules. Such price levels and allocation procedures shall be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 753(b)(1) of title 15."

Subsec. (f). Pub. L. 106–469, §103(15)(C), struck out subsec. (f) which read as follows: "The Secretary may permit any importer or refiner who owns any petroleum products stored in the Industrial Petroleum Reserve pursuant to section 6236 of this title to remove or otherwise dispose of such products upon such terms and conditions as the Secretary may prescribe."

Subsec. (g)(1). Pub. L. 106–469, §103(15)(F)(i), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The Secretary shall conduct a continuing evaluation of the Distribution Plan. In the conduct of such evaluation, the Secretary is authorized to carry out test drawdown and distribution of crude oil from the Reserve. If any such test drawdown includes the sale or exchange of crude oil, then the aggregate quantity of crude oil withdrawn from the Reserve may not exceed 5,000,000 barrels during any such test drawdown or distribution."

Subsec. (g)(2). Pub. L. 106–469, §103(15)(F)(ii), struck out par. (2) which read as follows: "The Secretary shall carry out such drawdown and distribution in accordance with the Distribution Plan and implementing regulations and contract provisions, modified as the Secretary considers appropriate taking into consideration the artificialities of a test and the absence of a severe energy supply interruption. To meet the requirements of subsections (d) and (e) of section 6239 of this title, the Secretary shall transmit any such modification of the Plan, along with explanatory and supporting material, to both Houses of the Congress no later than 15 calendar days prior to the offering of any crude oil for sale under this subsection."

Subsec. (g)(4). Pub. L. 106–469, §103(15)(F)(iii), substituted "95 percent" for "90 percent".

Subsec. (g)(5). Pub. L. 106–469, §103(15)(F)(iv), substituted "test" for "drawdown and distribution".

Subsec. (g)(6). Pub. L. 106–469, §103(15)(F)(v), amended par. (6) generally. Prior to amendment, par. (6) read as follows:

"(6)(A) The minimum required fill rate in effect for any fiscal year shall be reduced by the amount of any crude oil drawdown from the Reserve under this subsection during such fiscal year.

"(B) In the case of a sale of any crude oil under this subsection, the Secretary shall, to the extent funds are available in the SPR Petroleum Account as a result of such sale, acquire crude oil for the Reserve within the 12-month period beginning after the completion of the sale. Such acquisition shall be in addition to any acquisition of crude oil for the Reserve required as part of a fill rate established by any other provision of law."

Subsec. (g)(8). Pub. L. 106–469, §103(15)(F)(vi), substituted "test" for "drawdown and distribution".

Subsec. (h)(1). Pub. L. 106–469, §103(15)(G)(i), substituted "sell petroleum products from" for "distribute" in concluding provisions.

Subsec. (h)(1)(C). Pub. L. 106–469, §103(15)(G)(ii), added subpar. (C).

Subsec. (h)(2). Pub. L. 106–469, §103(15)(G)(iii), substituted "Petroleum products from the Reserve may not" for "In no case may the Reserve" in introductory provisions.

Subsec. (h)(3). Pub. L. 106–469, §103(15)(G)(iv), substituted "sale" for "distribution" in two places.

1998—Subsec. (j). Pub. L. 105–388 added subsec. (j).

1992—Subsec. (d). Pub. L. 102–486, §1401(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (h)(1)(A). Pub. L. 102–486, §1401(2), inserted "or international" after "domestic".

1990—Subsec. (g)(1). Pub. L. 101–383, §8, amended par. (1) generally. Prior to amendment, par. (1) read

as follows: "In order to evaluate the implementation of the Distribution Plan, the Secretary shall, commencing within 180 days after July 2, 1985, carry out a test drawdown and distribution under this subsection through the sale or exchange of approximately 1,100,000 barrels of crude oil from the Reserve. The requirement of this paragraph shall not apply if the President determines, within the 180-day period described in the preceding sentence, that implementation of the Distribution Plan is required by a severe energy supply interruption or by obligations of the United States under the international energy program."

Subsec. (h). Pub. L. 101–383, §3(b), added subsec. (h).

Subsec. (i). Pub. L. 101–383, §10, added subsec. (i).

1985—Subsec. (b). Pub. L. 99–58, §103(b)(2), inserted reference to subsec. (g) of this section.

Subsec. (g). Pub. L. 99–58, §103(a), added subsec. (g).

1978—Subsecs. (a), (e), (f). Pub. L. 95–619 substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration, wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–388, §9(c), Nov. 13, 1998, 112 Stat. 3484, provided that: "The amendment made by subsection (a) [amending this section] takes effect on the earlier of—

"(1) the date that is 180 days after the date of enactment of this Act [Nov. 13, 1998]; or

"(2) the date that final regulations are issued under subsection (b) [set out as a note below]."

REGULATIONS

Pub. L. 105–388, §9(b), Nov. 13, 1998, 112 Stat. 3484, provided that:

"(1) IN GENERAL.—The Secretary of Energy shall issue such regulations as are necessary to carry out the amendment made by subsection (a) [amending this section].

"(2) ADMINISTRATIVE PROCEDURE.—Regulations issued to carry out the amendment made by subsection (a) shall not be subject to—

"(A) section 523 of the Energy Policy and Conservation Act (42 U.S.C. 6393); or

"(B) section 501 of the Department of Energy Organization Act (42 U.S.C. 7191)."

STRATEGIC PETROLEUM RESERVE DRAWDOWN AND SALE

Provisions related to drawdown and sale from the Strategic Petroleum Reserve were contained in the following acts:

Pub. L. 118–42, div. D, title III, §308, Mar. 9, 2024, 138 Stat. 208.

Pub. L. 117–58, div. I, §90002(a)–(c)(1), Nov. 15, 2021, 135 Stat. 1342.

Pub. L. 116–136, div. B, title IV, §14002(b), Mar. 27, 2020, 134 Stat. 526.

Pub. L. 116–94, div. C, title III, Dec. 20, 2019, 133 Stat. 2671.

Pub. L. 115–270, title III, §3009, Oct. 23, 2018, 132 Stat. 3870.

Pub. L. 115–244, div. A, title III, Sept. 21, 2018, 132 Stat. 2908.

Pub. L. 115–141, div. D, title III, Mar. 23, 2018, 132 Stat. 520.

Pub. L. 115–141, div. O, title V, §501(a), (b), Mar. 23, 2018, 132 Stat. 1079, 1080.

Pub. L. 115–123, div. C, title II, §30204(a), (b), Feb. 9, 2018, 132 Stat. 126, 127, as amended by Pub. L. 117–328, div. M, title III, §1301(d), Dec. 29, 2022, 136 Stat. 5194.

Pub. L. 115–97, title II, §20003, Dec. 22, 2017, 131 Stat. 2237, repealed by Pub. L. 119–21, title V, §50401(c), July 4, 2025, 139 Stat. 152.

Pub. L. 115–56, div. D, §158, as added by Pub. L. 115–123, div. B, §20101(2), Feb. 9, 2018, 132 Stat. 120.

Pub. L. 114–255, div. A, title V, §5010(a), (b), Dec. 13, 2016, 130 Stat. 1197, 1198.

Pub. L. 114–94, div. C, title XXXII, §32204, Dec. 4, 2015, 129 Stat. 1740, as amended by Pub. L. 117–328, div. M, title III, §1301(c), Dec. 29, 2022, 136 Stat. 5194.

Pub. L. 114–74, title IV, §403, Nov. 2, 2015, 129 Stat. 589, as amended by Pub. L. 117–328, div. M, title III, §1301(b), Dec. 29, 2022, 136 Stat. 5194.

§6242. Coordination with import quota system

No quantitative restriction on the importation of any petroleum product into the United States imposed by law shall apply to volumes of any such petroleum product imported into the United States for storage in the Reserve.

(Pub. L. 94–163, title I, §162, Dec. 22, 1975, 89 Stat. 889.)

§6243. Records and accounts

(a) Preparation and maintenance

The Secretary may require any person to prepare and maintain such records or accounts as the Secretary, by rule, determines necessary to carry out the purposes of this part.

(b) Audit of operations of storage facility

The Secretary may audit the operations of any storage facility in which any petroleum product is stored or required to be stored pursuant to the provisions of this part.

(c) Access to and inspection of records or accounts and storage facilities

The Secretary may require access to, and the right to inspect and examine, at reasonable times, (1) any records or accounts required to be prepared or maintained pursuant to subsection (a) and (2) any storage facilities subject to audit by the United States under the authority of this part.

(Pub. L. 94–163, title I, §163, Dec. 22, 1975, 89 Stat. 889; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288.)

EDITORIAL NOTES

AMENDMENTS

1978—Pub. L. 95–619 substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration, wherever appearing.

§6244. Repealed. Pub. L. 106–469, title I, §103(16), Nov. 9, 2000, 114 Stat. 2032

Section, Pub. L. 94–163, title I, §164, Dec. 22, 1975, 89 Stat. 889; Pub. L. 94–258, title I, §105(a), Apr. 5, 1976, 90 Stat. 305; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288, required a report on development of Naval Petroleum Reserve Number 4.

§6245. Annual report

The Secretary shall report annually to the President and the Congress on actions taken to implement this part. This report shall include—

(1) the status of the physical capacity of the Reserve and the type and quantity of petroleum products in the Reserve;

(2) an estimate of the schedule and cost to complete planned equipment upgrade or capital investment in the Reserve, including upgrades and investments carried out as part of operational maintenance or extension of life activities;

(3) an identification of any life-limiting conditions or operational problems at any Reserve facility, and proposed remedial actions including an estimate of the schedule and cost of implementing those remedial actions;

(4) a description of current withdrawal and distribution rates and capabilities, and an identification of any operational or other limitations on those rates and capabilities;

(5) a listing of petroleum product acquisitions made in the preceding year and planned in the following year, including quantity, price, and type of petroleum;

(6) a summary of the actions taken to develop, operate, and maintain the Reserve;

(7) a summary of the financial status and financial transactions of the Strategic Petroleum Reserve and Strategic Petroleum Reserve Petroleum Accounts for the year;

(8) a summary of expenses for the year, and the number of Federal and contractor employees;

(9) the status of contracts for development, operation, maintenance, distribution, and other

activities related to the implementation of this part;

(10) a summary of foreign oil storage agreements and their implementation status;

(11) any recommendations for supplemental legislation or policy or operational changes the Secretary considers necessary or appropriate to implement this part.

(Pub. L. 94–163, title I, §165, Dec. 22, 1975, 89 Stat. 889; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 97–35, title X, §1035(a), Aug. 13, 1981, 95 Stat. 620; Pub. L. 99–509, title III, §3203, Oct. 21, 1986, 100 Stat. 1890; Pub. L. 104–66, title I, §1051(j), Dec. 21, 1995, 109 Stat. 717; Pub. L. 106–469, title I, §103(17), Nov. 9, 2000, 114 Stat. 2032.)

EDITORIAL NOTES

AMENDMENTS

2000—Pub. L. 106–469 amended section generally. Prior to amendment, section required the Secretary to report to the President and to Congress, not later than one year after the transmittal of the Strategic Petroleum Reserve Plan to the Congress and each year thereafter, on all actions taken to implement this part.

1995—Pub. L. 104–66 struck out subsec. (a) designation before "The Secretary shall", and struck out subsec. (b) which directed Secretary to report to Congress on activities undertaken with respect to Strategic Petroleum Reserve under the amendments made by Strategic Petroleum Reserve Amendments Act of 1981.

1986—Subsec. (a)(1). Pub. L. 99–509 amended par. (1) generally, inserting ", including" in introductory text and adding subpars. (A) to (G).

1981—Pub. L. 97–35 designated existing provisions as subsec. (a) and added subsec. (b).

1978—Pub. L. 95–619 substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration, wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Aug. 13, 1981, see section 1038 of Pub. L. 97–35, set out as a note under section 6240 of this title.

REPORTS TO CONGRESS ON PETROLEUM SUPPLY INTERRUPTIONS

Pub. L. 97–229, §6, Aug. 3, 1982, 96 Stat. 253, provided that:

"(a) IMPACT ANALYSIS.—(1) The Secretary of Energy shall analyze the impact on the domestic economy and on consumers in the United States of reliance on market allocation and pricing during any substantial reduction in the amount of petroleum products available to the United States. In making such analysis, the Secretary of Energy may consult with the Secretary of the Treasury, the Secretary of Agriculture, the Director of the Office of Management and Budget, and the heads of other appropriate Federal agencies. Such analysis shall—

"(A) examine the equity and efficiency of such reliance,

"(B) distinguish between the impacts of such reliance on various categories of business (including small business and agriculture) and on households of different income levels,

"(C) specify the nature and administration of monetary and fiscal policies that would be followed including emergency tax cuts, emergency block grants, and emergency supplements to income maintenance programs, and

"(D) describe the likely impact on the distribution of petroleum products of State and local laws and regulations (including emergency authorities) affecting the distribution of petroleum products.

Such analysis shall include projections of the effect of the petroleum supply reduction on the price of motor gasoline, home heating oil, and diesel fuel, and on Federal tax revenues, Federal royalty receipts, and State and local tax revenues.

"(2) Within one year after the date of the enactment of this Act [Aug. 3, 1982], the Secretary of Energy shall submit a report to the Congress and the President containing the analysis required by this subsection, including a detailed step-by-step description of the procedures by which the policies specified in paragraph (1)(C) would be accomplished in an emergency, along with such recommendations as the Secretary of Energy deems appropriate.

"(b) STRATEGIC PETROLEUM RESERVE DRAWDOWN AND DISTRIBUTION REPORT.—The President shall prepare and transmit to the Congress, at the time he transmits the drawdown plan pursuant to

section 4(c) [section 4(c) of Pub. L. 97–229, set out as a note under 42 U.S.C. 6234], a report containing—

"(1) a description of the foreseeable situations (including selective and general embargoes, sabotage, war, act of God, or accident) which could result in a severe energy supply interruption or obligations of the United States arising under the international energy program necessitating distributions from the Strategic Petroleum Reserve, and

"(2) a description of the strategy or alternative strategies of distribution which could reasonably be used to respond to each situation described under paragraph (1), together with the theory and justification underlying each such strategy.

The description of each strategy under paragraph (2) shall include an explanation of the methods which would likely be used to determine the price and distribution of petroleum products from the Reserve in any such distribution, and an explanation of the disposition of revenues arising from sales of any such petroleum products under the strategy.

"(c) REGIONAL RESERVE REPORT.—The President or his delegate shall submit to the Congress no later than December 31, 1982, a report regarding the actions taken to comply with the provisions of section 157 of the Energy Policy and Conservation Act (42 U.S.C. 6237). Such report shall include an analysis of the economic benefits and costs of establishing Regional Petroleum Reserves, including—

"(1) an assessment of the ability to transport petroleum products to refiners, distributors, and end users within the regions specified in section 157(a) of such Act;

"(2) the comparative costs of creating and operating Regional Petroleum Reserves for such regions as compared to the costs of continuing current plans for the Strategic Petroleum Reserve; and

"(3) a list of potential sites for Regional Petroleum Reserves.

"(d) STRATEGIC ALCOHOL FUEL RESERVE REPORT.—The Secretary of Energy shall, in consultation with the Secretary of Agriculture, prepare and transmit to the Congress no later than December 31, 1982, a study of the potential for establishing a Strategic Alcohol Fuel Reserve.

"(e) MEANING OF TERMS.—As used in this section, the terms 'international energy program', 'petroleum product', 'Reserve', 'severe energy supply interruption', and 'Strategic Petroleum Reserve' have the meanings given such terms in sections 3 and 152 of the Energy Policy and Conservation Act (42 U.S.C. 6202 and 6232)."

§6246. Authorization of appropriations

There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this part and part D, to remain available until expended.

(Pub. L. 94–163, title I, §166, as added Pub. L. 109–58, title III, §301(a)(1), Aug. 8, 2005, 119 Stat. 683.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 6246, Pub. L. 94–163, title I, §166, Dec. 22, 1975, 89 Stat. 890; Pub. L. 95–70, §4, July 21, 1977, 91 Stat. 277; Pub. L. 97–35, title X, §1034(b), Aug. 13, 1981, 95 Stat. 619; Pub. L. 104–306, §1(1), Oct. 14, 1996, 110 Stat. 3810; Pub. L. 105–177, §1(1), June 1, 1998, 112 Stat. 105; Pub. L. 106–64, §1(1), Oct. 5, 1999, 113 Stat. 511; Pub. L. 106–469, title I, §103(18), Nov. 9, 2000, 114 Stat. 2033; Pub. L. 108–7, div. F, title III, §339(a)(1), Feb. 20, 2003, 117 Stat. 278, authorized appropriations for this part, prior to repeal by Pub. L. 109–58, title III, §301(a)(1), Aug. 8, 2005, 119 Stat. 683.

§6247. SPR Petroleum Account

(a) Establishment

The Secretary of the Treasury shall establish in the Treasury of the United States an account to be known as the "SPR Petroleum Account" (hereinafter in this section referred to as the "Account").

(b) Obligation of funds for acquisition, transportation, and injection of petroleum products into SPR

Amounts in the Account may be obligated by the Secretary of Energy for the acquisition,

transportation, and injection of petroleum products into the Strategic Petroleum Reserve, for test sales of petroleum products from the Reserve, and for the drawdown, sale, and delivery of petroleum products from the Reserve—

(1) Repealed. Pub. L. 106–469, title I, §103(19)(A)(ii), Nov. 9, 2000, 114 Stat. 2033;

(2) in the case of any fiscal year, subject to section 7270 of this title, in such aggregate amounts as may be appropriated in advance in appropriation Acts; and

(3) in the case of any fiscal year, notwithstanding section 7270 of this title, in an aggregate amount equal to the aggregate amount of the receipts to the United States from the sale of petroleum products in any drawdown and distribution of the Strategic Petroleum Reserve under section 6241 of this title, including a drawdown and distribution carried out under subsection (g) of such section, or from the sale of petroleum products under section 6240(f) of this title.

Funds available to the Secretary of Energy for obligation under this subsection may remain available without fiscal year limitation.

(c) Provision and deposit of funds

The Secretary of the Treasury shall provide and deposit into the Account such sums as may be necessary to meet obligations of the Secretary of Energy under subsection (b).

(d) Off-budgeting procedures

The Account, the deposits and withdrawals from the Account, and the transactions, receipts, obligations, outlays associated with such deposits and withdrawals (including petroleum product purchases and related transactions), and receipts to the United States from the sale of petroleum products in any drawdown and distribution of the Strategic Petroleum Reserve under section 6241 of this title, including a drawdown and distribution carried out under subsection (g) of such section, and from the sale of petroleum products under section 6240(f) of this title—

(1) shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States; and

(2) shall not be deemed to be budget authority, spending authority, budget outlays, or Federal revenues for purposes of title III of Public Law 93–344, as amended [2 U.S.C. 631 et seq.].

(Pub. L. 94–163, title I, §167, as added Pub. L. 97–35, title X, §1034(a)(1), Aug. 13, 1981, 95 Stat. 619; amended Pub. L. 97–229, §4(b)(2)(A), Aug. 3, 1982, 96 Stat. 251; Pub. L. 99–58, title I, §103(b)(3), (4), July 2, 1985, 99 Stat. 104; Pub. L. 101–383, §5(b)(1), (2), Sept. 15, 1990, 104 Stat. 729; Pub. L. 102–486, title XIV, §1404(b)(1), Oct. 24, 1992, 106 Stat. 2995; Pub. L. 106–469, title I, §103(19), Nov. 9, 2000, 114 Stat. 2033.)

EDITORIAL NOTES

REFERENCES IN TEXT

Public Law 93–344, as amended, referred to in subsec. (d)(2), is Pub. L. 93–344, July 12, 1974, 88 Stat. 297, known as the Congressional Budget and Impoundment Control Act of 1974. Title III of that Act is classified generally to subchapter I (§631 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

AMENDMENTS

2000—Subsec. (b). Pub. L. 106–469, §103(19)(A)(i), substituted "for test sales of petroleum products from the Reserve, and for the drawdown, sale," for "and the drawdown" in introductory provisions.

Subsec. (b)(1). Pub. L. 106–469, §103(19)(A)(ii), struck out par. (1) which read as follows: "in the case of fiscal year 1982, in an aggregate amount, not to exceed $3,900,000,000, as may be provided in advance in appropriation Acts;".

Subsec. (b)(2). Pub. L. 106–469, §103(19)(A)(iii), struck out "after fiscal year 1982" after "any fiscal year".

Subsec. (e). Pub. L. 106–469, §103(19)(B), struck out subsec. (e) which read as follows:

"(1) Except as provided in paragraph (2), nothing in this part shall be construed to limit the Account from being used to meet expenses relating to interim storage facilities for the storage of petroleum products for the

Strategic Petroleum Reserve.

"(2) In any fiscal year, amounts in the Account may not be obligated for expenses relating to interim storage facilities in excess of 10 percent of the total amounts in the Account obligated in such fiscal year. If the amount obligated in any fiscal year for interim storage expenses is less than the amount of the 10-percent limit under the preceding sentence for that fiscal year, then the amount of the 10-percent limit applicable in the following fiscal year shall be increased by the amount by which the limit exceeded the amount obligated for such expenses."

1992—Subsec. (d). Pub. L. 102–486 substituted "under subsection (g)" for "subsection (g)".

1990—Subsec. (b)(3). Pub. L. 101–383, §5(b)(1), inserted before period at end ", or from the sale of petroleum products under section 6240(f) of this title".

Subsec. (d). Pub. L. 101–383, §5(b)(2), inserted ", and from the sale of petroleum products under section 6240(f) of this title" after "subsection (g) of such section".

1985—Subsec. (b)(3). Pub. L. 99–58, §103(b)(3), inserted ", including a drawdown and distribution carried out under subsection (g) of such section" after "section 6241 of this title".

Subsec. (d). Pub. L. 99–58, §103(b)(4), inserted ", including a drawdown and distribution carried out subsection (g) of such section" after "section 6241 of this title" in provisions preceding par. (1).

1982—Subsec. (e). Pub. L. 97–229 added subsec. (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Aug. 13, 1981, see section 1038 of Pub. L. 97–35, set out as an Effective Date of 1981 Amendment note under section 6240 of this title.

TRANSFER OF FUNDS TO SPR PETROLEUM ACCOUNT FOR DRAWDOWN AND SALE OPERATIONS

Pub. L. 106–113, div. B, §1000(a)(3) [title II], Nov. 29, 1999, 113 Stat. 1535, 1501A–180, provided in part: "That the Secretary of Energy hereafter may transfer to the SPR Petroleum Account such funds as may be necessary to carry out drawdown and sale operations of the Strategic Petroleum Reserve initiated under section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241) from any funds available to the Department of Energy under this or any other Act: *Provided further*, That all funds transferred pursuant to this authority must be replenished as promptly as possible from oil sale receipts pursuant to the drawdown and sale."

ACQUISITION, TRANSPORTATION, AND INJECTION OF PETROLEUM PRODUCTS FOR SPR; APPLICABILITY OF SUBSEC. (D)

Pub. L. 97–35, title X, §1034(c), Aug. 13, 1981, 95 Stat. 620, provided that: "The provisions of section 167(d) of such Act, as added by subsection (a) of this section [subsec. (d) of this section], shall apply with respect to the outlays associated with unexpended balances of appropriations made available and obligated as of the end of fiscal year 1981 for the acquisition, transportation, and injection of petroleum products for the Strategic Petroleum Reserve to the same extent and manner as such provisions apply with respect to withdrawals from the SPR Petroleum Account."

§6247a. Use of underutilized facilities

(a) Authority

Notwithstanding any other provision of this subchapter, the Secretary, by lease or otherwise, for any term and under such other conditions as the Secretary considers necessary or appropriate, may store in underutilized Strategic Petroleum Reserve facilities petroleum product [1] owned by a foreign government or its representative. Petroleum products stored under this section are not part of the Strategic Petroleum Reserve and may be exported without license from the United States.

(b) Protection of facilities

All agreements entered into pursuant to subsection (a) shall contain provisions providing for fees to fully compensate the United States for all related costs of storage and removals of petroleum products (including the proportionate cost of replacement facilities necessitated as a result of any

withdrawals) incurred by the United States on behalf of the foreign government or its representative.

(c) Access to stored oil

The Secretary shall ensure that agreements to store petroleum products for foreign governments or their representatives do not impair the ability of the United States to withdraw, distribute, or sell petroleum products from the Strategic Petroleum Reserve in response to an energy emergency or to the obligations of the United States under the Agreement on an International Energy Program.

(d) Availability of funds

Funds collected through the leasing of Strategic Petroleum Reserve facilities authorized by subsection (a) after September 30, 2007, shall be used by the Secretary of Energy without further appropriation for the purchase of petroleum products for the Strategic Petroleum Reserve.

(Pub. L. 94–163, title I, §168, as added Pub. L. 105–33, title IX, §9303(a), Aug. 5, 1997, 111 Stat. 676.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in subsec. (a), was in the original "this title", meaning title I of Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 875, which is classified principally to this subchapter. For complete classification of title I to the Code, see Tables.

[1] So in original. Probably should be "products".

§6247b. Purchase of oil from marginal wells

(a) In general

From amounts authorized under section 6246 of this title, in any case in which the price of oil decreases to an amount less than $15.00 per barrel (an amount equal to the annual average well head price per barrel for all domestic crude oil), adjusted for inflation, the Secretary may purchase oil from a marginal well at $15.00 per barrel, adjusted for inflation.

(b) Definition of marginal well

The term "marginal well" has the same meaning as the definition of "stripper well property" in section 613A(c)(6)(E) of title 26.

(Pub. L. 94–163, title I, §169, as added Pub. L. 106–469, title III, §301(a), Nov. 9, 2000, 114 Stat. 2037.)

PART C—AUTHORITY TO CONTRACT FOR PETROLEUM PRODUCT NOT OWNED BY UNITED STATES

EDITORIAL NOTES

PRIOR PROVISIONS

A prior part C, consisting of section 6251 of this title, was redesignated part E of this subchapter, prior to repeal by Pub. L. 109–58.

§6249. Contracting for petroleum product and facilities

(a) In general

Subject to the other provisions of this part, the Secretary may contract—

(1) for storage, in otherwise unused Strategic Petroleum Reserve facilities, of petroleum product not owned by the United States; and

(2) for storage, in storage facilities other than those of the Reserve, of petroleum product either owned or not owned by the United States.

(b) Conditions

(1) Petroleum product stored pursuant to such a contract shall, until the expiration, termination, or other conclusion of the contract, be a part of the Reserve and subject to the Secretary's authority under part B.

(2) The Secretary may enter into a contract for storage of petroleum product under subsection (a) only if—

(A) the Secretary determines (i) that entering into one or more contracts under such subsection would achieve benefits comparable to the acquisition of an equivalent amount of petroleum product, or an equivalent volume of storage capacity, for the Reserve under part B, and (ii) that, because of budgetary constraints, the acquisition of an equivalent amount of petroleum product or volume of storage space for the Reserve cannot be accomplished under part B; and

(B) the Secretary notifies each House of the Congress of the determination and identifies in the notification the location, type, and ownership of storage and related facilities proposed to be included, or the volume, type, and ownership of petroleum products proposed to be stored, in the Reserve, and an estimate of the proposed benefits.

(3) A contract entered into under subsection (a) shall not limit the discretion of the President or the Secretary to conduct a drawdown and sale of petroleum products from the Reserve.

(4) A contract entered into under subsection (a) shall include a provision that the obligation of the United States to make payments under the contract in any fiscal year is subject to the availability of appropriations.

(c) Charge for storage

The Secretary may store petroleum product pursuant to a contract entered into under subsection (a)(1) with or without charge or may pay a fee for its storage.

(d) Duration

Contracts entered into under subsection (a) may be of such duration as the Secretary considers necessary or appropriate.

(e) Binding arbitration

The Secretary may agree to binding arbitration of disputes under any contract entered into under subsection (a).

(f) Availability of funds

The Secretary may utilize such funds as are available in the SPR Petroleum Account to carry out the activities described in subsection (a), and may obligate and expend such funds to carry out such activities, in advance of the receipt of petroleum products.

(Pub. L. 94–163, title I, §171, as added Pub. L. 101–383, §6(a)(4), Sept. 15, 1990, 104 Stat. 729; amended Pub. L. 102–486, title XIV, §1403, Oct. 24, 1992, 106 Stat. 2994; Pub. L. 106–469, title I, §103(20), Nov. 9, 2000, 114 Stat. 2033.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 171 of Pub. L. 94–163 was renumbered section 191 and was classified to section 6251 of this title, prior to repeal by Pub. L. 109–58.

AMENDMENTS

2000—Subsec. (b)(2)(B). Pub. L. 106–469, §103(20)(A), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "the Secretary notifies each House of the Congress of such determination and includes in such notification the same information required under section 6234(e) of this title with regard to storage and related facilities proposed to be included, or petroleum product proposed to be stored, in the Reserve."

Subsec. (b)(3). Pub. L. 106–469, §103(20)(B), substituted "sale of petroleum products from" for "distribution of".

1992—Subsec. (f). Pub. L. 102–486 added subsec. (f).

§6249a. Implementation

(a), (b) Repealed. Pub. L. 106–469, title I, §103(21), Nov. 9, 2000, 114 Stat. 2033

(c) Legal status regarding other law

Petroleum product and facilities contracted for under this part have the same status as petroleum product and facilities owned by the United States for all purposes associated with the exercise of the laws of any State or political subdivision thereof.

(d) Return of product

At such time as the petroleum product contracted for under this part is withdrawn from the Reserve upon the expiration, termination, or other conclusion of the contract, such petroleum product (or the equivalent quantity of petroleum product withdrawn from the Reserve pursuant to the contract) shall be deemed, for purposes of determining the extent to which such product is thereafter subject to any Federal, State, or local law or regulation, not to have left the place where such petroleum product was located at the time it was originally committed to a contract under this part.

(Pub. L. 94–163, title I, §172, as added Pub. L. 101–383, §6(a)(4), Sept. 15, 1990, 104 Stat. 730; amended Pub. L. 106–469, title I, §103(21), Nov. 9, 2000, 114 Stat. 2033.)

EDITORIAL NOTES

AMENDMENTS

2000—Subsecs. (a), (b). Pub. L. 106–469 struck out subsecs. (a) and (b) which read as follows:

"(a) AMENDMENT TO PLAN NOT REQUIRED.—An amendment of the Strategic Petroleum Reserve Plan is not required for any action taken under this part.

"(b) FILL RATE REQUIREMENT.—For purposes of section 6240(d)(1) of this title, any petroleum product stored in the Reserve under this part that is removed from the Reserve at the expiration, termination, or other conclusion of the agreement shall be considered to be part of the Reserve until the beginning of the fiscal year following the fiscal year in which the petroleum product was removed."

§6249b. Repealed. Pub. L. 106–469, title I, §103(22), Nov. 9, 2000, 114 Stat. 2033

Section, Pub. L. 94–163, title I, §173, as added Pub. L. 101–383, §6(a)(4), Sept. 15, 1990, 104 Stat. 731, related to contracts not requiring implementing legislation.

§6249c. Contracts for which implementing legislation is needed

(a) In general

(1) In the case of contracts entered into under this part, and amendments to such contracts, for which implementing legislation will be needed, the Secretary may transmit an implementing bill to both Houses of the Congress.

(2) In the Senate, any such bill shall be considered in accordance with the provisions of this section.

(3) For purposes of this section—

(A) the term "implementing bill" means a bill introduced in either House of Congress with respect to one or more contracts or amendments to contracts submitted to the House of Representatives and the Senate under this section and which contains—

(i) a provision approving such contracts or amendments, or both; and

(ii) legislative provisions that are necessary or appropriate for the implementation of such contracts or amendments, or both; and

(B) the term "implementing revenue bill" means an implementing bill which contains one or more revenue measures by reason of which it must originate in the House of Representatives.

(b) Consultation

The Secretary shall consult, at the earliest possible time and on a continuing basis, with each committee of the House and the Senate that has jurisdiction over all matters expected to be affected by legislation needed to implement any such contract.

(c) Effective date

Each contract and each amendment to a contract for which an implementing bill is necessary may become effective only if—

(1) the Secretary, not less than 30 days before the day on which such contract is entered into, notifies the House of Representatives and the Senate of the intention to enter into such a contract and promptly thereafter publishes notice of such intention in the Federal Register;

(2) after entering into the contract, the Secretary transmits a report to the House of Representatives and to the Senate containing a copy of the final text of such contract together with—

(A) the implementing bill, and an explanation of how the implementing bill changes or affects existing law; and

(B) a statement of the reasons why the contract serves the interests of the United States and why the implementing bill is required or appropriate to implement the contract; and

(3) the implementing bill is enacted into law.

(d) Rules of Senate

Subsections (e) through (h) are enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate, and as such they are deemed a part of the rules of the Senate but applicable only with respect to the procedure to be followed in the Senate in the case of implementing bills and implementing revenue bills described in subsection (a), and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(e) Introduction and referral in Senate

(1) On the day on which an implementing bill is transmitted to the Senate under this section, the implementing bill shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself or herself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate.

(2) If the Senate is not in session on the day on which such an agreement is submitted, the implementing bill shall be introduced in the Senate, as provided in the [1] paragraph (1), on the first day thereafter on which the Senate is in session.

(3) Such bills shall be referred by the presiding officer of the Senate to the appropriate committee, or, in the case of a bill containing provisions within the jurisdiction of two or more committees, jointly to such committees for consideration of those provisions within their respective jurisdictions.

(f) Consideration of amendments to implementing bill prohibited in Senate

(1) No amendments to an implementing bill shall be in order in the Senate, and it shall not be in order in the Senate to consider an implementing bill that originated in the House if such bill passed the House containing any amendment to the introduced bill.

(2) No motion to suspend the application of this subsection shall be in order in the Senate; nor shall it be in order in the Senate for the Presiding Officer to entertain a request to suspend the application of this subsection by unanimous consent.

(g) Discharge in Senate

(1) Except as provided in paragraph (3), if the committee or committees of the Senate to which an implementing bill has been referred have not reported it at the close of the 30th day after its introduction, such committee or committees shall be automatically discharged from further consideration of the bill, and it shall be placed on the appropriate calendar.

(2) A vote on final passage of the bill shall be taken in the Senate on or before the close of the 15th day after the bill is reported by the committee or committees to which it was referred or after such committee or committees have been discharged from further consideration of the bill.

(3) The provisions of paragraphs (1) and (2) shall not apply in the Senate to an implementing revenue bill. An implementing revenue bill received from the House shall be, subject to subsection (f)(1), referred to the appropriate committee or committees of the Senate. If such committee or committees have not reported such bill at the close of the 15th day after its receipt by the Senate, such committee or committees shall be automatically discharged from further consideration of such bill and it shall be placed on the calendar. A vote on final passage of such bill shall be taken in the Senate on or before the close of the 15th day after such bill is reported by the committee or committees of the Senate to which it was referred, or after such committee or committees have been discharged from further consideration of such bill.

(4) For purposes of this subsection, in computing a number of days in the Senate, there shall be excluded any day on which the Senate is not in session.

(h) Floor consideration in Senate

(1) A motion in the Senate to proceed to the consideration of an implementing bill shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate in the Senate on an implementing bill, and all debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(3) Debate in the Senate on any debatable motion or appeal in connection with an implementing bill shall be limited to not more than one hour to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of an implementing bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(4) A motion in the Senate to further limit debate is not debatable. A motion to recommit an implementing bill is not in order.

(Pub. L. 94–163, title I, §174, as added Pub. L. 101–383, §6(a)(4), Sept. 15, 1990, 104 Stat. 731.)

[1] So in original. The word "the" probably should not appear.

PART D—NORTHEAST HOME HEATING OIL RESERVE

EDITORIAL NOTES

PRIOR PROVISIONS

A prior part D, consisting of section 6251 of this title, was redesignated part E of this subchapter, prior to repeal by Pub. L. 109–58.

§6250. Establishment

(a) Notwithstanding any other provision of this chapter, the Secretary may establish, maintain, and operate in the Northeast a Northeast Home Heating Oil Reserve. A Reserve established under this part is not a component of the Strategic Petroleum Reserve established under part B of this subchapter. A Reserve established under this part shall contain no more than 2 million barrels of petroleum distillate.

(b) For the purposes of this part—

(1) the term "Northeast" means the States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, and New Jersey;

(2) the term "petroleum distillate" includes heating oil and diesel fuel; and

(3) the term "Reserve" means the Northeast Home Heating Oil Reserve established under this part.

(Pub. L. 94–163, title I, §181, as added Pub. L. 106–469, title II, §201(a)(3), Nov. 9, 2000, 114 Stat. 2034.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 871, known as the Energy Policy and Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

PRIOR PROVISIONS

A prior section 181 of Pub. L. 94–163 was renumbered section 191 and was classified to section 6251 of this title, prior to repeal by Pub. L. 109–58.

§6250a. Authority

To the extent necessary or appropriate to carry out this part, the Secretary may—

(1) purchase, contract for, lease, or otherwise acquire, in whole or in part, storage and related facilities, and storage services;

(2) use, lease, maintain, sell, or otherwise dispose of storage and related facilities acquired under this part;

(3) acquire by purchase, exchange (including exchange of petroleum products from the Strategic Petroleum Reserve or received as royalty from Federal lands), lease, or otherwise, petroleum distillate for storage in the Northeast Home Heating Oil Reserve;

(4) store petroleum distillate in facilities not owned by the United States; and

(5) sell, exchange, or otherwise dispose of petroleum distillate from the Reserve established under this part, including to maintain the quality or quantity of the petroleum distillate in the Reserve or to maintain the operational capability of the Reserve.

(Pub. L. 94–163, title I, §182, as added Pub. L. 106–469, title II, §201(a)(3), Nov. 9, 2000, 114 Stat. 2034.)

§6250b. Conditions for release; plan

(a) Finding

The Secretary may sell products from the Reserve only upon a finding by the President that there

is a severe energy supply interruption. Such a finding may be made only if he determines that—

(1) a dislocation in the heating oil market has resulted from such interruption; or

(2) a circumstance, other than that described in paragraph (1), exists that constitutes a regional supply shortage of significant scope and duration and that action taken under this section would assist directly and significantly in reducing the adverse impact of such shortage.

(b) Definition

For purposes of this section a "dislocation in the heating oil market" shall be deemed to occur only when—

(1) The price differential between crude oil, as reflected in an industry daily publication such as "Platt's Oilgram Price Report" or "Oil Daily" and No. 2 heating oil, as reported in the Energy Information Administration's retail price data for the Northeast, increases by more than 60 percent over its 5-year rolling average for the months of mid-October through March (considered as a heating season average), and continues for 7 consecutive days; and

(2) The price differential continues to increase during the most recent week for which price information is available.

(c) Continuing evaluation

The Secretary shall conduct a continuing evaluation of the residential price data supplied by the Energy Information Administration for the Northeast and data on crude oil prices from published sources.

(d) Release of petroleum distillate

After consultation with the heating oil industry, the Secretary shall determine procedures governing the release of petroleum distillate from the Reserve. The procedures shall provide that—

(1) the Secretary may—

(A) sell petroleum distillate from the Reserve through a competitive process, or

(B) enter into exchange agreements for the petroleum distillate that results [1] in the Secretary receiving a greater volume of petroleum distillate as repayment than the volume provided to the acquirer;

(2) in all such sales or exchanges, the Secretary shall receive revenue or its equivalent in petroleum distillate that provides the Department with fair market value. At no time may the oil be sold or exchanged resulting in a loss of revenue or value to the United States; and

(3) the Secretary shall only sell or dispose of the oil in the Reserve to entities customarily engaged in the sale and distribution of petroleum distillate.

(e) Plan

Within 45 days of November 9, 2000, the Secretary shall transmit to the President and, if the President approves, to the Congress a plan describing—

(1) the acquisition of storage and related facilities or storage services for the Reserve, including the potential use of storage facilities not currently in use;

(2) the acquisition of petroleum distillate for storage in the Reserve;

(3) the anticipated methods of disposition of petroleum distillate from the Reserve;

(4) the estimated costs of establishment, maintenance, and operation of the Reserve;

(5) efforts the Department will take to minimize any potential need for future drawdowns and ensure that distributors and importers are not discouraged from maintaining and increasing supplies to the Northeast; and

(6) actions to ensure quality of the petroleum distillate in the Reserve.

(Pub. L. 94–163, title I, §183, as added Pub. L. 106–469, title II, §201(a)(3), Nov. 9, 2000, 114 Stat. 2035; amended Pub. L. 109–58, title III, §301(d), Aug. 8, 2005, 119 Stat. 684.)

EDITORIAL NOTES

AMENDMENTS

2005—Subsec. (b)(1). Pub. L. 109–58 substituted "by more than 60 percent over its 5-year rolling average for the months of mid-October through March (considered as a heating season average)" for "by more tan 60 percent over its 5 year rolling average for the months of mid-October through March".

[1] *So in original. Probably should be "result".*

§6250c. Northeast Home Heating Oil Reserve Account

(a) Establishment

Upon a decision of the Secretary of Energy to establish a Reserve under this part, the Secretary of the Treasury shall establish in the Treasury of the United States an account known as the "Northeast Home Heating Oil Reserve Account" (referred to in this section as the "Account").

(b) Deposits

the [1] Secretary of the Treasury shall deposit in the Account any amounts appropriated to the Account and any receipts from the sale, exchange, or other disposition of petroleum distillate from the Reserve.

(c) Obligation of amounts

The Secretary of Energy may obligate amounts in the Account to carry out activities under this part without the need for further appropriation, and amounts available to the Secretary of Energy for obligation under this section shall remain available without fiscal year limitation.

(Pub. L. 94–163, title I, §184, as added Pub. L. 106–469, title II, §201(a)(3), Nov. 9, 2000, 114 Stat. 2036.)

[1] *So in original. Probably should be capitalized.*

§6250d. Exemptions

An action taken under this part is not subject to the rulemaking requirements of section 6393 of this title, section 7191 of this title, or section 553 of title 5.

(Pub. L. 94–163, title I, §185, as added Pub. L. 106–469, title II, §201(a)(3), Nov. 9, 2000, 114 Stat. 2036.)

§6250e. Repealed. Pub. L. 109–58, title III, §301(a)(2), Aug. 8, 2005, 119 Stat. 683

Section, Pub. L. 94–163, title I, §186, as added Pub. L. 106–469, title II, §201(a)(3), Nov. 9, 2000, 114 Stat. 2036; amended Pub. L. 108–7, div. F, title III, §339(a)(2), Feb. 20, 2003, 117 Stat. 278, authorized appropriations for this part.

§6250f. Limit on amount of petroleum distillate

Notwithstanding section 6250 of this title, for fiscal year 2012 and hereafter, the [Northeast Home Heating Oil] Reserve shall contain no more than 1 million barrels of petroleum distillate.

(Pub. L. 112–74, div. B, title III, Dec. 23, 2011, 125 Stat. 869.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Energy and Water Development and Related Agencies Appropriations Act, 2012, and also as part of the Consolidated Appropriations Act, 2012, and not as part of the Energy Policy and Conservation Act which comprises this chapter.

PART E—EXPIRATION

§6251. Repealed. Pub. L. 109–58, title III, §301(a)(3), Aug. 8, 2005, 119 Stat. 683

Section, Pub. L. 94–163, title I, §191, formerly §171, as added Pub. L. 99–58, title I, §101(a), July 2, 1985, 99 Stat. 102; amended Pub. L. 101–46, §1(1), June 30, 1989, 103 Stat. 132; Pub. L. 101–262, §2(b), Mar. 31, 1990, 104 Stat. 124; Pub. L. 101–360, §2(b), Aug. 10, 1990, 104 Stat. 421; renumbered §181 and amended Pub. L. 101–383, §§2(2), 6(a)(3), Sept. 15, 1990, 104 Stat. 727, 729; Pub. L. 103–406, title I, §102, Oct. 22, 1994, 108 Stat. 4209; Pub. L. 104–306, §1(2), Oct. 14, 1996, 110 Stat. 3810; Pub. L. 105–177, §1(2), June 1, 1998, 112 Stat. 105; Pub. L. 106–64, §1(2), Oct. 5, 1999, 113 Stat. 511; renumbered §191 and amended Pub. L. 106–469, title I, §103(23), title II, §201(a)(2), Nov. 9, 2000, 114 Stat. 2033, 2034; Pub. L. 108–7, div. F, title III, §339(a)(3), Feb. 20, 2003, 117 Stat. 278, provided for the expiration of all authority under this subchapter at midnight Sept. 30, 2008.

SUBCHAPTER II—STANDBY ENERGY AUTHORITIES

PART A—GENERAL EMERGENCY AUTHORITIES

§§6261 to 6264. Repealed. Pub. L. 106–469, title I, §104(1), Nov. 9, 2000, 114 Stat. 2033

Section 6261, Pub. L. 94–163, title II, §201, Dec. 22, 1975, 89 Stat. 890; Pub. L. 96–102, title I, §§103(b)(1), (c)(1), 105(a)(1)–(3), (5), Nov. 5, 1979, 93 Stat. 751, 755, 756; H. Res. 549, Mar. 25, 1980, required the President to transmit to Congress energy conservation contingency plans and rationing contingency plans and provided requirements for plans to become effective and for amendment, approval, and implementation of plans.

Section 6262, Pub. L. 94–163, title II, §202, Dec. 22, 1975, 89 Stat. 892; Pub. L. 96–102, title II, §231, Nov. 5, 1979, 93 Stat. 767, provided requirements for energy conservation contingency plans.

Section 6263, Pub. L. 94–163, title II, §203, Dec. 22, 1975, 89 Stat. 892; Pub. L. 96–102, title I, §§103(a), (c)(2), 104, 105(b)(1)–(5), Nov. 5, 1979, 93 Stat. 751, 755, 756, provided requirements for rationing contingency plan, and in subsec. (f) provided that all authority to carry out a plan would expire on same date as authority to issue and enforce rules and orders under the Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751 et seq.

Section 6264, Pub. L. 94–163, title II, §204, as added Pub. L. 99–58, title I, §104(b), July 2, 1985, 99 Stat. 104, provided that except as provided in section 6263(f) of this title, authority to carry out the provisions of sections 6261 to 6264 of this title and any rule, regulation, or order issued pursuant to such sections expired at midnight, June 30, 1985.

PART B—AUTHORITIES WITH RESPECT TO INTERNATIONAL ENERGY PROGRAM

§6271. International oil allocations

(a) Authority of President to prescribe rules for implementation of obligations of United States relating to international allocation of petroleum products; amounts of allocation and prices; petroleum products subject to rule; term of rule

The President may, by rule, require that persons engaged in producing, transporting, refining, distributing, or storing petroleum products, take such action as he determines to be necessary for implementation of the obligations of the United States under chapters III and IV of the international energy program insofar as such obligations relate to the international allocation of petroleum products. Allocation under such rule shall be in such amounts and at such prices as are specified in (or determined in a manner prescribed by) such rule. Such rule may apply to any petroleum product owned or controlled by any person described in the first sentence of this subsection who is subject to the jurisdiction of the United States, including any petroleum product destined, directly or indirectly, for import into the United States or any foreign country, or produced in the United States. Subject to subsection (b)(2), such a rule shall remain in effect until amended or rescinded by the President.

(b) Prerequisites to rule taking effect; time rule may be put into effect or remain in effect

(1) No rule under subsection (a) may take effect unless the President—

(A) has transmitted such rule to the Congress;

(B) has found that putting such rule into effect is required in order to fulfill obligations of the United States under the international energy program; and

(C) has transmitted such finding to the Congress, together with a statement of the effective date and manner for exercise of such rule.

(2) No rule under subsection (b) may be put into effect or remain in effect after the expiration of 12 months after the date such rule was transmitted to Congress under paragraph (1)(A).

(c) Consistency of rule with attainment of objectives specified in section 753(b)(1) [1] of title 15; limitation on authority of officers or agencies of United States

(1) Any rule under this section shall be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 753(b)(1) [1] of title 15.

(2) No officer or agency of the United States shall have any authority, other than authority under this section, to require that petroleum products be allocated to other countries for the purpose of implementation of the obligations of the United States under the international energy program.

(d) Nonapplicability of export restrictions under other laws

Neither section 6212 [1] of this title nor section 185(u) of title 30 shall preclude the allocation and export, to other countries in accordance with this section, of petroleum products produced in the United States.

(e) Prerequisites for effectiveness of rule

No rule under this section may be put into effect unless—

(1) an international energy supply emergency, as defined in the first sentence of section 6272(k)(1) of this title, is in effect; and

(2) the allocation of available oil referred to in chapter III of the international energy program has been activated pursuant to chapter IV of such program.

(Pub. L. 94–163, title II, §251, Dec. 22, 1975, 89 Stat. 894; Pub. L. 97–229, §2(b)(1), Aug. 3, 1982, 96 Stat. 248; Pub. L. 105–177, §1(3), June 1, 1998, 112 Stat. 105.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 753 of title 15, referred to in subsec. (c), was omitted from the Code pursuant to section 760g of Title 15, Commerce and Trade, which provided for the expiration of the President's authority under that

section on Sept. 30, 1981.

Section 6212 of this title, referred to in subsec. (d), was repealed by Pub. L. 114–113, div. O, title I, §101(a), Dec. 18, 2015, 129 Stat. 2987.

AMENDMENTS

1998—Subsec. (e)(1). Pub. L. 105–177 substituted reference to section 6272(k)(1) for reference to section 6272(l)(1).

1982—Subsec. (e). Pub. L. 97–229 added subsec. (e).

[1] *See References in Text note below.*

§6272. International voluntary agreements

(a) Exclusiveness of section's requirements

Effective 90 days after December 22, 1975, the requirements of this section shall be the sole procedures applicable to—

(1) the development or carrying out of voluntary agreements and plans of action to implement the international emergency response provisions, and

(2) the availability of immunity from the antitrust laws with respect to the development or carrying out of such voluntary agreements and plans of action.

(b) Prescription by Secretary of standards and procedures for developing and carrying out voluntary agreements and plans of action

The Secretary, with the approval of the Attorney General, after each of them has consulted with the Federal Trade Commission and the Secretary of State, shall prescribe, by rule, standards and procedures by which persons engaged in the business of producing, transporting, refining, distributing, or storing petroleum products may develop and carry out voluntary agreements, and plans of action, which are required to implement the international emergency response provisions.

(c) Requirements for standards and procedures

The standards and procedures prescribed under subsection (b) shall include the following requirements:

(1)(A)(i) Except as provided in clause (ii) or (iii) of this subparagraph, meetings held to develop or carry out a voluntary agreement or plan of action under this subsection shall permit attendance by representatives of committees of Congress and interested persons, including all interested segments of the petroleum industry, consumers, and the public; shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission, committees of Congress, and (except during an international energy supply emergency with respect to meetings to carry out a voluntary agreement or to develop or carry out a plan of action) the public; and shall be initiated and chaired by a regular full-time Federal employee.

(ii) Meetings of bodies created by the International Energy Agency established by the international energy program need not be open to interested persons and need not be initiated and chaired by a regular full-time Federal employee.

(iii) The President, in consultation with the Secretary, the Secretary of State, and the Attorney General, may determine that a meeting held to carry out a voluntary agreement or to develop or carry out a plan of action shall not be open to interested persons or that attendance by interested persons may be limited, if the President finds that a wider disclosure would be detrimental to the foreign policy interests of the United States.

(B) No meetings may be held to develop or carry out a voluntary agreement or plan of action under this section unless a regular full-time Federal employee is present.

(2) Interested persons permitted to attend such a meeting shall be afforded an opportunity to present, in writing and orally, data, views, and arguments at such meetings, subject to any

reasonable limitations with respect to the manner of presentation of data, views, and arguments as the Secretary may impose.

(3) A full and complete record, and where practicable a verbatim transcript, shall be kept of any meeting held, and a full and complete record shall be kept of any communication (other than in a meeting) made, between or among participants or potential participants, to develop, or carry out a voluntary agreement or a plan of action under this section. Such record or transcript shall be deposited, together with any agreement resulting therefrom, with the Secretary, and shall be available to the Attorney General and the Federal Trade Commission. Such records or transcripts shall be available for public inspection and copying in accordance with section 552 of title 5; except that (A) matter may not be withheld from disclosure under section 552(b) of such title on grounds other than the grounds specified in section 552(b)(1), (b)(3), or so much of (b)(4) as relates to trade secrets; and (B) in the exercise of authority under section 552(b)(1), the President shall consult with the Secretary of State, the Secretary, and the Attorney General with respect to questions relating to the foreign policy interests of the United States.

(4) No provision of this section may be exercised so as to prevent representatives of committees of Congress from attending meetings to which this section applies, or from having access to any transcripts, records, and agreements kept or made under this section. Such access to any transcript that is required to be kept for any meeting shall be provided as soon as practicable (but not later than 14 days) after that meeting.

(d) Participation of Attorney General and Federal Trade Commission in development and carrying out of voluntary agreements and plans of action

(1) The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, and when practicable, in the carrying out of voluntary agreements and plans of action authorized under this section. Each may propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of this part. A voluntary agreement or plan of action under this section may not be carried out unless approved by the Attorney General, after consultation with the Federal Trade Commission. Prior to the expiration of the period determined under paragraph (2), the Federal Trade Commission shall transmit to the Attorney General its views as to whether such an agreement or plan of action should be approved, and shall publish such views in the Federal Register. The Attorney General, in consultation with the Federal Trade Commission, the Secretary of State, and the Secretary, shall have the right to review, amend, modify, disapprove, or revoke, on his own motion or upon the request of the Federal Trade Commission or any interested person, any voluntary agreement or plan of action at any time, and, if revoked, thereby withdraw prospectively any immunity which may be conferred by subsection (f) or (j).

(2) Any voluntary agreement or plan of action entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented; except that during an international energy supply emergency, the Secretary, subject to approval of the Attorney General, may reduce such 20-day period. Any such agreement or plan of action shall be available for public inspection and copying, except that a plan of action shall be so available only to the extent to which records or transcripts are so available as provided in the last sentence of subsection (c)(3). Any action taken pursuant to such voluntary agreement or plan of action shall be reported to the Attorney General and the Federal Trade Commission pursuant to such regulations as shall be prescribed under paragraphs (3) and (4) of subsection (e).

(3) A plan of action may not be approved by the Attorney General under this subsection unless such plan (A) describes the types of substantive actions which may be taken under the plan, and (B) is as specific in its description of proposed substantive actions as is reasonable in light of circumstances known at the time of approval.

(e) Monitoring of development and carrying out of voluntary agreements and plans of action by Attorney General and Federal Trade Commission

(1) The Attorney General and the Federal Trade Commission shall monitor the development and carrying out of voluntary agreements and plans of action authorized under this section in order to

promote competition and to prevent anticompetitive practices and effects, while achieving substantially the purposes of this part.

(2) In addition to any requirement specified under subsections (b) and (c) of this section and in order to carry out the purposes of this section, the Attorney General, in consultation with the Federal Trade Commission and the Secretary, may promulgate rules concerning the maintenance of necessary and appropriate records related to the development and carrying out of voluntary agreements and plans of action authorized pursuant to this section.

(3) Persons developing or carrying out voluntary agreements and plans of action authorized pursuant to this section shall maintain such records as are required by rules promulgated under paragraph (2). The Attorney General and the Federal Trade Commission shall have access to and the right to copy such records at reasonable times and upon reasonable notice.

(4) The Attorney General and the Federal Trade Commission may each prescribe such rules as may be necessary or appropriate to carry out their respective responsibilities under this section. They may both utilize for such purposes and for purposes of enforcement any powers conferred upon the Federal Trade Commission or the Department of Justice, or both, by the antitrust laws or the Antitrust Civil Process Act [15 U.S.C. 1311 et seq.]; and wherever any such law refers to "the purposes of this Act" or like terms, the reference shall be understood to include this section.

(f) Defense to civil or criminal antitrust actions

(1) There shall be available as a defense to any civil or criminal action brought under the antitrust laws (or any similar State law) in respect to actions taken to develop or carry out a voluntary agreement or plan of action by persons engaged in the business of producing, transporting, refining, distributing, or storing petroleum products (provided that such actions were not taken for the purpose of injuring competition) that—

(A) such actions were taken—

(i) in the course of developing a voluntary agreement or plan of action pursuant to this section, or

(ii) to carry out a voluntary agreement or plan of action authorized and approved in accordance with this section, and

(B) such persons complied with the requirements of this section and the rules promulgated hereunder.

(2) Except in the case of actions taken to develop a voluntary agreement or plan of action, the defense provided in this subsection shall be available only if the person asserting the defense demonstrates that the actions were specified in, or within the reasonable contemplation of, an approved voluntary agreement or plan of action.

(3) Persons interposing the defense provided by this subsection shall have the burden of proof, except that the burden shall be on the person against whom the defense is asserted with respect to whether the actions were taken for the purpose of injuring competition.

(g) Acts or practices occurring prior to date of enactment of chapter or subsequent to its expiration or repeal

No provision of this section shall be construed as granting immunity for, or as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any act or practice which occurred prior to the date of enactment of this chapter or subsequent to its expiration or repeal.

(h) Applicability of Defense Production Act of 1950

Section 4558 of title 50 shall not apply to any agreement or action undertaken for the purpose of developing or carrying out—

(1) the international energy program; or

(2) any allocation, price control, or similar program with respect to petroleum products under this chapter.

(i) Reports by Attorney General and Federal Trade Commission to Congress and President

The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at such intervals as are appropriate based on significant developments and issues, reports on the impact on competition and on small business of actions authorized by this section.

(j) Defense in breach of contract actions

In any action in any Federal or State court for breach of contract, there shall be available as a defense that the alleged breach of contract was caused predominantly by action taken during an international energy supply emergency to carry out a voluntary agreement or plan of action authorized and approved in accordance with this section.

(k) Definitions

As used in this section and section 6274 of this title:

(1) The term "international energy supply emergency" means any period (A) beginning on any date which the President determines allocation of petroleum products to nations participating in the international energy program is required by chapters III and IV of such program, and (B) ending on a date on which he determines that such allocation is no longer required. Such a period may not exceed 90 days, but the President may establish one or more additional 90-day periods by making anew the determination under subparagraph (A) of the preceding sentence. Any determination respecting the beginning or end of any such period shall be published in the Federal Register.

(2) The term "international emergency response provisions" means—

(A) the provisions of the international energy program which relate to international allocation of petroleum products and to the information system provided in the program; and

(B) the emergency response measures adopted by the Governing Board of the International Energy Agency (including the July 11, 1984, decision by the Governing Board on "Stocks and Supply Disruptions") for—

(i) the coordinated drawdown of stocks of petroleum products held or controlled by governments; and

(ii) complementary actions taken by governments during an existing or impending international oil supply disruption.

(l) Applicability of antitrust defense

The antitrust defense under subsection (f) shall not extend to the international allocation of petroleum products unless allocation is required by chapters III and IV of the international energy program during an international energy supply emergency.

(m) Limitation on new plans of action

(1) With respect to any plan of action approved by the Attorney General after July 2, 1985—

(A) the defenses under subsection (f) and (j) shall be applicable to Type 1 activities (as that term is defined in the International Energy Agency Emergency Management Manual, dated December 1982) only if—

(i) the Secretary has transmitted such plan of action to the Congress; and

(ii)(I) 90 calendar days of continuous session have elapsed since receipt by the Congress of such transmittal; or

(II) within 90 calendar days of continuous session after receipt of such transmittal, either House of the Congress has disapproved a joint resolution of disapproval pursuant to subsection (n); and

(B) such defenses shall not be applicable to Type 1 activities if there has been enacted, in accordance with subsection (n), a joint resolution of disapproval.

(2) The Secretary may withdraw the plan of action at any time prior to adoption of a joint resolution described in subsection (n)(3) by either House of Congress.

(3) For the purpose of this subsection—

(A) continuity of session is broken only by an adjournment of the Congress sine die at the end of the second session of Congress; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the calendar-day period involved.

(n) Joint resolution of disapproval

(1)(A) The application of defenses under subsections (f) and (j) for Type 1 activities with respect to any plan of action transmitted to Congress as described in subsection (m)(1)(A)(i) shall be disapproved if a joint resolution of disapproval has been enacted into law during the 90-day period of continuous session after which such transmission was received by the Congress. For the purpose of this subsection, the term "joint resolution" means only a joint resolution of either House of the Congress as described in paragraph (3).

(B) After receipt by the Congress of such plan of action, a joint resolution of disapproval may be introduced in either House of the Congress. Upon introduction in the Senate, the joint resolution shall be referred in the Senate immediately to the Committee on Energy and Natural Resources of the Senate.

(2) This subsection is enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate and as such it is deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of resolutions described by paragraph (3); it supersedes other rules only to the extent that is inconsistent therewith; and

(B) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(3) The joint resolution disapproving the transmission under subsection (m) shall read as follows after the resolving clause: "That the Congress of the United States disapproves the availability of the defenses pursuant to section 252 (f) and (j) of the Energy Policy and Conservation Act with respect to Type 1 activities under the plan of action submitted to the Congress by the Secretary of Energy on .", the blank space therein being filled with the date and year of receipt by the Congress of the plan of action transmitted as described in subsection (m).

(4)(A) If the Committee on Energy and Natural Resources of the Senate has not reported a joint resolution referred to it under this subsection at the end of 20 calendar days of continuous session after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other joint resolution which has been referred to the committee with respect to such plan of action.

(B) A motion to discharge shall be highly privileged (except that it may not be made after the Committee on Energy and Natural Resources has reported a joint resolution with respect to the plan of action), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the joint resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other joint resolution with respect to the same transmission.

(5)(A) When the Committee on Energy and Natural Resources of the Senate has reported or has been discharged from further consideration of a joint resolution, it shall be in order at any time thereafter within the 90-day period following receipt by the Congress of the plan of action (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of such joint resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider a vote by which the motion was agreed to or disagreed to.

(B) Debate on the joint resolution shall be limited to not more than 10 hours and final action on the joint resolution shall occur immediately following conclusion of such debate. A motion further to

limit debate shall not be debatable. A motion to recommit such a joint resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such a joint resolution was agreed to or disagreed to.

(6)(A) Motions to postpone made with respect to the discharge from committee or consideration of a joint resolution, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of rules of the Senate to the procedures relating to a joint resolution shall be decided without debate.

(Pub. L. 94–163, title II, §252, Dec. 22, 1975, 89 Stat. 894; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 96–30, June 30, 1979, 93 Stat. 80; Pub. L. 96–94, Oct. 31, 1979, 93 Stat. 720; Pub. L. 96–133, §§1, 2, Nov. 30, 1979, 93 Stat. 1053; Pub. L. 97–5, Mar. 13, 1981, 95 Stat. 7; Pub. L. 97–50, Sept. 30, 1981, 95 Stat. 957; Pub. L. 97–163, Apr. 1, 1982, 96 Stat. 24; Pub. L. 97–190, June 1, 1982, 96 Stat. 106; Pub. L. 97–217, July 19, 1982, 96 Stat. 196; Pub. L. 97–229, §2(a), (b)(2), Aug. 3, 1982, 96 Stat. 248; Pub. L. 98–239, Mar. 20, 1984, 98 Stat. 93; Pub. L. 99–58, title I, §§104(c)(2), (4), 105, July 2, 1985, 99 Stat. 105; Pub. L. 104–66, title I, §1091(g), Dec. 21, 1995, 109 Stat. 722; Pub. L. 105–177, §1(4), June 1, 1998, 112 Stat. 105.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Antitrust Civil Process Act, referred to in subsec. (e)(4), is Pub. L. 87–664, Sept. 19, 1962, 76 Stat. 548, which is classified principally to chapter 34 (§1311 et seq.) of Title 15. For complete classification of that Act to the Code, see Short Title note set out under section 1311 of Title 15 and Tables.

The date of enactment of this chapter, referred to in subsec. (g), means the date of enactment of Pub. L. 94–163, which was approved Dec. 22, 1975.

This chapter, referred to in subsec. (h)(2), was in the original "this Act", meaning Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 871, known as the Energy Policy and Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

Section 252(f) and (j) of the Energy Policy and Conservation Act, referred to in subsection (n)(3), is classified to subsecs. (f) and (j) of this section.

AMENDMENTS

1998—Subsecs. (a)(1), (b). Pub. L. 105–177, §1(4)(A), substituted "international emergency response provisions" for "allocation and information provisions of the international energy program".

Subsec. (d)(3). Pub. L. 105–177, §1(4)(B), substituted "circumstances known at the time of approval" for "known circumstances".

Subsec. (e)(2). Pub. L. 105–177, §1(4)(C), substituted "may" for "shall".

Subsec. (f)(2). Pub. L. 105–177, §1(4)(D), inserted "voluntary agreement or" after "approved".

Subsec. (h). Pub. L. 105–177, §1(4)(E), amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: "Upon the expiration of the 90-day period which begins on December 22, 1975, the provisions of sections 708 and 708A (other than 708A(o)) of the Defense Production Act of 1950 shall not apply to any agreement or action undertaken for the purpose of developing or carrying out (1) the international energy program, or (2) any allocation, price control, or similar program with respect to petroleum products under this chapter or under the Emergency Petroleum Allocation Act of 1973. For purposes of section 708(A)(o) of the Defense Production Act of 1950, the effective date of the provisions of this chapter which relate to international voluntary agreements to carry out the International Energy Program shall be deemed to be 90 days after December 22, 1975."

Subsec. (k)(2). Pub. L. 105–177, §1(4)(F), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The term 'allocation and information provisions of the international energy program' means the provisions of the international energy program which relate to international allocation of petroleum products and to the information system provided in such program."

Subsec. (l). Pub. L. 105–177, §1(4)(G), amended subsec. (l) generally. Prior to amendment, subsec. (l) read as follows: "The authority granted by this section shall apply only to the development or carrying out of voluntary agreements and plans of action to implement chapters III, IV, and V of the international energy program."

1995—Subsec. (i). Pub. L. 104–66 substituted ", at such intervals as are appropriate based on significant developments and issues, reports" for ", at least once every 6 months, a report".

1985—Subsec. (d)(1). Pub. L. 99–58, §104(c)(4), substituted "subsection (f) or (j)" for "subsection (f) or (k)".

Subsecs. (j) to (l). Pub. L. 99–58, §104(c)(2), redesignated subsecs. (k) to (m) as (j) to (l). Former subsec. (j), which provided that the authority granted by this section would terminate at midnight, June 30, 1985, was struck out.

Subsecs. (m), (n). Pub. L. 99–58, §105, added subsecs. (m) and (n). Former subsec. (m) redesignated (l).

1984—Subsec. (j). Pub. L. 98–239 substituted "June 30, 1985" for "December 31, 1983".

1982—Subsec. (j). Pub. L. 97–229, §2(a), substituted "at midnight December 31, 1983" for "August 1, 1982".

Pub. L. 97–217 substituted "August 1, 1982" for "July 1, 1982".

Pub. L. 97–190 substituted "July 1, 1982" for "June 1, 1982".

Pub. L. 97–163 substituted "June 1, 1982" for "April 1, 1982".

Subsec. (m). Pub. L. 97–229, §2(b)(2), added subsec. (m).

1981—Subsec. (j). Pub. L. 97–50 substituted "April 1, 1982" for "September 30, 1981".

Pub. L. 97–5 substituted "September 30, 1981" for "March 15, 1981".

1979—Subsec. (c)(4). Pub. L. 96–133, §2, inserted provisions respecting access to transcripts.

Subsec. (j). Pub. L. 96–133, §1, substituted "March 15, 1981" for "November 30, 1979".

Pub. L. 96–94 substituted "November 30" for "October 31".

Pub. L. 96–30 substituted "October 31, 1979" for "June 30, 1979".

1978—Subsecs. (b), (c)(1)(A)(iii), (2), (3), (d)(1), (2), (e)(2). Pub. L. 95–619 substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration, wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

STUDY AND REPORT ON ENERGY POLICY COOPERATION BETWEEN UNITED STATES AND OTHER WESTERN HEMISPHERE COUNTRIES

Pub. L. 100–373, §2, July 19, 1988, 102 Stat. 878, directed Secretary of Energy, in consultation with Secretary of State and Secretary of Commerce, to conduct a study to determine how best to enhance cooperation between United States and other countries of Western Hemisphere with respect to energy policy including stable supplies of, and stable prices for, energy, with Secretary of Energy to report results of such study to Congress, propose a comprehensive international energy policy for United States designed to enhance cooperation between United States and other countries of the Western Hemisphere, and recommend such action as Secretary deemed necessary to establish and implement such policy.

REPORT OF IMPLEMENTATION ACTIVITIES UNDER INTERNATIONAL VOLUNTARY AGREEMENTS

Pub. L. 96–133, §3, Nov. 30, 1979, 93 Stat. 1053, directed Secretary of Energy, in consultation with Secretary of State, Attorney General, and Chairman of Federal Trade Commission, to prepare and submit to appropriate committees of Congress, a report concerning actions taken by them to carry out provisions of this section, which report was to examine and discuss extent to which all, or part, of any meeting held in accordance with subsec. (c) of this section to carry out a voluntary agreement or to develop or carry out a plan of action should be open to interested persons in furtherance of provisions of subsec. (c)(1)(A) of this section, policies and procedures followed by appropriate Federal agencies in reviewing and making public or withholding from the public all, or part, of any transcript of any meeting held to develop or carry out a voluntary agreement or plan of action under this section and in permitting persons, other than citizens of United States, to review such transcripts prior to any public disclosure thereof, extent to which classification of all, or part, of such transcripts should be carried out by one agency, adequacy of actions by responsible Federal agencies in insuring that standards and procedures required by this section are fully implemented and enforced, including monitoring of program concerning any anticompetitive effects, and number of personnel, and amount of funds, assigned by each such agency to carry out such standards and procedures, actions taken, or to be taken, to improve reporting of energy supply data under international energy program and to reconcile such reporting with similar reporting that is conducted by Department of Energy, actions taken, or planned, to improve reporting required by subsec. (i) of this section, and other actions under subsec. (i) of this section and to transmit such report to such committees within 120 days after Nov. 30, 1979, and to make such report available to the public.

EXECUTIVE DOCUMENTS

CLASSIFICATION OF CERTAIN INFORMATION AND MATERIAL

For provisions relating to the classification of certain information and material obtained from advisory bodies created to implement the International Energy Program, see Ex. Ord. No. 11932, eff. Aug. 4, 1976, 41 F.R. 32691, set out as a note under section 3161 of Title 50, War and National Defense.

§6273. Advisory committees

(a) Authority of Secretary to establish; applicability of section 17 of Federal Energy Administration Act of 1974; chairman; inclusion of representatives of public; public meetings; notice of meeting to Attorney General and Federal Trade Commission; attendance and participation of their representatives

To achieve the purposes of the international energy program with respect to international allocation of petroleum products and the information system provided in such program, the Secretary may provide for the establishment of such advisory committees as he determines are necessary. In addition to the requirements specified in this section, such advisory committees shall be subject to the provisions of section 17 of the Federal Energy Administration Act of 1974 [15 U.S.C. 776] (whether or not such Act [15 U.S.C. 761 et seq.] or any of its provisions expire or terminate before June 30, 1985); shall be chaired by a regular full-time Federal employee; and shall include representatives of the public. The meetings of such committees shall be open to the public. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(b) Transcript of meetings

A verbatim transcript shall be kept of such advisory committee meetings, and shall be deposited with the Attorney General and the Federal Trade Commission. Such transcript shall be made available for public inspection and copying in accordance with section 552 of title 5, except that matter may not be withheld from disclosure under section 552(b) of such title on grounds other than the grounds specified in section 552(b)(1), (b)(3), and so much of (b)(4) as relates to trade secrets, or pursuant to a determination under subsection (c).

(c) Suspension of application of certain requirements by President

The President, after consultation with the Secretary of State, the Federal Trade Commission, the Attorney General, and the Secretary, may suspend the application of—

(1) sections 1009 and 1010 of title 5,

(2) subsections (b) and (c) of section 17 [1] of the Federal Energy Administration Act of 1974,

(3) the requirement under subsection (a) of this section that meetings be open to the public, and

(4) the second sentence of subsection (b);

if the President determines with respect to a particular meeting, (A) that such suspension is essential to the developing or carrying out of the international energy program, (B) that such suspension relates solely to the purpose of international allocation of petroleum products and the information system provided in such program, and (C) that the meeting deals with matters described in section 552(b)(1) of title 5. Such determination by the President shall be in writing, shall set forth a detailed explanation of reasons justifying the granting of such suspension, and shall be published in the Federal Register at a reasonable time prior to the effective date of any such suspension.

(Pub. L. 94–163, title II, §253, Dec. 22, 1975, 89 Stat. 898; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 117–286, §4(a)(265), Dec. 27, 2022, 136 Stat. 4335.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Energy Administration Act of 1974, referred to in subsec. (a), is Pub. L. 93–275, May 7, 1974,

88 Stat. 96, which is classified generally to chapter 16B (§761 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 761 of Title 15 and Tables.

Section 17 of the Federal Energy Administration Act of 1974, referred to in subsec. (c)(2), was classified to section 776 of Title 15, Commerce and Trade, prior to repeal by Pub. L. 105–28, §2(b)(2), July 18, 1997, 111 Stat. 245.

AMENDMENTS

2022—Subsec. (c)(1). Pub. L. 117–286 substituted "sections 1009 and 1010 of title 5," for "sections 10 and 11 of the Federal Advisory Committee Act,".

1978—Subsecs. (a), (c). Pub. L. 95–619 substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment unless in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the end of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 1013 of Title 5, Government Organization and Employees.

EXECUTIVE DOCUMENTS

CLASSIFICATION OF CERTAIN INFORMATION AND MATERIAL

For provisions relating to the classification of certain information and material obtained from advisory bodies created to implement the International Energy Program, see Ex. Ord. No. 11932, eff. Aug. 4, 1976, 41 F.R. 32691, set out as a note under section 3161 of Title 50, War and National Defense.

[1] *See References in Text note below.*

§6274. Exchange of information with International Energy Agency

(a) Submission of information by Secretary to Secretary of State; transmittal to Agency; aggregation and reporting of geological or geophysical information, trade secrets, or commercial or financial information; availability of such information during international energy supply emergency; certification by President that Agency has adopted security measures; review of compliance of other nations with program; petition to President for changes in procedure

(1) Except as provided in subsections (b) and (c), the Secretary, after consultation with the Attorney General, may provide to the Secretary of State, and the Secretary of State may transmit to the International Energy Agency established by the international energy program, the information and data related to the energy industry certified by the Secretary of State as required to be submitted under the international energy program.

(2)(A) Except as provided in subparagraph (B) of this paragraph, any such information or data which is geological or geophysical information or a trade secret or commercial or financial information to which section 552(b)(9) or (b)(4) of title 5 applies shall, prior to such transmittal, be aggregated, accumulated, or otherwise reported in such manner as to avoid, to the fullest extent feasible, identification of any person from whom the United States obtained such information or data, and in the case of geological or geophysical information, a competitive disadvantage to such person.

(B)(i) Notwithstanding subparagraph (A) of this paragraph, during an international energy supply emergency, any such information or data with respect to the international allocation of petroleum

products may be made available to the International Energy Agency is otherwise authorized to be made available to such Agency by paragraph (1) of this subsection.

(ii) Subparagraph (A) shall not apply to information described in subparagraph (A) (other than geological or geophysical information) if the President certifies, after opportunity for presentation of views by interested persons, that the International Energy Agency has adopted and is implementing security measures which assure that such information will not be disclosed by such Agency or its employees to any person or foreign country without having been aggregated, accumulated, or otherwise reported in such manner as to avoid identification of any person from whom the United States obtained such information or data.

(3)(A) Within 90 days after December 22, 1975, and periodically thereafter, the President shall review the operation of this section and shall determine whether other signatory nations to the international energy program are transmitting information and data to the International Energy Agency in substantial compliance with such program. If the President determines that other nations are not so complying, paragraph (2)(B)(ii) shall not apply until he determines other nations are so complying.

(B) Any person who believes he has been or will be damaged by the transmittal of information or data pursuant to this section shall have the right to petition the President and to request changes in procedures which will protect such person from any competitive damage.

(b) Halting transmittal of information that would prejudice competition, violate antitrust laws, or be inconsistent with security interests

If the President determines that the transmittal of data or information pursuant to the authority of this section would prejudice competition, violate the antitrust laws, or be inconsistent with United States national security interests, he may require that such data or information not be transmitted.

(c) Information protected by statute

Information and data the confidentiality of which is protected by statute shall not be provided by the Secretary to the Secretary of State under subsection (a) of this section for transmittal to the International Energy Agency, unless the Secretary has obtained the specific concurrence of the head of any department or agency which has the primary statutory authority for the collection, gathering, or obtaining of such information and data. In making a determination to concur in providing such information and data, the head of any department or agency which has the primary statutory authority for the collection, gathering, or obtaining of such information and data shall consider the purposes for which such information and data were collected, gathered, and obtained, the confidentiality provisions of such statutory authority, and the international obligations of the United States under the international energy program with respect to the transmittal of such information and data to an international organization or foreign country.

(d) Continuation of authority to collect data under Energy Supply and Environmental Coordination Act and Federal Energy Administration Act of 1974

For the purposes of carrying out the obligations of the United States under the international energy program, the authority to collect data granted by sections 11 and 13 of the Energy Supply and Environmental Coordination Act [15 U.S.C. 796] and the Federal Energy Administration Act of 1974 [15 U.S.C. 772], respectively, shall continue in full force and effect without regard to the provisions of such Acts relating to their expiration.

(e) Limitation on disclosure contained in other laws

The authority under this section to transmit information shall be subject to any limitations on disclosure contained in other laws, except that such authority may be exercised without regard to—

(1) section 11(d) of the Energy Supply and Environmental Coordination Act of 1974 [15 U.S.C. 796(d)];

(2) section 14(b) of the Federal Energy Administration Act of 1974 [15 U.S.C. 773(b)];

(3) section 12 [1] of the Export Administration Act of 1979;

(4) section 9 of title 13;

(5) section 176a of title 15; and

(6) section 1905 of title 18.

(Pub. L. 94–163, title II, §254, Dec. 22, 1975, 89 Stat. 899; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 96–72, §22(b)(2), Sept. 29, 1979, 93 Stat. 535.)

EDITORIAL NOTES

REFERENCES IN TEXT

The provisions of such Acts relating to their expiration, referred to in subsec. (d), means section 11(g) of Pub. L. 93–319, June 22, 1974, 88 Stat. 246, the Energy Supply and Environmental Coordination Act, which enacted section 796(g) of Title 15, and section 30 of Pub. L. 93–275, May 7, 1974, 88 Stat. 97, the Federal Energy Administration Act of 1974, which is set out as a note under section 761 of Title 15.

Section 12 of the Export Administration Act of 1979, referred to in subsec. (e)(3), was classified to section 4614 of Title 50, War and National Defense, prior to repeal by Pub. L. 115–232, div. A, title XVII, §1766(a), Aug. 13, 2018, 132 Stat. 2232.

AMENDMENTS

1979—Subsec. (e)(3). Pub. L. 96–72 substituted "12" for "7" and "1979" for "1969".

1978—Subsecs. (a)(1), (c). Pub. L. 95–619 substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration, wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–72 effective upon the expiration of the Export Administration Act of 1969, which terminated on Sept. 30, 1979, or upon any prior date which the Congress by concurrent resolution or the President by proclamation designated, see Pub. L. 96–72, §19(a), Sept. 29, 1979, 93 Stat. 535, which was classified to section 4621 of Title 50, War and National Defense, prior to repeal by Pub. L. 115–232, div. A, title XVII, §1766(a), Aug. 13, 2018, 132 Stat. 2232.

[1] *See References in Text note below.*

§6275. Relationship between standby emergency authorities and international energy program

The purpose of the Congress in enacting this subchapter is to provide standby energy emergency authority to deal with energy shortage conditions and to minimize economic dislocations and adverse impacts on employment. While the authorities contained in this subchapter may, to the extent authorized by this subchapter, be used to carry out obligations incurred by the United States in connection with the International Energy Program, this subchapter shall not be construed in any way as advice and consent, ratification, endorsement, or other form of congressional approval of the specific terms of such program.

(Pub. L. 94–163, title II, §255, Dec. 22, 1975, 89 Stat. 900.)

§6276. Domestic renewable energy industry and related service industries

(a) Purpose

It is the purpose of this section to implement the responsibilities of the United States under chapter VII of the international energy program with respect to development of alternative energy by facilitating the overall abilities of the domestic renewable energy industry and related service industries to create new markets.

(b) Evaluation; report to Congress

(1) Before the later of—
(A) 6 months after July 18, 1984, and
(B) May 31, 1985,

the Secretary of Commerce shall conduct an evaluation regarding the domestic renewable energy industry and related service industries and submit a report of his findings to the Congress.

(2) Such evaluation shall include—

(A) an assessment of the technical and commercial status of the domestic renewable energy industry and related service industries in domestic and foreign markets;

(B) an assessment of the Federal Government's activities affecting commerce in the domestic renewable energy industry and related service industries and in consolidating and coordinating such activities within the Federal Government; and

(C) an assessment of the aspects of the domestic renewable energy industry and related service industries in which improvements must be made to increase the international commercialization of such industry.

(c) Program for enhancing commerce in renewable energy technologies; funding

(1) On the basis of the evaluation under subsection (b), the Secretary of Commerce shall, consistent with existing law, establish a program for enhancing commerce in renewable energy technologies and consolidating or coordinating existing activities for such purpose.

(2) Such program shall provide for—

(A) the broadening of the participation by the domestic renewable energy industry and related service industries in such activities;

(B) the promotion of the domestic renewable energy industry and related service industries on a worldwide basis;

(C) the participation by the Federal Government and the domestic renewable energy industry and related service industries in international standard-setting activities; and

(D) the establishment of an information program under which—

(i) technical information about the domestic renewable energy industry and related service industries shall be provided to appropriate public and private officials engaged in commerce, and to potential end users, including other industry sectors in foreign countries such as health care, rural development, communications, and refrigeration, and others, and

(ii) marketing information about export and export financing opportunities shall be available to the domestic renewable energy industry and related service industries.

(3) Necessary funds required for carrying out such program shall be requested in connection with fiscal years beginning after September 30, 1984.

(d) Interagency working group

(1) Establishment

(A) There shall be established an interagency working group that, in consultation with the representative industry groups and relevant agency heads, shall make recommendations to coordinate the actions and programs of the Federal Government affecting exports of renewable energy and energy efficiency products and services. The interagency working group shall establish a program to inform foreign countries of the benefits of policies that would increase energy efficiency or would allow facilities that use renewable energy to compete effectively with producers of energy from nonrenewable sources.

(B) There shall be established an Interagency Working Subgroup on Renewable Energy and an Interagency Working Subgroup on Energy Efficiency that shall, in consultation with representative industry groups, nonprofit organizations, and relevant Federal agencies, make recommendations to coordinate the actions and programs of the Federal Government to promote the export of domestic renewable energy and energy efficiency products and services, respectively.

(C) The Secretary of Energy, or the Secretary's designee, shall chair the interagency working

group and each subgroup established under this paragraph. The Administrator of the Agency for International Development and the Secretary of Commerce, or their designees, shall be members of both subgroups established under this paragraph. The Secretary shall provide staff for carrying out the functions of the interagency working group and each subgroup established under this paragraph. The heads of appropriate agencies may detail such personnel and may furnish such services to such group and subgroups, with or without reimbursement, as may be necessary to carry out their functions.

(2) Duties of the interagency working subgroups

(A) The interagency working subgroups established under paragraph (1)(B), through the member agencies of the interagency working group, shall promote the development and application in foreign countries of renewable energy and energy efficiency products and services, respectively, that—

(i) reduce dependence on unreliable sources of energy by encouraging the use of sustainable biomass, wind, small-scale hydroelectric, solar, geothermal, and other renewable energy and energy efficiency products and services; and

(ii) use hybrid fossil-renewable energy systems.

(B) In addition, the interagency working subgroups shall explore mechanisms for assisting domestic firms, particularly small businesses, with the export of their renewable energy and energy efficiency products and services and with the identification of potential projects.

(3) Training and assistance

The interagency working subgroups shall encourage the member agencies of the interagency working group to—

(A) provide technical training and education for international development personnel and local users in their own country;

(B) provide financial and technical assistance to nonprofit institutions that support the marketing and export efforts of domestic companies that provide renewable energy and energy efficiency products and services;

(C) develop environmentally sustainable renewable energy and energy efficiency projects in foreign countries;

(D) provide technical assistance and training materials to loan officers of the World Bank, international lending institutions, commercial and energy attaches at embassies of the United States and other appropriate personnel in order to provide information about renewable energy and energy efficiency products and services to foreign governments or other potential project sponsors;

(E) support, through financial incentives, private sector efforts to commercialize and export renewable energy and energy efficiency products and services; and

(F) augment budgets for trade and development programs in order to support pre-feasibility or feasibility studies for projects that utilize renewable energy and energy efficiency products and services.

(4) Study of export promotion practices

The interagency working group shall conduct a study of subsidies, incentives, and policies that foreign countries use to promote exports of their own renewable energy and energy efficiency technologies and products. Such study shall also identify foreign trade barriers to the import of renewable energy and energy efficiency technologies and products produced in the United States. The interagency working group shall report to the appropriate committees of the House of Representatives and the Senate the results of such study within 18 months after October 24, 1992.

(e) Omitted

(f) Functions of interagency working group; plan to increase United States exports of renewable energy and energy efficiency technologies

(1) The interagency working group shall—

(A) establish, in consultation with representatives of affected industries, a plan to increase United States exports of renewable energy and energy efficiency technologies, and include in such plan recommended guidelines for agencies that are represented on the working group with respect to the financing of, or other actions they can take within their programs to promote, exports of such renewable energy and energy efficiency technologies;

(B) develop, in consultation with representatives of affected industries, recommended administrative guidelines for Federal export loan programs to simplify application by firms seeking export assistance for renewable energy and energy efficiency technologies from agencies implementing such programs; and

(C) recommend specific renewable energy and energy efficiency technology markets for primary emphasis by Federal export loan programs, development programs, and private sector assistance programs.

(2) The interagency working group shall include a description of the plan established under paragraph (1)(A) in no later than the second report submitted under subsection (e),[1] and shall include in subsequent reports a description of any modifications to such plan and of the progress in implementing the plan.

(g) Repealed. Pub. L. 102–486, title XII, §1207(c), Oct. 24, 1992, 106 Stat. 2963

(h) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to implement this part, to remain available until expended.

(Pub. L. 94–163, title II, §256, as added Pub. L. 98–370, §2, July 18, 1984, 98 Stat. 1211; amended Pub. L. 101–218, §7, Dec. 11, 1989, 103 Stat. 1867; Pub. L. 102–486, title XII, §§1207, 1208, Oct. 24, 1992, 106 Stat. 2962, 2964; Pub. L. 104–306, §1(3), Oct. 14, 1996, 110 Stat. 3810; Pub. L. 106–469, title I, §104(2), Nov. 9, 2000, 114 Stat. 2033; Pub. L. 108–7, div. F, title III, §339(b)(1), Feb. 20, 2003, 117 Stat. 278.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subsection (e) of this section, referred to in subsec. (f)(2), was omitted from the Code.

CODIFICATION

Subsec. (e) of this section, which required the interagency working group established under subsec. (d) of this section to annually report to Congress, describing the actions of each agency represented by a member of the working group taken during the previous fiscal year to achieve the purposes of such working group and of this section and describing the exports of renewable energy technology that have occurred as a result of such agency actions, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, the 6th item on page 175 of House Document No. 103–7.

AMENDMENTS

2003—Subsec. (h). Pub. L. 108–7 amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: "There are authorized to be appropriated to the Secretary for purposes of carrying out the programs under subsections (d) and (e) of this section $10,000,000, to be divided equitably between the interagency working subgroups based on program requirements, for each of the fiscal years 1993 and 1994, and such sums as may be necessary for fiscal year 1995 to carry out the purposes of this subtitle. There are authorized to be appropriated for fiscal year 1997 such sums as may be necessary to carry out this part. There are authorized to be appropriated for fiscal years 2000 through 2003, such sums as may be necessary."

2000—Subsec. (h). Pub. L. 106–469 inserted at end "There are authorized to be appropriated for fiscal years 2000 through 2003, such sums as may be necessary."

1996—Subsec. (h). Pub. L. 104–306 inserted at end "There are authorized to be appropriated for fiscal year 1997 such sums as may be necessary to carry out this part."

1992—Subsec. (d). Pub. L. 102–486, §1207(a), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows:

"(1) There shall be established an interagency working group which, in consultation with the representative industry groups and relevant agency heads, shall make recommendations to coordinate the actions and programs of the Federal Government affecting commerce in renewable energy products and related services. The Secretary of Energy shall be the chairman of such group. The heads of appropriate agencies may detail such personnel and may furnish such services to such working group, with or without reimbursement, as may be necessary to carry out its functions.

"(2) The interagency group shall establish a program to inform other countries of the benefits of policies that would allow small facilities which produce renewable energy to compete effectively with producers of energy from nonrenewable sources."

Subsec. (d)(4). Pub. L. 102–486, §1208, added par. (4).

Subsec. (f)(1). Pub. L. 102–486, §1207(b), inserted "and energy efficiency" after "renewable energy" wherever appearing.

Subsec. (g). Pub. L. 102–486, §1207(c), struck out subsec. (g) which read as follows: "For purposes of this section, the term 'renewable energy' includes energy efficiency to the extent it is a part of a renewable energy system or technology."

Subsec. (h). Pub. L. 102–486, §1207(d), amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: "There are authorized to be appropriated to the Secretary for activities of the interagency working group established under subsection (d) of this section not to exceed—

"(1) $3,000,000 for fiscal year 1991;

"(2) $3,300,000 for fiscal year 1992; and

"(3) $3,600,000 for fiscal year 1993."

1989—Subsec. (c)(2)(D)(i). Pub. L. 101–218, §7(a)(1), inserted "and to potential end users, including other industry sectors in foreign countries such as health care, rural development, communications, and refrigeration, and others," after "commerce,".

Subsec. (c)(2)(D)(ii). Pub. L. 101–218, §7(a)(2), substituted "export and export financing opportunities" for "export opportunities".

Subsec. (d). Pub. L. 101–218, §7(b), designated existing provisions as par. (1) and added par. (2).

Subsecs. (e) to (h). Pub. L. 101–218, §7(c), added subsecs. (e) to (h).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 98–370, §3, July 18, 1984, 98 Stat. 1212, provided that: "The amendments made by this Act [enacting this section and a provision set out as a note under section 6201 of this title] shall take effect on the date of the enactment of this Act [July 18, 1984]."

[1] *See References in Text note below.*

PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS

EDITORIAL NOTES

CODIFICATION

Pub. L. 109–58, title III, §301(b)(1), Aug. 8, 2005, 119 Stat. 683, added part heading.

PRIOR PROVISIONS

A prior part C, consisting of sections 6281 and 6282, was repealed by Pub. L. 106–469, title I, §104(3), Nov. 9, 2000, 114 Stat. 2033.

Section 6281, Pub. L. 94–163, title II, §271, as added Pub. L. 97–229, §3(a), Aug. 3, 1982, 96 Stat. 248, related to congressional findings, policy, and purpose.

Section 6282, Pub. L. 94–163, title II, §272, as added Pub. L. 97–229, §3(a), Aug. 3, 1982, 96 Stat. 249, related to preparation for petroleum supply interruptions.

§6283. Summer fill and fuel budgeting programs

(a) Definitions

In this section:

(1) Budget contract

The term "budget contract" means a contract between a retailer and a consumer under which the heating expenses of the consumer are spread evenly over a period of months.

(2) Fixed-price contract

The term "fixed-price contract" means a contract between a retailer and a consumer under which the retailer charges the consumer a set price for propane, kerosene, or heating oil without regard to market price fluctuations.

(3) Price cap contract

The term "price cap contract" means a contract between a retailer and a consumer under which the retailer charges the consumer the market price for propane, kerosene, or heating oil, but the cost of the propane, kerosene, or heating oil may exceed a maximum amount stated in the contract.

(b) Assistance

At the request of the chief executive officer of a State, the Secretary shall provide information, technical assistance, and funding—

(1) to develop education and outreach programs to encourage consumers to fill their storage facilities for propane, kerosene, and heating oil during the summer months; and

(2) to promote the use of budget contracts, price cap contracts, fixed-price contracts, and other advantageous financial arrangements,

to avoid severe seasonal price increases for and supply shortages of those products.

(c) Preference

In implementing this section, the Secretary shall give preference to States that contribute public funds or leverage private funds to develop State summer fill and fuel budgeting programs.

(d) Authorization of appropriations

There are authorized to be appropriated to carry out this section—

(1) $25,000,000 for fiscal year 2001; and

(2) such sums as are necessary for each fiscal year thereafter.

(Pub. L. 94–163, title II, §273, as added Pub. L. 106–469, title VI, §602(a), Nov. 9, 2000, 114 Stat. 2040; amended Pub. L. 109–58, title III, §301(b)(2), Aug. 8, 2005, 119 Stat. 683.)

EDITORIAL NOTES

AMENDMENTS

2005—Subsec. (e). Pub. L. 109–58 struck out heading and text of subsec. (e). Text read as follows: "Section 6285 of this title does not apply to this section."

PART D—EXPIRATION

§6285. Repealed. Pub. L. 109–58, title III, §301(b)(3), Aug. 8, 2005, 119 Stat. 683

Section, Pub. L. 94–163, title II, §281, as added Pub. L. 99–58, title I, §104(a), July 2, 1985, 99 Stat. 104; amended Pub. L. 100–373, §1, July 19, 1988, 102 Stat. 878; Pub. L. 101–262, §2(c), Mar. 31, 1990, 104 Stat.

124; Pub. L. 101–360, §2(c), Aug. 10, 1990, 104 Stat. 421; Pub. L. 101–383, §2(3), Sept. 15, 1990, 104 Stat. 727; Pub. L. 103–406, title I, §103, Oct. 22, 1994, 108 Stat. 4209; Pub. L. 104–306, §1(4), Oct. 14, 1996, 110 Stat. 3810; Pub. L. 105–177, §1(5), June 1, 1998, 112 Stat. 106; Pub. L. 106–64, §1(3), Oct. 5, 1999, 113 Stat. 511; Pub. L. 106–469, title I, §104(4), Nov. 9, 2000, 114 Stat. 2033; Pub. L. 108–7, div. F, title III, §339(b)(2), Feb. 20, 2003, 117 Stat. 279, provided for the expiration of all authority under this subchapter at midnight Sept. 30, 2008.

SUBCHAPTER III—IMPROVING ENERGY EFFICIENCY

PART A—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS OTHER THAN AUTOMOBILES

EDITORIAL NOTES

CODIFICATION

This part was, in the original, designated part B and has been redesignated as part A for purposes of codification.

§6291. Definitions

For purposes of this part:

(1) The term "consumer product" means any article (other than an automobile, as defined in section 32901(a)(3) of title 49) of a type—

(A) which in operation consumes, or is designed to consume, energy or, with respect to showerheads, faucets, water closets, and urinals, water; and

(B) which, to any significant extent, is distributed in commerce for personal use or consumption by individuals;

without regard to whether such article of such type is in fact distributed in commerce for personal use or consumption by an individual, except that such term includes fluorescent lamp ballasts, general service fluorescent lamps, incandescent reflector lamps, showerheads, faucets, water closets, and urinals distributed in commerce for personal or commercial use or consumption.

(2) The term "covered product" means a consumer product of a type specified in section 6292 of this title.

(3) The term "energy" means electricity, or fossil fuels. The Secretary may, by rule, include other fuels within the meaning of the term "energy" if he determines that such inclusion is necessary or appropriate to carry out the purposes of this chapter.

(4) The term "energy use" means the quantity of energy directly consumed by a consumer product at point of use, determined in accordance with test procedures under section 6293 of this title.

(5) The term "energy efficiency" means the ratio of the useful output of services from a consumer product to the energy use of such product, determined in accordance with test procedures under section 6293 of this title.

(6) The term "energy conservation standard" means—

(A) a performance standard which prescribes a minimum level of energy efficiency or a maximum quantity of energy use, or, in the case of showerheads, faucets, water closets, and urinals, water use, for a covered product, determined in accordance with test procedures prescribed under section 6293 of this title; or

(B) a design requirement for the products specified in paragraphs (6), (7), (8), (10), (15), (16),

(17), and (20) of section 6292(a) of this title; and

includes any other requirements which the Secretary may prescribe under section 6295(r) of this title.

(7) The term "estimated annual operating cost" means the aggregate retail cost of the energy which is likely to be consumed annually, and in the case of showerheads, faucets, water closets, and urinals, the aggregate retail cost of water and wastewater treatment services likely to be incurred annually, in representative use of a consumer product, determined in accordance with section 6293 of this title.

(8) The term "measure of energy consumption" means energy use, energy efficiency, estimated annual operating cost, or other measure of energy consumption.

(9) The term "class of covered products" means a group of covered products, the functions or intended uses of which are similar (as determined by the Secretary).

(10) The term "manufacture" means to manufacture, produce, assemble or import.

(11) The terms "import" and "importation" mean to import into the customs territory of the United States.

(12) The term "manufacturer" means any person who manufactures a consumer product.

(13) The term "retailer" means a person to whom a consumer product is delivered or sold, if such delivery or sale is for purposes of sale or distribution in commerce to purchasers who buy such product for purposes other than resale.

(14) The term "distributor" means a person (other than a manufacturer or retailer) to whom a consumer product is delivered or sold for purposes of distribution in commerce.

(15)(A) The term "private labeler" means an owner of a brand or trademark on the label of a consumer product which bears a private label.

(B) A consumer product bears a private label if (i) such product (or its container) is labeled with the brand or trademark of a person other than a manufacturer of such product, (ii) the person with whose brand or trademark such product (or container) is labeled has authorized or caused such product to be so labeled, and (iii) the brand or trademark of a manufacturer of such product does not appear on such label.

(16) The terms "to distribute in commerce" and "distribution in commerce" mean to sell in commerce, to import, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce.

(17) The term "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

(18) The term "Commission" means the Federal Trade Commission.

(19) The term "AV" is the adjusted volume for refrigerators, refrigerator-freezers, and freezers, as defined in the applicable test procedure prescribed under section 6293 of this title.

(20) The term "annual fuel utilization efficiency" means the efficiency descriptor for furnaces and boilers, determined using test procedures prescribed under section 6293 of this title and based on the assumption that all—

(A) weatherized warm air furnaces or boilers are located out-of-doors;

(B) warm air furnaces which are not weatherized are located indoors and all combustion and ventilation air is admitted through grills or ducts from the outdoors and does not communicate with air in the conditioned space; and

(C) boilers which are not weatherized are located within the heated space.

(21) The term "central air conditioner" means a product, other than a packaged terminal air conditioner, which—

(A) is powered by single phase electric current;

(B) is air-cooled;

(C) is rated below 65,000 Btu per hour;

(D) is not contained within the same cabinet as a furnace the rated capacity of which is above 225,000 Btu per hour; and

(E) is a heat pump or a cooling only unit.

(22) The term "efficiency descriptor" means the ratio of the useful output to the total energy input, determined using the test procedures prescribed under section 6293 of this title and expressed for the following products in the following terms:

(A) For furnaces and direct heating equipment, annual fuel utilization efficiency.

(B) For room air conditioners, energy efficiency ratio.

(C) For central air conditioning and central air conditioning heat pumps, seasonal energy efficiency ratio.

(D) For water heaters, energy factor.

(E) For pool heaters, thermal efficiency.

(23) The term "furnace" means a product which utilizes only single-phase electric current, or single-phase electric current or DC current in conjunction with natural gas, propane, or home heating oil, and which—

(A) is designed to be the principal heating source for the living space of a residence;

(B) is not contained within the same cabinet with a central air conditioner whose rated cooling capacity is above 65,000 Btu per hour;

(C) is an electric central furnace, electric boiler, forced-air central furnace, gravity central furnace, or low pressure steam or hot water boiler; and

(D) has a heat input rate of less than 300,000 Btu per hour for electric boilers and low pressure steam or hot water boilers and less than 225,000 Btu per hour for forced-air central furnaces, gravity central furnaces, and electric central furnaces.

(24) The terms "heat pump" or "reverse cycle" mean a product, other than a packaged terminal heat pump, which—

(A) consists of one or more assemblies;

(B) is powered by single phase electric current;

(C) is rated below 65,000 Btu per hour;

(D) utilizes an indoor conditioning coil, compressors, and refrigerant-to-outdoor-air heat exchanger to provide air heating; and

(E) may also provide air cooling, dehumidifying, humidifying circulating, and air cleaning.

(25) The term "pool heater" means an appliance designed for heating nonpotable water contained at atmospheric pressure, including heating water in swimming pools, spas, hot tubs and similar applications.

(26) The term "thermal efficiency of pool heaters" means a measure of the heat in the water delivered at the heater outlet divided by the heat input of the pool heater as measured under test conditions specified in section 2.8.1 of the American National Standard for Gas Fired Pool Heaters, Z21.56–1986, or as may be prescribed by the Secretary.

(27) The term "water heater" means a product which utilizes oil, gas, or electricity to heat potable water for use outside the heater upon demand, including—

(A) storage type units which heat and store water at a thermostatically controlled temperature, including gas storage water heaters with an input of 75,000 Btu per hour or less, oil storage water heaters with an input of 105,000 Btu per hour or less, and electric storage water heaters with an input of 12 kilowatts or less;

(B) instantaneous type units which heat water but contain no more than one gallon of water per 4,000 Btu per hour of input, including gas instantaneous water heaters with an input of 200,000 Btu per hour or less, oil instantaneous water heaters with an input of 210,000 Btu per hour or less, and electric instantaneous water heaters with an input of 12 kilowatts or less; and

(C) heat pump type units, with a maximum current rating of 24 amperes at a voltage no

greater than 250 volts, which are products designed to transfer thermal energy from one temperature level to a higher temperature level for the purpose of heating water, including all ancillary equipment such as fans, storage tanks, pumps, or controls necessary for the device to perform its function.

(28) The term "weatherized warm air furnace or boiler" means a furnace or boiler designed for installation outdoors, approved for resistance to wind, rain, and snow, and supplied with its own venting system.

(29)(A) The term "fluorescent lamp ballast" means a device which is used to start and operate fluorescent lamps by providing a starting voltage and current and limiting the current during normal operation.

(B) The term "ANSI standard" means a standard developed by a committee accredited by the American National Standards Institute.

(C) The term "ballast efficacy factor" means the relative light output divided by the power input of a fluorescent lamp ballast, as measured under test conditions specified in ANSI standard C82.2–1984, or as may be prescribed by the Secretary.

(D)(i) The term "F40T12 lamp" means a nominal 40 watt tubular fluorescent lamp which is 48 inches in length and one-and-a-half inches in diameter, and conforms to ANSI standard C78.81–2003 (Data Sheet 7881–ANSI–1010–1).

(ii) The term "F96T12 lamp" means a nominal 75 watt tubular fluorescent lamp which is 96 inches in length and one-and-a-half inches in diameter, and conforms to ANSI standard C78.81–2003 (Data Sheet 7881–ANSI–3007–1).

(iii) The term "F96T12HO lamp" means a nominal 110 watt tubular fluorescent lamp which is 96 inches in length and one-and-a-half inches in diameter, and conforms to ANSI standard C78.81–2003 (Data Sheet 7881–ANSI–1019–1).

(E) The term "input current" means the root-mean-square (RMS) current in amperes delivered to a fluorescent lamp ballast.

(F) The term "luminaire" means a complete lighting unit consisting of a fluorescent lamp or lamps, together with parts designed to distribute the light, to position and protect such lamps, and to connect such lamps to the power supply through the ballast.

(G) The term "ballast input voltage" means the rated input voltage of a fluorescent lamp ballast.

(H) The term "nominal lamp watts" means the wattage at which a fluorescent lamp is designed to operate.

(I) The term "power factor" means the power input divided by the product of ballast input voltage and input current of a fluorescent lamp ballast, as measured under test conditions specified in ANSI standard C82.2–1984, or as may be prescribed by the Secretary.

(J) The term "power input" means the power consumption in watts of a ballast and fluorescent lamp or lamps, as determined in accordance with the test procedures specified in ANSI standard C82.2–1984, or as may be prescribed by the Secretary.

(K) The term "relative light output" means the light output delivered through the use of a ballast divided by the light output delivered through the use of a reference ballast, expressed as a percent, as determined in accordance with the test procedures specified in ANSI standard C82.2–1984, or as may be prescribed by the Secretary.

(L) The term "residential building" means a structure or portion of a structure which provides facilities or shelter for human residency, except that such term does not include any multifamily residential structure of more than three stories above grade.

(M) The term "F34T12 lamp" (also known as a "F40T12/ES lamp") means a nominal 34 watt tubular fluorescent lamp that is 48 inches in length and 1½ inches in diameter, and conforms to ANSI standard C78.81–2003 (Data Sheet 7881–ANSI–1006–1).

(N) The term "F96T12/ES lamp" means a nominal 60 watt tubular fluorescent lamp that is 96 inches in length and 1½ inches in diameter, and conforms to ANSI standard C78.81–2003 (Data Sheet 7881–ANSI–3006–1).

(O) The term "F96T12HO/ES lamp" means a nominal 95 watt tubular fluorescent lamp that is

96 inches in length and 1½ inches in diameter, and conforms to ANSI standard C78.81–2003 (Data Sheet 7881–ANSI–1017–1).

(P) The term "replacement ballast" means a ballast that—

(i) is designed for use to replace an existing ballast in a previously installed luminaire;

(ii) is marked "FOR REPLACEMENT USE ONLY";

(iii) is shipped by the manufacturer in packages containing not more than 10 ballasts; and

(iv) has output leads that when fully extended are a total length that is less than the length of the lamp with which the ballast is intended to be operated.

(30)(A) Except as provided in subparagraph (E), the term "fluorescent lamp" means a low pressure mercury electric-discharge source in which a fluorescing coating transforms some of the ultraviolet energy generated by the mercury discharge into light, including only the following:

(i) Any straight-shaped lamp (commonly referred to as 4-foot medium bi-pin lamps) with medium bi-pin bases of nominal overall length of 48 inches and rated wattage of 28 or more.

(ii) Any U-shaped lamp (commonly referred to as 2-foot U-shaped lamps) with medium bi-pin bases of nominal overall length between 22 and 25 inches and rated wattage of 28 or more.

(iii) Any rapid start lamp (commonly referred to as 8-foot high output lamps) with recessed double contact bases of nominal overall length of 96 inches and 0.800 nominal amperes, as defined in ANSI C78.1–1978 and related supplements.

(iv) Any instant start lamp (commonly referred to as 8-foot slimline lamps) with single pin bases of nominal overall length of 96 inches and rated wattage of 52 or more, as defined in ANSI C78.3–1978 (R1984) and related supplement ANSI C78.3a–1985.

(B) The term "general service fluorescent lamp" means fluorescent lamps which can be used to satisfy the majority of fluorescent applications, but does not include any lamp designed and marketed for the following nongeneral lighting applications:

(i) Fluorescent lamps designed to promote plant growth.

(ii) Fluorescent lamps specifically designed for cold temperature installations.

(iii) Colored fluorescent lamps.

(iv) Impact-resistant fluorescent lamps.

(v) Reflectorized or aperture lamps.

(vi) Fluorescent lamps designed for use in reprographic equipment.

(vii) Lamps primarily designed to produce radiation in the ultra-violet region of the spectrum.

(viii) Lamps with a color rendering index of 87 or greater.

(C) Except as provided in subparagraph (E), the term "incandescent lamp" means a lamp in which light is produced by a filament heated to incandescence by an electric current, including only the following:

(i) Any lamp (commonly referred to as lower wattage nonreflector general service lamps, including any tungsten-halogen lamp) that has a rated wattage between 30 and 199 watts, has an E26 medium screw base, has a rated voltage or voltage range that lies at least partially within 115 and 130 volts, and is not a reflector lamp.

(ii) Any lamp (commonly referred to as a reflector lamp) which is not colored or designed for rough or vibration service applications, that contains an inner reflective coating on the outer bulb to direct the light, an R, PAR, ER, BR, BPAR, or similar bulb shapes with E26 medium screw bases, a rated voltage or voltage range that lies at least partially within 115 and 130 volts, a diameter which exceeds 2.25 inches, and has a rated wattage that is 40 watts or higher.

(iii) Any general service incandescent lamp (commonly referred to as a high- or higher-wattage lamp) that has a rated wattage above 199 watts (above 205 watts for a high wattage reflector lamp).

(D) GENERAL SERVICE INCANDESCENT LAMP.—

(i) IN GENERAL.—The term "general service incandescent lamp" means a standard incandescent or halogen type lamp that—

(I) is intended for general service applications;

(II) has a medium screw base;

(III) has a lumen range of not less than 310 lumens and not more than 2,600 lumens or, in the case of a modified spectrum lamp, not less than 232 lumens and not more than 1,950 lumens; and

(IV) is capable of being operated at a voltage range at least partially within 110 and 130 volts.

(ii) EXCLUSIONS.—The term "general service incandescent lamp" does not include the following incandescent lamps:

(I) An appliance lamp.

(II) A black light lamp.

(III) A bug lamp.

(IV) A colored lamp.

(V) An infrared lamp.

(VI) A left-hand thread lamp.

(VII) A marine lamp.

(VIII) A marine signal service lamp.

(IX) A mine service lamp.

(X) A plant light lamp.

(XI) A reflector lamp.

(XII) A rough service lamp.

(XIII) A shatter-resistant lamp (including a shatter-proof lamp and a shatter-protected lamp).

(XIV) A sign service lamp.

(XV) A silver bowl lamp.

(XVI) A showcase lamp.

(XVII) A 3-way incandescent lamp.

(XVIII) A traffic signal lamp.

(XIX) A vibration service lamp.

(XX) A G shape lamp (as defined in ANSI C78.20–2003 and C79.1–2002 [1] with a diameter of 5 inches or more.

(XXI) A T shape lamp (as defined in ANSI C78.20–2003 and C79.1–2002) and [2] that uses not more than 40 watts or has a length of more than 10 inches.

(XXII) A B, BA, CA, F, G16–1/2, G–25, G30, S, or M–14 lamp (as defined in ANSI C79.1–2002 and ANSI C78.20–2003) of 40 watts or less.

(E) The terms "fluorescent lamp" and "incandescent lamp" do not include any lamp excluded by the Secretary, by rule, as a result of a determination that standards for such lamp would not result in significant energy savings because such lamp is designed for special applications or has special characteristics not available in reasonably substitutable lamp types.

(F) The term "incandescent reflector lamp" means a lamp described in subparagraph (C)(ii).

(G) The term "average lamp efficacy" means the lamp efficacy readings taken over a statistically significant period of manufacture with the readings averaged over that period.

(H) The term "base" means the portion of the lamp which connects with the socket as described in ANSI C81.61–1990.

(I) The term "bulb shape" means the shape of lamp, especially the glass bulb with designations for bulb shapes found in ANSI C79.1–1980 (R1984).

(J) The term "color rendering index" or "CRI" means the measure of the degree of color shift objects undergo when illuminated by a light source as compared with the color of those same objects when illuminated by a reference source of comparable color temperature.

(K) The term "correlated color temperature" means the absolute temperature of a blackbody whose chromaticity most nearly resembles that of the light source.

(L) The term "IES" means the Illuminating Engineering Society of North America.

(M) The term "lamp efficacy" means the lumen output of a lamp divided by its wattage, expressed in lumens per watt (LPW).

(N) The term "lamp type" means all lamps designated as having the same electrical and lighting characteristics and made by one manufacturer.

(O) The term "lamp wattage" means the total electrical power consumed by a lamp in watts, after the initial seasoning period referenced in the appropriate IES standard test procedure and including, for fluorescent, arc watts plus cathode watts.

(P) The terms "life" and "lifetime" mean length of operating time of a statistically large group of lamps between first use and failure of 50 percent of the group in accordance with test procedures described in the IES Lighting Handbook-Reference Volume.

(Q) The term "lumen output" means total luminous flux (power) of a lamp in lumens, as measured in accordance with applicable IES standards as determined by the Secretary.

(R) The term "tungsten-halogen lamp" means a gas-filled tungsten filament incandescent lamp containing a certain proportion of halogens in an inert gas.

(S)(i) The term "medium base compact fluorescent lamp" means an integrally ballasted fluorescent lamp with a medium screw base and a rated input voltage of 115 to 130 volts and which is designed as a direct replacement for a general service incandescent lamp.

(ii) The term "medium base compact fluorescent lamp" does not include—

(I) any lamp that is—

(aa) specifically designed to be used for special purpose applications; and

(bb) unlikely to be used in general purpose applications, such as the applications described in subparagraph (D); or

(II) any lamp not described in subparagraph (D) that is excluded by the Secretary, by rule, because the lamp is—

(aa) designed for special applications; and

(bb) unlikely to be used in general purpose applications.

(T) APPLIANCE LAMP.—The term "appliance lamp" means any lamp that—

(i) is specifically designed to operate in a household appliance and has a maximum wattage of 40 watts, including an oven lamp, refrigerator lamp, and vacuum cleaner lamp; and

(ii) when sold at retail, is designated and marketed for the intended application, with—

(I) the designation on the lamp packaging; and

(II) marketing materials that identify the lamp as being for appliance use.

(U) CANDELABRA BASE INCANDESCENT LAMP.—The term "candelabra base incandescent lamp" means a lamp that uses candelabra screw base as described in ANSI C81.61–2006, Specifications for Electric Bases, common designations E11 and E12.

(V) INTERMEDIATE BASE INCANDESCENT LAMP.—The term "intermediate base incandescent lamp" means a lamp that uses an intermediate screw base as described in ANSI C81.61–2006, Specifications for Electric Bases, common designation E17.

(W) MODIFIED SPECTRUM.—The term "modified spectrum" means, with respect to an incandescent lamp, an incandescent lamp that—

(i) is not a colored incandescent lamp; and

(ii) when operated at the rated voltage and wattage of the incandescent lamp—

(I) has a color point with (x,y) chromaticity coordinates on the Commission Internationale de l'Eclairage (C.I.E.) 1931 chromaticity diagram that lies below the black-body locus; and

(II) has a color point with (x,y) chromaticity coordinates on the C.I.E. 1931 chromaticity diagram that lies at least 4 MacAdam steps (as referenced in IESNA LM16) distant from the color point of a clear lamp with the same filament and bulb shape, operated at the same rated

voltage and wattage.

(X) ROUGH SERVICE LAMP.—The term "rough service lamp" means a lamp that—

(i) has a minimum of 5 supports with filament configurations that are C–7A, C–11, C–17, and C–22 as listed in Figure 6–12 of the 9th edition of the IESNA Lighting handbook, or similar configurations where lead wires are not counted as supports; and

(ii) is designated and marketed specifically for "rough service" applications, with—

(I) the designation appearing on the lamp packaging; and

(II) marketing materials that identify the lamp as being for rough service.

(Y) 3-WAY INCANDESCENT LAMP.—The term "3-way incandescent lamp" includes an incandescent lamp that—

(i) employs 2 filaments, operated separately and in combination, to provide 3 light levels; and

(ii) is designated on the lamp packaging and marketing materials as being a 3-way incandescent lamp.

(Z) SHATTER-RESISTANT LAMP, SHATTER-PROOF LAMP, OR SHATTER-PROTECTED LAMP.—The terms "shatter-resistant lamp", "shatter-proof lamp", and "shatter-protected lamp" mean a lamp that—

(i) has a coating or equivalent technology that is compliant with NSF/ANSI 51 and is designed to contain the glass if the glass envelope of the lamp is broken; and

(ii) is designated and marketed for the intended application, with—

(I) the designation on the lamp packaging; and

(II) marketing materials that identify the lamp as being shatter-resistant, shatter-proof, or shatter-protected.

(AA) VIBRATION SERVICE LAMP.—The term "vibration service lamp" means a lamp that—

(i) has filament configurations that are C–5, C–7A, or C–9, as listed in Figure 6–12 of the 9th Edition of the IESNA Lighting Handbook or similar configurations;

(ii) has a maximum wattage of 60 watts;

(iii) is sold at retail in packages of 2 lamps or less; and

(iv) is designated and marketed specifically for vibration service or vibration-resistant applications, with—

(I) the designation appearing on the lamp packaging; and

(II) marketing materials that identify the lamp as being vibration service only.

(BB) GENERAL SERVICE LAMP.—

(i) IN GENERAL.—The term "general service lamp" includes—

(I) general service incandescent lamps;

(II) compact fluorescent lamps;

(III) general service light-emitting diode (LED or OLED) lamps; and

(IV) any other lamps that the Secretary determines are used to satisfy lighting applications traditionally served by general service incandescent lamps.

(ii) EXCLUSIONS.—The term "general service lamp" does not include—

(I) any lighting application or bulb shape described in any of subclauses (I) through (XXII) of subparagraph (D)(ii); or

(II) any general service fluorescent lamp or incandescent reflector lamp.

(CC) LIGHT-EMITTING DIODE; LED.—

(i) IN GENERAL.—The terms "light-emitting diode" and "LED" means a p-n junction solid state device the radiated output of which is a function of the physical construction, material

used, and exciting current of the device.

(ii) OUTPUT.—The output of a light-emitting diode may be in—

(I) the infrared region;

(II) the visible region; or

(III) the ultraviolet region.

(DD) ORGANIC LIGHT-EMITTING DIODE; OLED.—The terms "organic light-emitting diode" and "OLED" mean a thin-film light-emitting device that typically consists of a series of organic layers between 2 electrical contacts (electrodes).

(EE) COLORED INCANDESCENT LAMP.—The term "colored incandescent lamp" means an incandescent lamp designated and marketed as a colored lamp that has—

(i) a color rendering index of less than 50, as determined according to the test method given in C.I.E. publication 13.3–1995; or

(ii) a correlated color temperature of less than 2,500K, or greater than 4,600K, where correlated temperature is computed according to the Journal of Optical Society of America, Vol. 58, pages 1528–1595 (1986).

(31)(A) The term "water use" means the quantity of water flowing through a showerhead, faucet, water closet, or urinal at point of use, determined in accordance with test procedures under section 6293 of this title.

(B) The term "ASME" means the American Society of Mechanical Engineers.

(C) The term "ANSI" means the American National Standards Institute.

(D) The term "showerhead" means any showerhead (including a handheld showerhead), except a safety shower showerhead.

(E) The term "faucet" means a lavatory faucet, kitchen faucet, metering faucet, or replacement aerator for a lavatory or kitchen faucet.

(F) The term "water closet" has the meaning given such term in ASME A112.19.2M–1990, except such term does not include fixtures designed for installation in prisons.

(G) The term "urinal" has the meaning given such term in ASME A112.19.2M–1990, except such term does not include fixtures designed for installation in prisons.

(H) The terms "blowout", "flushometer tank", "low consumption", and "flushometer valve" have the meaning given such terms in ASME A112.19.2M–1990.

(32) The term "battery charger" means a device that charges batteries for consumer products, including battery chargers embedded in other consumer products.

(33)(A) The term "commercial prerinse spray valve" means a handheld device designed and marketed for use with commercial dishwashing and ware washing equipment that sprays water on dishes, flatware, and other food service items for the purpose of removing food residue before cleaning the items.

(B) The Secretary may modify the definition of "commercial prerinse spray valve" by rule—

(i) to include products—

(I) that are extensively used in conjunction with commercial dishwashing and ware washing equipment;

(II) the application of standards to which would result in significant energy savings; and

(III) the application of standards to which would meet the criteria specified in section 6295(o)(4) of this title; and

(ii) to exclude products—

(I) that are used for special food service applications;

(II) that are unlikely to be widely used in conjunction with commercial dishwashing and ware washing equipment; and

(III) the application of standards to which would not result in significant energy savings.

(34) The term "dehumidifier" means a self-contained, electrically operated, and mechanically

encased assembly consisting of—

(A) a refrigerated surface (evaporator) that condenses moisture from the atmosphere;

(B) a refrigerating system, including an electric motor;

(C) an air-circulating fan; and

(D) means for collecting or disposing of the condensate.

(35)(A) The term "distribution transformer" means a transformer that—

(i) has an input voltage of 34.5 kilovolts or less;

(ii) has an output voltage of 600 volts or less; and

(iii) is rated for operation at a frequency of 60 Hertz.

(B) The term "distribution transformer" does not include—

(i) a transformer with multiple voltage taps, the highest of which equals at least 20 percent more than the lowest;

(ii) a transformer that is designed to be used in a special purpose application and is unlikely to be used in general purpose applications, such as a drive transformer, rectifier transformer, auto-transformer, Uninterruptible Power System transformer, impedance transformer, regulating transformer, sealed and nonventilating transformer, machine tool transformer, welding transformer, grounding transformer, or testing transformer; or

(iii) any transformer not listed in clause (ii) that is excluded by the Secretary by rule because—

(I) the transformer is designed for a special application;

(II) the transformer is unlikely to be used in general purpose applications; and

(III) the application of standards to the transformer would not result in significant energy savings.

(36) EXTERNAL POWER SUPPLY.—

(A) EXTERNAL POWER SUPPLY.—

(i) IN GENERAL.—The term "external power supply" means an external power supply circuit that is used to convert household electric current into DC current or lower-voltage AC current to operate a consumer product.

(ii) EXCLUSION.—The term "external power supply" does not include a power supply circuit, driver, or device that is designed exclusively to be connected to, and power—

(I) light-emitting diodes providing illumination;

(II) organic light-emitting diodes providing illumination; or

(III) ceiling fans using direct current motors.

(B) ACTIVE MODE.—The term "active mode" means the mode of operation when an external power supply is connected to the main electricity supply and the output is connected to a load.

(C) CLASS A EXTERNAL POWER SUPPLY.—

(i) IN GENERAL.—The term "class A external power supply" means a device that—

(I) is designed to convert line voltage AC input into lower voltage AC or DC output;

(II) is able to convert to only 1 AC or DC output voltage at a time;

(III) is sold with, or intended to be used with, a separate end-use product that constitutes the primary load;

(IV) is contained in a separate physical enclosure from the end-use product;

(V) is connected to the end-use product via a removable or hard-wired male/female electrical connection, cable, cord, or other wiring; and

(VI) has nameplate output power that is less than or equal to 250 watts.

(ii) EXCLUSIONS.—The term "class A external power supply" does not include any device that—

(I) requires Federal Food and Drug Administration listing and approval as a medical device in accordance with section 360c of title 21; or

(II) powers the charger of a detachable battery pack or charges the battery of a product that is fully or primarily motor operated.

(D) NO-LOAD MODE.—The term "no-load mode" means the mode of operation when an external power supply is connected to the main electricity supply and the output is not connected to a load.

(37) The term "illuminated exit sign" means a sign that—

(A) is designed to be permanently fixed in place to identify an exit; and

(B) consists of an electrically powered integral light source that—

(i) illuminates the legend "EXIT" and any directional indicators; and

(ii) provides contrast between the legend, any directional indicators, and the background.

(38) The term "low-voltage dry-type distribution transformer" means a distribution transformer that—

(A) has an input voltage of 600 volts or less;

(B) is air-cooled; and

(C) does not use oil as a coolant.

(39) The term "pedestrian module" means a light signal used to convey movement information to pedestrians.

(40) The term "refrigerated bottled or canned beverage vending machine" means a commercial refrigerator that cools bottled or canned beverages and dispenses the bottled or canned beverages on payment.

(41) The term "standby mode" means the lowest power consumption mode, as established on an individual product basis by the Secretary, that—

(A) cannot be switched off or influenced by the user; and

(B) may persist for an indefinite time when an appliance is—

(i) connected to the main electricity supply; and

(ii) used in accordance with the instructions of the manufacturer.

(42) The term "torchiere" means a portable electric lamp with a reflector bowl that directs light upward to give indirect illumination.

(43) The term "traffic signal module" means a standard 8-inch (200mm) or 12-inch (300mm) traffic signal indication that—

(A) consists of a light source, a lens, and all other parts necessary for operation; and

(B) communicates movement messages to drivers through red, amber, and green colors.

(44) The term "transformer" means a device consisting of 2 or more coils of insulated wire that transfers alternating current by electromagnetic induction from 1 coil to another to change the original voltage or current value.

(45)(A) The term "unit heater" means a self-contained fan-type heater designed to be installed within the heated space.

(B) The term "unit heater" does not include a warm air furnace.

(46) HIGH INTENSITY DISCHARGE LAMP.—

(A) IN GENERAL.—The term "high intensity discharge lamp" means an electric-discharge lamp in which—

(i) the light-producing arc is stabilized by the arc tube wall temperature; and

(ii) the arc tube wall loading is in excess of 3 Watts/cm^2.

(B) INCLUSIONS.—The term "high intensity discharge lamp" includes mercury vapor,

metal halide, and high-pressure sodium lamps described in subparagraph (A).

(47) MERCURY VAPOR LAMP.—

(A) IN GENERAL.—The term "mercury vapor lamp" means a high intensity discharge lamp in which the major portion of the light is produced by radiation from mercury typically operating at a partial vapor pressure in excess of 100,000 Pa (approximately 1 atm).

(B) INCLUSIONS.—The term "mercury vapor lamp" includes clear, phosphor-coated, and self-ballasted screw base lamps described in subparagraph (A).

(48) MERCURY VAPOR LAMP BALLAST.—The term "mercury vapor lamp ballast" means a device that is designed and marketed to start and operate mercury vapor lamps intended for general illumination by providing the necessary voltage and current.

(49) The term "ceiling fan" means a nonportable device that is suspended from a ceiling for circulating air via the rotation of fan blades.

(50) The term "ceiling fan light kit" means equipment designed to provide light from a ceiling fan that can be—

(A) integral, such that the equipment is attached to the ceiling fan prior to the time of retail sale; or

(B) attachable, such that at the time of retail sale the equipment is not physically attached to the ceiling fan, but may be included inside the ceiling fan at the time of sale or sold separately for subsequent attachment to the fan.

(51) The term "medium screw base" means an Edison screw base identified with the prefix E–26 in the "American National Standard for Electric Lamp Bases", ANSI/IEC C81.61–2003, published by the American National Standards Institute.

(52) DETACHABLE BATTERY.—The term "detachable battery" means a battery that is—

(A) contained in a separate enclosure from the product; and

(B) intended to be removed or disconnected from the product for recharging.

(53) SPECIALTY APPLICATION MERCURY VAPOR LAMP BALLAST.—The term "specialty application mercury vapor lamp ballast" means a mercury vapor lamp ballast that—

(A) is designed and marketed for operation of mercury vapor lamps used in quality inspection, industrial processing, or scientific use, including fluorescent microscopy and ultraviolet curing; and

(B) in the case of a specialty application mercury vapor lamp ballast, the label of which—

(i) provides that the specialty application mercury vapor lamp ballast is "For specialty applications only, not for general illumination"; and

(ii) specifies the specific applications for which the ballast is designed.

(54) BPAR INCANDESCENT REFLECTOR LAMP.—The term "BPAR incandescent reflector lamp" means a reflector lamp as shown in figure C78.21–278 on page 32 of ANSI C78.21–2003.

(55) BR INCANDESCENT REFLECTOR LAMP; BR30; BR40.—

(A) BR INCANDESCENT REFLECTOR LAMP.—The term "BR incandescent reflector lamp" means a reflector lamp that has—

(i) a bulged section below the major diameter of the bulb and above the approximate baseline of the bulb, as shown in figure 1 (RB) on page 7 of ANSI C79.1–1994, incorporated by reference in section 430.22 of title 10, Code of Federal Regulations (as in effect on December 19, 2007); and

(ii) a finished size and shape shown in ANSI C78.21–1989, including the referenced reflective characteristics in part 7 of ANSI C78.21–1989, incorporated by reference in section 430.22 of title 10, Code of Federal Regulations (as in effect on December 19, 2007).

(B) BR30.—The term "BR30" means a BR incandescent reflector lamp with a diameter of 30/8ths of an inch.

(C) BR40.—The term "BR40" means a BR incandescent reflector lamp with a diameter of 40/8ths of an inch.

(56) ER INCANDESCENT REFLECTOR LAMP; ER30; ER40.—

(A) ER INCANDESCENT REFLECTOR LAMP.—The term "ER incandescent reflector lamp" means a reflector lamp that has—

(i) an elliptical section below the major diameter of the bulb and above the approximate baseline of the bulb, as shown in figure 1 (RE) on page 7 of ANSI C79.1–1994, incorporated by reference in section 430.22 of title 10, Code of Federal Regulations (as in effect on December 19, 2007); and

(ii) a finished size and shape shown in ANSI C78.21–1989, incorporated by reference in section 430.22 of title 10, Code of Federal Regulations (as in effect on December 19, 2007).

(B) ER30.—The term "ER30" means an ER incandescent reflector lamp with a diameter of 30/8ths of an inch.

(C) ER40.—The term "ER40" means an ER incandescent reflector lamp with a diameter of 40/8ths of an inch.

(57) R20 INCANDESCENT REFLECTOR LAMP.—The term "R20 incandescent reflector lamp" means a reflector lamp that has a face diameter of approximately 2.5 inches, as shown in figure 1(R) on page 7 of ANSI C79.1–1994.

(58) BALLAST.—The term "ballast" means a device used with an electric discharge lamp to obtain necessary circuit conditions (voltage, current, and waveform) for starting and operating.

(59) BALLAST EFFICIENCY.—

(A) IN GENERAL.—The term "ballast efficiency" means, in the case of a high intensity discharge fixture, the efficiency of a lamp and ballast combination, expressed as a percentage, and calculated in accordance with the following formula: Efficiency = P_{out}/P_{in}.

(B) EFFICIENCY FORMULA.—For the purpose of subparagraph (A)—

(i) P_{out} shall equal the measured operating lamp wattage;

(ii) P_{in} shall equal the measured operating input wattage;

(iii) the lamp, and the capacitor when the capacitor is provided, shall constitute a nominal system in accordance with the ANSI Standard C78.43–2004;

(iv) for ballasts with a frequency of 60 Hz, P_{in} and P_{out} shall be measured after lamps have been stabilized according to section 4.4 of ANSI Standard C82.6–2005 using a wattmeter with accuracy specified in section 4.5 of ANSI Standard C82.6–2005; and

(v) for ballasts with a frequency greater than 60 Hz, P_{in} and P_{out} shall have a basic accuracy of +/- 0.5 percent at the higher of—

(I) 3 times the output operating frequency of the ballast; or

(II) 2 kHz for ballast with a frequency greater than 60 Hz.

(C) MODIFICATION.—The Secretary may, by rule, modify the definition of "ballast efficiency" if the Secretary determines that the modification is necessary or appropriate to carry out the purposes of this chapter.

(60) ELECTRONIC BALLAST.—The term "electronic ballast" means a device that uses semiconductors as the primary means to control lamp starting and operation.

(61) GENERAL LIGHTING APPLICATION.—The term "general lighting application" means lighting that provides an interior or exterior area with overall illumination.

(62) METAL HALIDE BALLAST.—The term "metal halide ballast" means a ballast used to start and operate metal halide lamps.

(63) METAL HALIDE LAMP.—The term "metal halide lamp" means a high intensity discharge lamp in which the major portion of the light is produced by radiation of metal halides and their products of dissociation, possibly in combination with metallic vapors.

(64) METAL HALIDE LAMP FIXTURE.—The term "metal halide lamp fixture" means a light fixture for general lighting application designed to be operated with a metal halide lamp and a ballast for a metal halide lamp.

(65) PROBE-START METAL HALIDE BALLAST.—The term "probe-start metal halide ballast" means a ballast that—

(A) starts a probe-start metal halide lamp that contains a third starting electrode (probe) in the arc tube; and

(B) does not generally contain an igniter but instead starts lamps with high ballast open circuit voltage.

(66) PULSE-START METAL HALIDE BALLAST.—

(A) IN GENERAL.—The term "pulse-start metal halide ballast" means an electronic or electromagnetic ballast that starts a pulse-start metal halide lamp with high voltage pulses.

(B) STARTING PROCESS.—For the purpose of subparagraph (A)—

(i) lamps shall be started by first providing a high voltage pulse for ionization of the gas to produce a glow discharge; and

(ii) to complete the starting process, power shall be provided by the ballast to sustain the discharge through the glow-to-arc transition.

(Pub. L. 94–163, title III, §321, Dec. 22, 1975, 89 Stat. 917; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 100–12, §2, Mar. 17, 1987, 101 Stat. 103; Pub. L. 100–357, §2(a), June 28, 1988, 102 Stat. 671; Pub. L. 102–486, title I, §123(b), Oct. 24, 1992, 106 Stat. 2817; Pub. L. 105–388, §5(a)(2), Nov. 13, 1998, 112 Stat. 3478; Pub. L. 109–58, title I, §135(a), Aug. 8, 2005, 119 Stat. 624; Pub. L. 110–140, title III, §§301(a), 316(a)(1), (b), (c)(1), 321(a)(1), 322(a), 324(a), Dec. 19, 2007, 121 Stat. 1549, 1572, 1573, 1587, 1591; Pub. L. 112–210, §10(a)(6), (7), (10), Dec. 18, 2012, 126 Stat. 1524, 1525; Pub. L. 115–115, §2(a), (c)(1), Jan. 12, 2018, 131 Stat. 2280, 2281.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in pars. (3) and (59)(C), was in the original "this Act", meaning Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 871, known as the Energy Policy and Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

AMENDMENTS

2018—Par. (6)(B). Pub. L. 115–115, §2(c)(1), substituted "and (20)" for "and (19)".

Par. (36)(A). Pub. L. 115–115, §2(a), substituted "External power supply" for "In general" in heading, designated existing provisions as cl. (i) and inserted heading, and added cl. (ii).

2012—Par. (30)(C)(ii). Pub. L. 112–210, §10(a)(10), inserted a period after "40 watts or higher".

Par. (30)(D)(i)(III). Pub. L. 112–210, §10(a)(6), inserted before the semicolon "or, in the case of a modified spectrum lamp, not less than 232 lumens and not more than 1,950 lumens".

Par. (30)(T)(i). Pub. L. 112–210, §10(a)(7)(A), substituted "and" for comma after "household appliance" and struck out "and is sold at retail," after "40 watts,".

Par. (30)(T)(ii). Pub. L. 112–210, §10(a)(7)(B), inserted "when sold at retail," before "is designated".

2007—Par. (29)(D)(ii). Pub. L. 110–140, §316(a)(1), made technical correction to directory language of Pub. L. 109–58, §135(a)(1)(A)(ii). See 2005 Amendment note below.

Par. (30)(B)(viii). Pub. L. 110–140, §316(b), substituted "87" for "82".

Par. (30)(C)(ii). Pub. L. 110–140, §322(a)(1), substituted "ER, BR, BPAR, or similar bulb shapes" for "or similar bulb shapes (excluding ER or BR)", "2.25 inches" for "2.75 inches", and "has a rated wattage that is 40 watts or higher" for "is either—

"(I) a low(er) wattage reflector lamp which has a rated wattage between 40 and 205 watts; or

"(II) a high(er) wattage reflector lamp which has a rated wattage above 205 watts."

Par. (30)(D). Pub. L. 110–140, §321(a)(1)(A), added subpar. (D) and struck out former subpar. (D) which defined "general service incandescent lamp".

Par. (30)(T) to (EE). Pub. L. 110–140, §321(a)(1)(B), added subpars. (T) to (EE).

Par. (36). Pub. L. 110–140, §301(a)(1), inserted par. heading, designated existing provisions as subpar. (A), inserted subpar. heading, and added subpars. (B) to (D).

Pars. (46) to (48). Pub. L. 110–140, §316(c)(1)(A), added pars. (46) to (48) and struck out former pars. (46) to (48), which defined "high intensity discharge lamp", "mercury vapor lamp", and "mercury vapor lamp ballast", respectively.

Par. (52). Pub. L. 110–140, §301(a)(2), added par. (52).

Par. (53). Pub. L. 110–140, §316(c)(1)(B), added par. (53).

Pars. (54) to (57). Pub. L. 110–140, §322(a)(2), added pars. (54) to (57).

Pars. (58) to (66). Pub. L. 110–140, §324(a), added pars. (58) to (66).

2005—Par. (29)(D)(i). Pub. L. 109–58, §135(a)(1)(A)(i), substituted "C78.81–2003 (Data Sheet 7881–ANSI–1010–1)" for "C78.1–1978(R1984)".

Par. (29)(D)(ii). Pub. L. 109–58, §135(a)(1)(A)(ii), as amended by Pub. L. 110–140, §316(a)(1), substituted "C78.81–2003 (Data Sheet 7881–ANSI–3007–1)" for "C78.3–1978(R1984)".

Par. (29)(D)(iii). Pub. L. 109–58, §135(a)(1)(A)(iii), substituted "C78.81–2003 (Data Sheet 7881–ANSI–1019–1)" for "C78.1–1978(R1984)".

Par. (29)(M) to (P). Pub. L. 109–58, §135(a)(1)(B), added subpars. (M) to (P).

Par. (30)(S). Pub. L. 109–58, §135(a)(2), designated existing provisions as cl. (i) and added cl. (ii).

Pars. (32) to (51). Pub. L. 109–58, §135(a)(3), added pars. (32) to (51).

1998—Par. (1). Pub. L. 105–388 substituted "section 32901(a)(3) of title 49" for "section 501(1) of the Motor Vehicle Information and Cost Savings Act" and struck out second period at end.

1992—Pub. L. 102–486, §123(b)(1), in introductory provisions, struck out "(a)" before "For purposes".

Par. (1). Pub. L. 102–486, §123(b)(2)(B), which directed amendment of par. (1)(B) by substituting "ballasts, general service fluorescent lamps, incandescent reflector lamps, showerheads, faucets, water closets, and urinals" for "ballasts", was executed by making amendment in closing provisions of par. (1), to reflect the probable intent of Congress.

Par. (1)(A). Pub. L. 102–486, §123(b)(2)(A), inserted "or, with respect to showerheads, faucets, water closets, and urinals, water" after "energy".

Par. (6). Pub. L. 102–486, §123(b)(3)(B)(ii), which directed amendment of par. (6)(B) by substituting "6295(r)" for "6295(o)", was executed by making amendment in closing provisions of par. (6), to reflect the probable intent of Congress.

Par. (6)(A). Pub. L. 102–486, §123(b)(3)(A), inserted ", or, in the case of showerheads, faucets, water closets, and urinals, water use," after "energy use".

Par. (6)(B). Pub. L. 102–486, §123(b)(3)(B)(i), substituted "(15), (16), (17), and (19)" for "and (14)".

Par. (7). Pub. L. 102–486, §123(b)(4), inserted ", and in the case of showerheads, faucets, water closets, and urinals, the aggregate retail cost of water and wastewater treatment services likely to be incurred annually," after "to be consumed annually".

Pars. (30), (31). Pub. L. 102–486, §123(b)(5), added pars. (30) and (31).

1988—Subsec. (a)(1). Pub. L. 100–357, §2(a)(2), inserted before period at end ", except that such term includes fluorescent lamp ballasts distributed in commerce for personal or commercial use or consumption."

Subsec. (a)(6)(B). Pub. L. 100–357, §2(a)(3), substituted "(14)" for "(13)".

Subsec. (a)(29). Pub. L. 100–357, §2(a)(1), added par. (29).

1987—Subsec. (a)(6). Pub. L. 100–12, §2(a), amended par. (6) generally. Prior to amendment, par. (6) read as follows: "The term 'energy efficiency standard' means a performance standard—

"(A) which prescribes a minimum level of energy efficiency for a covered product, determined in accordance with test procedures prescribed under section 6293 of this title, and

"(B) which includes any other requirements which the Secretary may prescribe under section 6295(c) of this title."

Subsec. (a)(19) to (28). Pub. L. 100–12, §2(b), added pars. (19) to (28).

1978—Subsec. (a)(3), (6)(B), (9). Pub. L. 95–619 substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration, wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112–210, §10(a)(13), Dec. 18, 2012, 126 Stat. 1525, provided that: "This subsection [amending this section and sections 6294, 6295, 6297, 6313, 6314, and 6316 of this title] and the amendments made by this subsection take effect as if included in the Energy Independence and Security Act of 2007 (Public Law 110–140; 121 Stat. 1492)."

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110–140, title III, §316(a)(2), Dec. 19, 2007, 121 Stat. 1572, provided that: "The amendment made by paragraph (1) [amending this section] takes effect on August 8, 2005."

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.

[1] *So in original. Probably should be followed by a closing parenthesis.*

[2] *So in original. The word "and" probably should not appear.*

§6292. Coverage

(a) In general

The following consumer products, excluding those consumer products designed solely for use in recreational vehicles and other mobile equipment, are covered products:

(1) Refrigerators, refrigerator-freezers, and freezers which can be operated by alternating current electricity, excluding—

(A) any type designed to be used without doors; and

(B) any type which does not include a compressor and condenser unit as an integral part of the cabinet assembly.

(2) Room air conditioners.

(3) Central air conditioners and central air conditioning heat pumps.

(4) Water heaters.

(5) Furnaces.

(6) Dishwashers.

(7) Clothes washers.

(8) Clothes dryers.

(9) Direct heating equipment.

(10) Kitchen ranges and ovens.

(11) Pool heaters.

(12) Television sets.

(13) Fluorescent lamp ballasts.

(14) General service fluorescent lamps, general service incandescent lamps, and incandescent reflector lamps.

(15) Showerheads, except safety shower showerheads.

(16) Faucets.

(17) Water closets.

(18) Urinals.

(19) Metal halide lamp fixtures.

(20) Any other type of consumer product which the Secretary classifies as a covered product under subsection (b).

(b) Special classification of consumer product

(1) The Secretary may classify a type of consumer product as a covered product if he determines that—

(A) classifying products of such type as covered products is necessary or appropriate to carry out the purposes of this chapter, and

(B) average annual per-household energy use by products of such type is likely to exceed 100 kilowatt-hours (or its Btu equivalent) per year.

(2) For purposes of this subsection:

(A) The term "average annual per-household energy use with respect to a type of product" means the estimated aggregate annual energy use (in kilowatt-hours or the Btu equivalent) of consumer products of such type which are used by households in the United States, divided by the number of such households which use products of such type.

(B) The Btu equivalent of one kilowatt-hour is 3,412 British thermal units.

(C) The term "household" shall be defined under rules of the Secretary.

(Pub. L. 94–163, title III, §322, Dec. 22, 1975, 89 Stat. 918; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 100–12, §§3, 11(b)(1), Mar. 17, 1987, 101 Stat. 105, 125; Pub. L. 100–357, §2(b), June 28, 1988, 102 Stat. 672; Pub. L. 102–486, title I, §123(c), Oct. 24, 1992, 106 Stat. 2821; Pub. L. 105–388, §5(a)(3), Nov. 13, 1998, 112 Stat. 3478; Pub. L. 110–140, title III, §§321(a)(2), 324(b), Dec. 19, 2007, 121 Stat. 1577, 1593.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(1)(A), was in the original "this Act", meaning Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 871, known as the Energy Policy and Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

AMENDMENTS

2007—Subsec. (a)(14). Pub. L. 110–140, §321(a)(2), inserted ", general service incandescent lamps," after "fluorescent lamps".

Subsec. (a)(19), (20). Pub. L. 110–140, §324(b), added par. (19) and redesignated former par. (19) as (20).

1998—Subsec. (b)(2)(A). Pub. L. 105–388 inserted closing quotation marks after "type of product".

1992—Subsec. (a)(14) to (19). Pub. L. 102–486 added pars. (14) to (18) and redesignated former par. (14) as (19).

1988—Subsec. (a)(13), (14). Pub. L. 100–357 added par. (13) and redesignated former par. (13) as (14).

1987—Subsec. (a). Pub. L. 100–12, §3, inserted heading and amended text generally. Prior to amendment, text read as follows: "A consumer product is a covered product if it is one of the following types (or is designed to perform a function which is the principal function of any of the following types):

"(1) Refrigerators and refrigerator-freezers.

"(2) Freezers.

"(3) Dishwashers.

"(4) Clothes dryers.

"(5) Water heaters.

"(6) Room air conditioners.

"(7) Home heating equipment, not including furnaces.

"(8) Television sets.

"(9) Kitchen ranges and ovens.

"(10) Clothes washers.

"(11) Humidifiers and dehumidifiers.

"(12) Central aid conditioners.

"(13) Furnaces.

"(14) Any other type of consumer product which the Secretary classifies as a covered product under subsection (b) of this section."

Subsec. (b). Pub. L. 100–12, §11(b)(1), inserted heading.

1978—Subsecs. (a)(14), (b)(1), (2)(C). Pub. L. 95–619 substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration, wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

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.

ENERGY EFFICIENCY LABELING FOR WINDOWS AND WINDOW SYSTEMS

Pub. L. 102–486, title I, §121, Oct. 24, 1992, 106 Stat. 2805, provided that:

"(a) IN GENERAL.—(1) The Secretary shall, after consulting with the National Fenestration Rating Council, industry representatives, and other appropriate organizations, provide financial assistance to support a voluntary national window rating program that will develop energy ratings and labels for windows and window systems.

"(2) Such rating program shall include—

"(A) specifications for testing procedures and labels that will enable window buyers to make more informed purchasing decisions about the energy efficiency of windows and window systems; and

"(B) information (which may be disseminated through catalogs, trade publications, labels, or other mechanisms) that will allow window buyers to assess the energy consumption and potential cost savings of alternative window products.

"(3) Such rating program shall be developed by the National Fenestration Rating Council according to commonly accepted procedures for the development of national testing procedures and labeling programs.

"(b) MONITORING.—The Secretary shall monitor and evaluate the efforts of the National Fenestration Rating Council and, not later than one year after the date of the enactment of this Act [Oct. 24, 1992], make a determination as to whether the program developed by the Council is consistent with the objectives of subsection (a).

"(c) ALTERNATIVE SYSTEM.—(1) If the Secretary makes a determination under subsection (b) that a voluntary national window rating program consistent with the objectives of subsection (a) has not been developed, the Secretary shall, after consultation with the National Institute of Standards and Technology, develop, not later than two years after such determination, test procedures under section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) for windows and window systems.

"(2) Not later than one year after the Secretary develops test procedures under paragraph (1), the Federal Trade Commission (hereafter in this section referred to as the 'Commission') shall prescribe labeling rules under section 324 of such Act (42 U.S.C. 6294) for those windows and window systems for which the Secretary has prescribed test procedures under paragraph (1) except that, with respect to any type of window or window system (or class thereof), the Secretary may determine that such labeling is not technologically feasible or economically justified or is not likely to assist consumers in making purchasing decisions.

"(3) For purposes of sections 323, 324, and 327 of such Act [42 U.S.C. 6293, 6294, 6297], each product for which the Secretary has established test procedures or labeling rules pursuant to this subsection shall be considered a new covered product under section 322 of such Act (42 U.S.C. 6292) to the extent necessary to carry out this subsection.

"(4) For purposes of section 327(a) of such Act, the term 'this part' includes this subsection to the extent necessary to carry out this subsection."

ENERGY EFFICIENCY INFORMATION FOR COMMERCIAL OFFICE EQUIPMENT

Pub. L. 102–486, title I, §125, Oct. 24, 1992, 106 Stat. 2833, provided that:

"(a) IN GENERAL.—(1) The Secretary shall, after consulting with the Computer and Business Equipment Manufacturers Association and other interested organizations, provide financial and technical assistance to support a voluntary national testing and information program for those types of commercial office equipment that are widely used and for which there is a potential for significant energy savings as a result of such program.

"(2) Such program shall—

"(A) consistent with the objectives of paragraph (1), determine the commercial office equipment to be covered under such program;

"(B) include specifications for testing procedures that will enable purchasers of such commercial office equipment to make more informed decisions about the energy efficiency and costs of alternative products; and

"(C) include information, which may be disseminated through catalogs, trade publications, labels, or other mechanisms, that will allow consumers to assess the energy consumption and potential cost savings of alternative products.

"(3) Such program shall be developed by an appropriate organization (composed of interested parties) according to commonly accepted procedures for the development of national testing procedure and labeling programs.

"(b) MONITORING.—The Secretary shall monitor and evaluate the efforts to develop the program described in subsection (a) and, not later than three years after the date of the enactment of this Act [Oct. 24, 1992], shall make a determination as to whether such program is consistent with the objectives of subsection (a).

"(c) ALTERNATIVE SYSTEM.—(1) If the Secretary makes a determination under subsection (b) that a voluntary national testing and information program for commercial office equipment consistent with the objectives of subsection (a) has not been developed, the Secretary shall, after consultation with the National Institute of Standards and Technology, develop, not later than two years after such determination, test procedures under section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) for such commercial office equipment.

"(2) Not later than one year after the Secretary develops test procedures under paragraph (1), the Federal Trade Commission (hereafter in this section referred to as the 'Commission') shall prescribe labeling rules under section 324 of such Act (42 U.S.C. 6294) for commercial office equipment for which the Secretary has prescribed test procedures under paragraph (1) except that, with respect to any type of commercial office equipment (or class thereof), the Secretary may determine that such labeling is not technologically feasible or economically justified or is not likely to assist consumers in making purchasing decisions.

"(3) For purposes of sections 323, 324, and 327 of such Act [42 U.S.C. 6293, 6294, 6297], each product for which the Secretary has established test procedures or labeling rules pursuant to this subsection shall be considered a new covered product under section 322 of such Act (42 U.S.C. 6292) to the extent necessary to carry out this subsection.

"(4) For purposes of section 327(a) of such Act, the term 'this part' includes this subsection to the extent necessary to carry out this subsection."

ENERGY EFFICIENCY INFORMATION FOR LUMINAIRES

Pub. L. 102–486, title I, §126, Oct. 24, 1992, 106 Stat. 2834, provided that:

"(a) IN GENERAL.—(1) The Secretary shall, after consulting with the National Electric Manufacturers Association, the American Lighting Association, and other interested organizations, provide financial and technical assistance to support a voluntary national testing and information program for those types of luminaires that are widely used and for which there is a potential for significant energy savings as a result of such program.

"(2) Such program shall—

"(A) consistent with the objectives of paragraph (1), determine the luminaires to be covered under such program;

"(B) include specifications for testing procedures that will enable purchasers of such luminaires to make more informed decisions about the energy efficiency and costs of alternative products; and

"(C) include information, which may be disseminated through catalogs, trade publications, labels, or other mechanisms, that will allow consumers to assess the energy consumption and potential cost savings of alternative products.

"(3) Such program shall be developed by an appropriate organization (composed of interested parties) according to commonly accepted procedures for the development of national testing procedures and labeling programs.

"(b) MONITORING.—The Secretary shall monitor and evaluate the efforts to develop the program described in subsection (a) and, not later than three years after the date of the enactment of this Act [Oct. 24, 1992], shall make a determination as to whether the program developed is consistent with the objectives of subsection (a).

"(c) ALTERNATIVE SYSTEM.—(1) If the Secretary makes a determination under subsection (b) that a voluntary national testing and information program for luminaires consistent with the objectives of subsection (a) has not been developed, the Secretary shall, after consultation with the National Institute of Standards and Technology, develop, not later than two years after such determination, test procedures under section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) for such luminaires.

"(2) Not later than one year after the Secretary develops test procedures under paragraph (1), the Federal Trade Commission (hereafter in this section referred to as the 'Commission') shall prescribe labeling rules under section 324 of such Act (42 U.S.C. 6294) for those luminaires for which the Secretary has prescribed test procedures under paragraph (1) except that, with respect to any type of luminaire (or class thereof), the Secretary may determine that such labeling is not technologically feasible or economically justified or is not likely to assist consumers in making purchasing decisions.

"(3) For purposes of sections 323, 324, and 327 of such Act [42 U.S.C. 6293, 6294, 6297], each product for which the Secretary has established test procedures or labeling rules pursuant to this subsection shall be

considered a new covered product under section 322 of such Act (42 U.S.C. 6292) to the extent necessary to carry out this subsection.

"(4) For purposes of section 327(a) of such Act, the term 'this part' includes this subsection to the extent necessary to carry out this subsection."

REPORT ON POTENTIAL OF COOPERATIVE ADVANCED APPLIANCE DEVELOPMENT

Pub. L. 102–486, title I, §127, Oct. 24, 1992, 106 Stat. 2835, provided that not later than 18 months after Oct. 24, 1992, the Secretary would, in consultation with the Administrator of the Environmental Protection Agency, utilities, and appliance manufacturers, submit to Congress a report, based on certain criteria, on the potential for the development and commercialization of appliances substantially more efficient than required by Federal or State law.

EVALUATION OF UTILITY EARLY REPLACEMENT PROGRAMS FOR APPLIANCES

Pub. L. 102–486, title I, §128, Oct. 24, 1992, 106 Stat. 2836, required the Secretary, within 18 months after Oct. 24, 1992, and in consultation with the Administrator of the Environmental Protection Agency, utilities, and appliance manufacturers, to evaluate and report to Congress on the energy savings and environmental benefits of programs directed to the early replacement of older, less efficient appliances (as defined in subsec. (a) of this section) in use by consumers with products more efficient than required by Federal law.

§6293. Test procedures

(a) General rule

All test procedures and related determinations prescribed or made by the Secretary with respect to any covered product (or class thereof) which are in effect on March 17, 1987, shall remain in effect until the Secretary amends such test procedures and related determinations under subsection (b).

(b) Amended and new procedures

(1) TEST PROCEDURES.—

(A) AMENDMENT.—At least once every 7 years, the Secretary shall review test procedures for all covered products and—

(i) amend test procedures with respect to any covered product, if the Secretary determines that amended test procedures would more accurately or fully comply with the requirements of paragraph (3); or

(ii) publish notice in the Federal Register of any determination not to amend a test procedure.

(B) The Secretary may, in accordance with the requirements of this subsection, prescribe test procedures for any consumer product classified as a covered product under section 6292(b) of this title.

(C) The Secretary shall direct the National Institute of Standards and Technology to assist in developing new or amended test procedures.

(2) If the Secretary determines, on his own behalf or in response to a petition by any interested person, that a test procedure should be prescribed or amended, the Secretary shall promptly publish in the Federal Register proposed test procedures and afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such procedures. The comment period shall not be less than 60 days and may be extended for good cause shown to not more than 270 days. In prescribing or amending a test procedure, the Secretary shall take into account such information as the Secretary determines relevant to such procedure, including technological developments relating to energy use or energy efficiency of the type (or class) of covered products involved.

(3) Any test procedures prescribed or amended under this section shall be reasonably designed to produce test results which measure energy efficiency, energy use, water use (in the case of showerheads, faucets, water closets and urinals), or estimated annual operating cost of a covered product during a representative average use cycle or period of use, as determined by the Secretary, and shall not be unduly burdensome to conduct.

(4) If the test procedure is a procedure for determining estimated annual operating costs, such procedure shall provide that such costs shall be calculated from measurements of energy use or, in the case of showerheads, faucets, water closets, or urinals, water use in a representative average use cycle or period of use, as determined by the Secretary, and from representative average unit costs of the energy needed to operate such product during such cycle, or in the case of showerheads, faucets, water closets, or urinals, representative average unit costs of water and wastewater treatment service resulting from the operation of such products during such cycle. The Secretary shall provide information to manufacturers with respect to representative average unit costs of energy, water, and wastewater treatment.

(5) With respect to fluorescent lamp ballasts manufactured on or after January 1, 1990, and to which standards are applicable under section 6295 of this title, the Secretary shall prescribe test procedures that are in accord with ANSI standard C82.2–1984 or other test procedures determined appropriate by the Secretary.

(6) With respect to fluorescent lamps and incandescent reflector lamps to which standards are applicable under subsection (i) of section 6295 of this title, the Secretary shall prescribe test procedures, to be carried out by accredited test laboratories, that take into consideration the applicable IES or ANSI standard.

(7)(A) Test procedures for showerheads and faucets to which standards are applicable under subsection (j) of section 6295 of this title shall be the test procedures specified in ASME A112.18.1M–1989 for such products.

(B) If the test procedure requirements of ASME A112.18.1M–1989 are revised at any time and approved by ANSI, the Secretary shall amend the test procedures established by subparagraph (A) to conform to such revised ASME/ANSI requirements unless the Secretary determines, by rule, that to do so would not meet the requirements of paragraph (3).

(8)(A) Test procedures for water closets and urinals to which standards are applicable under subsection (k) of section 6295 of this title shall be the test procedures specified in ASME A112.19.6–1990 for such products.

(B) If the test procedure requirements of ASME A112.19.6–1990 are revised at any time and approved by ANSI, the Secretary shall amend the test procedures established by subparagraph (A) to conform to such revised ASME/ANSI requirements unless the Secretary determines, by rule, that to do so would not meet the requirements of paragraph (3).

(9) Test procedures for illuminated exit signs shall be based on the test method used under version 2.0 of the Energy Star program of the Environmental Protection Agency for illuminated exit signs.

(10)(A) Test procedures for distribution transformers and low voltage dry-type distribution transformers shall be based on the "Standard Test Method for Measuring the Energy Consumption of Distribution Transformers" prescribed by the National Electrical Manufacturers Association (NEMA TP 2–1998).

(B) The Secretary may review and revise the test procedures established under subparagraph (A).

(C) For purposes of section 6317(a) of this title, the test procedures established under subparagraph (A) shall be considered to be the testing requirements prescribed by the Secretary under section 6317(a)(1) of this title for distribution transformers for which the Secretary makes a determination that energy conservation standards would—

(i) be technologically feasible and economically justified; and

(ii) result in significant energy savings.

(11) Test procedures for traffic signal modules and pedestrian modules shall be based on the test method used under the Energy Star program of the Environmental Protection Agency for traffic signal modules, as in effect on August 8, 2005.

(12)(A) Test procedures for medium base compact fluorescent lamps shall be based on the test methods for compact fluorescent lamps used under the August 9, 2001, version of the Energy Star program of the Environmental Protection Agency and the Department of Energy.

(B) Except as provided in subparagraph (C), medium base compact fluorescent lamps shall meet all test requirements for regulated parameters of section 6295(cc) [1] of this title.

(C) Notwithstanding subparagraph (B), if manufacturers document engineering predictions and analysis that support expected attainment of lumen maintenance at 40 percent rated life and lamp lifetime, medium base compact fluorescent lamps may be marketed before completion of the testing of lamp life and lumen maintenance at 40 percent of rated life.

(13) Test procedures for dehumidifiers shall be based on the test criteria used under the Energy Star Program Requirements for Dehumidifiers developed by the Environmental Protection Agency, as in effect on August 8, 2005, unless revised by the Secretary pursuant to this section.

(14) The test procedure for measuring flow rate for commercial prerinse spray valves shall be based on American Society for Testing and Materials Standard F2324, entitled "Standard Test Method for Pre-Rinse Spray Valves".

(15) The test procedure for refrigerated bottled or canned beverage vending machines shall be based on American National Standards Institute/American Society of Heating, Refrigerating and Air-Conditioning Engineers Standard 32.1–2004, entitled "Methods of Testing for Rating Vending Machines for Bottled, Canned or Other Sealed Beverages".

(16)(A)(i) Test procedures for ceiling fans shall be based on the "Energy Star Testing Facility Guidance Manual: Building a Testing Facility and Performing the Solid State Test Method for ENERGY STAR Qualified Ceiling Fans, Version 1.1" published by the Environmental Protection Agency.

(ii) Test procedures for ceiling fan light kits shall be based on the test procedures referenced in the Energy Star specifications for Residential Light Fixtures and Compact Fluorescent Light Bulbs, as in effect on August 8, 2005.

(B) The Secretary may review and revise the test procedures established under subparagraph (A).

(17) CLASS A EXTERNAL POWER SUPPLIES.—Test procedures for class A external power supplies shall be based on the "Test Method for Calculating the Energy Efficiency of Single-Voltage External AC–DC and AC–AC Power Supplies" published by the Environmental Protection Agency on August 11, 2004, except that the test voltage specified in section 4(d) of that test method shall be only 115 volts, 60 Hz.

(18) METAL HALIDE LAMP BALLASTS.—Test procedures for metal halide lamp ballasts shall be based on ANSI Standard C82.6–2005, entitled "Ballasts for High Intensity Discharge Lamps—Method of Measurement".

(c) Restriction on certain representations

(1) No manufacturer, distributor, retailer, or private labeler may make any representation—

(A) in writing (including a representation on a label); or

(B) in any broadcast advertisement,

with respect to the energy use or efficiency or, in the case of showerheads, faucets, water closets, and urinals, water use of a covered product to which a test procedure is applicable under subsection (a) or the cost of energy consumed by such product, unless such product has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

(2) Effective 180 days after an amended or new test procedure applicable to a covered product is prescribed or established under subsection (b), no manufacturer, distributor, retailer, or private labeler may make any representation—

(A) in writing (including a representation on a label); or

(B) in any broadcast advertisement,

with respect to energy use or efficiency or, in the case of showerheads, faucets, water closets, and urinals, water use of such product or cost of energy consumed by such product, unless such product has been tested in accordance with such amended or new test procedures and such representation fairly discloses the results of such testing.

(3) On the petition of any manufacturer, distributor, retailer, or private labeler, filed not later than the 60th day before the expiration of the period involved, the 180-day period referred to in paragraph (2) may be extended by the Secretary with respect to the petitioner (but in no event for more than an

additional 180 days) if the Secretary determines that the requirements of paragraph (2) would impose an undue hardship on such petitioner.

(d) Case in which test procedure is not required

(1) The Secretary is not required to publish and prescribe test procedures for a covered product (or class thereof) if the Secretary determines, by rule, that test procedures cannot be developed which meet the requirements of subsection (b)(3) and publishes such determination in the Federal Register, together with the reasons therefor.

(2) For purposes of section 6297 of this title, a determination under paragraph (1) with respect to any covered product or class shall have the same effect as would a standard prescribed for a covered product (or class).

(e) Amendment of standard

(1) In the case of any amended test procedure which is prescribed pursuant to this section, the Secretary shall determine, in the rulemaking carried out with respect to prescribing such procedure, to what extent, if any, the proposed test procedure would alter the measured energy efficiency, measured energy use, or measured water use of any covered product as determined under the existing test procedure.

(2) If the Secretary determines that the amended test procedure will alter the measured efficiency or measured use, the Secretary shall amend the applicable energy conservation standard during the rulemaking carried out with respect to such test procedure. In determining the amended energy conservation standard, the Secretary shall measure, pursuant to the amended test procedure, the energy efficiency, energy use, or water use of a representative sample of covered products that minimally comply with the existing standard. The average of such energy efficiency, energy use, or water use levels determined under the amended test procedure shall constitute the amended energy conservation standard for the applicable covered products.

(3) Models of covered products in use before the date on which the amended energy conservation standard becomes effective (or revisions of such models that come into use after such date and have the same energy efficiency, energy use, or water use characteristics) that comply with the energy conservation standard applicable to such covered products on the day before such date shall be deemed to comply with the amended energy conservation standard.

(4) The Secretary's authority to amend energy conservation standards under this subsection shall not affect the Secretary's obligation to issue final rules as described in section 6295 of this title.

(f) Additional consumer and commercial products

(1) Not later than 2 years after August 8, 2005, the Secretary shall prescribe testing requirements for refrigerated bottled or canned beverage vending machines.

(2) To the maximum extent practicable, the testing requirements prescribed under paragraph (1) shall be based on existing test procedures used in industry.

(Pub. L. 94–163, title III, §323, Dec. 22, 1975, 89 Stat. 919; Pub. L. 95–619, title IV, §§421, 425(a), title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3257, 3265, 3288; Pub. L. 100–12, §4, Mar. 17, 1987, 101 Stat. 105; Pub. L. 100–357, §2(c), June 28, 1988, 102 Stat. 672; Pub. L. 100–418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433; Pub. L. 102–486, title I, §123(d), Oct. 24, 1992, 106 Stat. 2821; Pub. L. 109–58, title I, §135(b), Aug. 8, 2005, 119 Stat. 627; Pub. L. 110–140, title III, §§301(b), 302(a), 324(c), Dec. 19, 2007, 121 Stat. 1550, 1551, 1593.)

EDITORIAL NOTES

AMENDMENTS

2007—Subsec. (b)(1). Pub. L. 110–140, §302(a), which directed amendment of subsec. (b)(1) by striking "(1)" and all that followed through the "end of the paragraph" and inserting a new par. (1) designation and heading and subpar. (A), was executed by substituting the new par. (1) designation and heading and subpar. (A) for "(1)(A) The Secretary may amend test procedures with respect to any covered product if the Secretary determines that amended test procedures would more accurately or fully comply with the requirements of paragraph (3)." to reflect the probable intent of Congress.

Subsec. (b)(17). Pub. L. 110–140, §301(b), added par. (17).

Subsec. (b)(18). Pub. L. 110–140, §324(c), added par. (18).

2005—Subsec. (b)(9) to (16). Pub. L. 109–58, §135(b)(1), added pars. (9) to (16).

Subsec. (f). Pub. L. 109–58, §135(b)(2), added subsec. (f).

1992—Subsec. (b)(3). Pub. L. 102–486, §123(d)(1)(A), inserted "water use (in the case of showerheads, faucets, water closets and urinals)," after "energy use,".

Subsec. (b)(4). Pub. L. 102–486, §123(d)(1)(B), in first sentence inserted "or, in the case of showerheads, faucets, water closets, or urinals, water use" after "energy use" and ", or in the case of showerheads, faucets, water closets, or urinals, representative average unit costs of water and wastewater treatment service resulting from the operation of such products during such cycle" after "such cycle", and in second sentence inserted ", water, and wastewater treatment" before period at end.

Subsec. (b)(6) to (8). Pub. L. 102–486, §123(d)(1)(C), added pars. (6) to (8).

Subsec. (c)(1). Pub. L. 102–486, §123(d)(2), in closing provisions inserted "or, in the case of showerheads, faucets, water closets, and urinals, water use" after "efficiency".

Subsec. (c)(2). Pub. L. 102–486, §123(d)(3), in introductory provisions substituted "prescribed or established" for "prescribed".

Pub. L. 102–486, §123(d)(2), in closing provisions inserted "or, in the case of showerheads, faucets, water closets, and urinals, water use" after "efficiency".

Subsec. (e)(1) to (3). Pub. L. 102–486, §123(d)(4), substituted ", measured energy use, or measured water use" for "or measured energy use" in par. (1) and "energy efficiency, energy use, or water use" for "energy efficiency or energy use" in two places in par. (2) and once in par. (3).

1988—Subsec. (b)(1)(C). Pub. L. 100–418 substituted "National Institute of Standards and Technology" for "National Bureau of Standards".

Subsec. (b)(5). Pub. L. 100–357 added par. (5).

1987—Pub. L. 100–12 amended section generally, revising and restating as subsecs. (a) to (e) provisions formerly contained in subsecs. (a) to (c).

1978—Subsec. (a)(1), (2). Pub. L. 95–619, §691(b)(2), substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration, wherever appearing.

Subsec. (a)(3). Pub. L. 95–619, §§425(a), 691(b)(2), struck out "Except as provided in paragraph (6)," before "The Secretary", struck out provision requiring proposed test procedures to be published not later than June 30, 1976, with certain excepted cases not required to be published before Sept. 30, 1976 and June 30, 1977, and substituted "Secretary" for "Administrator".

Subsec. (a)(4). Pub. L. 95–619, §§421(a), 691(b)(2), redesignated provisions formerly classified to subpar. (A), as par. (4) and in par. (4), as so redesignated, struck out "Except as provided in paragraph (6)," before "The Secretary shall", substituted "Secretary" for "Administrator" in two places, inserted provision requiring the prescription of test procedures not later than Jan. 31, 1978, and struck out subpar. (B) requiring the prescription of test procedures not later than Sept. 30, 1976, with certain excepted cases required to be prescribed not later than Dec. 31, 1976 and Sept. 30 1977.

Subsec. (a)(5). Pub. L. 95–619, §691(b)(2), substituted "Secretary" for "Administrator" wherever appearing.

Subsec. (a)(6). Pub. L. 95–619, §421(b), redesignated existing provisions as subpar. (A) and, in subpar. (A) as so redesignated, substituted "Secretary" for "Administrator", struck out provisions relating to the authority to delay publication of proposed test procedures, inserted requirement that a determination of a necessary prescription delay be submitted in a report to Congress, inserted specific ninety day time limitation for delayed prescriptions, and added subpar. (B).

Subsec. (a)(7). Pub. L. 95–619, §421(c), added par. (7).

Subsec. (b). Pub. L. 95–619, §691(b)(2), substituted "Secretary" for "Administrator" wherever appearing.

Subsec. (c). Pub. L. 95–619, §421(d), redesignated existing provisions as par. (1), substituted "180 days" for "90 days" and redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and added par. (2).

STATUTORY NOTES AND RELATED SUBSIDIARIES

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.

[1] *So in original. Probably should be section "6295(bb)".*

§6294. Labeling

(a) In general

(1) The Commission shall prescribe labeling rules under this section applicable to all covered products of each of the types specified in paragraphs (1), (2), (4), (6), and (8) through (12) of section 6292(a) of this title, except to the extent that, with respect to any such type (or class thereof), the Commission determines under the second sentence of subsection (b)(5) that labeling in accordance with this section is not technologically or economically feasible.

(2)(A) The Commission shall prescribe labeling rules under this section applicable to all covered products of each of the types specified in paragraphs (3), (5), and (7) of section 6292(a) of this title, except to the extent that with respect to any such type (or class thereof), the Commission determines under the second sentence of subsection (b)(5) that labeling in accordance with this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions.

(B) The Commission shall prescribe labeling rules under this section applicable to the covered product specified in paragraph (13) of section 6292(a) of this title and to which standards are applicable under section 6295 of this title. Such rules shall provide that the labeling of any fluorescent lamp ballast manufactured on or after January 1, 1990, will indicate conspicuously, in a manner prescribed by the Commission under subsection (b) by July 1, 1989, a capital letter "E" printed within a circle on the ballast and on the packaging of the ballast or of the luminaire into which the ballast has been incorporated.

(C) METAL HALIDE LAMP FIXTURES.—

(i) IN GENERAL.—The Commission shall issue labeling rules under this section applicable to the covered product specified in section 6292(a)(19) of this title and to which standards are applicable under section 6295 of this title.

(ii) LABELING.—The rules shall provide that the labeling of any metal halide lamp fixture manufactured on or after the later of January 1, 2009, or the date that is 270 days after December 19, 2007, shall indicate conspicuously, in a manner prescribed by the Commission under subsection (b) by July 1, 2008, a capital letter "E" printed within a circle on the packaging of the fixture, and on the ballast contained in the fixture.

(D)(i) Not later than 18 months after October 24, 1992, the Commission shall prescribe labeling rules under this section applicable to general service fluorescent lamps, medium base compact fluorescent lamps, and general service incandescent lamps. Except as provided in clause (ii), such rules shall provide that the labeling of any general service fluorescent lamp, medium base compact fluorescent lamp, and general service incandescent lamp manufactured after the 12-month period beginning on the date of the publication of such rule shall indicate conspicuously on the packaging of the lamp, in a manner prescribed by the Commission under subsection (b), such information as the Commission deems necessary to enable consumers to select the most energy efficient lamps which meet their requirements. Labeling information for incandescent lamps shall be based on performance when operated at 120 volts input, regardless of the rated lamp voltage.

(ii) If the Secretary determines that compliance with the standards specified in section 6295(i) of this title for any lamp will result in the discontinuance of the manufacture of such lamp, the Commission may exempt such lamp from the labeling rules prescribed under clause (i).

(iii) RULEMAKING TO CONSIDER EFFECTIVENESS OF LAMP LABELING.—

(I) IN GENERAL.—Not later than 1 year after December 19, 2007, the Commission shall initiate a rulemaking to consider—

(aa) the effectiveness of current lamp labeling for power levels or watts, light output or lumens, and lamp lifetime; and

(bb) alternative labeling approaches that will help consumers to understand new high-efficiency lamp products and to base the purchase decisions of the consumers on the most appropriate source that meets the requirements of the consumers for lighting level, light quality,

lamp lifetime, and total lifecycle cost.

(II) COMPLETION.—The Commission shall—

(aa) complete the rulemaking not later than the date that is 30 months after December 19, 2007; and

(bb) consider reopening the rulemaking not later than 180 days before the effective dates of the standards for general service incandescent lamps established under section 6295(i)(1)(A) of this title, if the Commission determines that further labeling changes are needed to help consumers understand lamp alternatives.

(E)(i) Not later than one year after October 24, 1992, the Commission shall prescribe labeling rules under this section for showerheads and faucets to which standards are applicable under subsection (j) of section 6295 of this title. Such rules shall provide that the labeling of any showerhead or faucet manufactured after the 12-month period beginning on the date of the publication of such rule shall be consistent with the marking and labeling requirements of ASME A112.18.1M–1989, except that each showerhead and flow restricting or controlling spout-end device shall bear a permanent legible marking indicating the flow rate, expressed in gallons per minute (gpm) or gallons per cycle (gpc), and the flow rate value shall be the actual flow rate or the maximum flow rate specified by the standards established in subsection (j) of section 6295 of this title.

(ii) If the marking and labeling requirements of ASME A112.18.1M–1989 are revised at any time and approved by ANSI, the Commission shall amend the labeling rules established pursuant to clause (i) to be consistent with such revised ASME/ANSI requirements unless such requirements are inconsistent with the purposes of this chapter or the requirement specified in clause (i) requiring each showerhead and flow restricting or controlling spout-end device to bear a permanent legible marking indicating the flow rate of such product.

(F)(i) Not later than one year after October 24, 1992, the Commission shall prescribe labeling rules under this section for water closets and urinals to which standards are applicable under subsection (k) of section 6295 of this title. Such rules shall provide that the labeling of any water closet or urinal manufactured after the 12-month period beginning on the date of the publication of such rule shall be consistent with the marking and labeling requirements of ASME A112.19.2M–1990, except that each fixture (and flushometer valve associated with such fixture) shall bear a permanent legible marking indicating the water use, expressed in gallons per flush (gpf), and the water use value shall be the actual water use or the maximum water use specified by the standards established in subsection (k) of section 6295 of this title.

(ii) If the marking and labeling requirements of ASME A112.19.2M–1990 are revised at any time and approved by ANSI, the Commission shall amend the labeling rules established pursuant to clause (i) to be consistent with such revised ASME/ANSI requirements unless such requirements are inconsistent with the purposes of this chapter or the requirement specified in clause (i) requiring each fixture and flushometer valve to bear a permanent legible marking indicating the water use of such fixture or flushometer valve.

(iii) Any labeling rules prescribed under this subparagraph before January 1, 1997, shall provide that, with respect to any gravity tank-type white 2-piece toilet which has a water use greater than 1.6 gallons per flush (gpf), any printed matter distributed or displayed in connection with such product (including packaging and point of sale material, catalog material, and print advertising) shall include, in a conspicuous manner, the words "For Commercial Use Only".

(G)(i) Not later than 90 days after August 8, 2005, the Commission shall initiate a rulemaking to consider—

(I) the effectiveness of the consumer products labeling program in assisting consumers in making purchasing decisions and improving energy efficiency; and

(II) changes to the labeling rules (including categorical labeling) that would improve the effectiveness of consumer product labels.

(ii) Not later than 2 years after August 8, 2005, the Commission shall complete the rulemaking initiated under clause (i).

(H)(i) Not later than 18 months after August 8, 2005, the Commission shall issue by rule, in accordance with this section, labeling requirements for the electricity used by ceiling fans to circulate air in a room.

(ii) The rule issued under clause (i) shall apply to products manufactured after the later of—

(I) January 1, 2009; or

(II) the date that is 60 days after the final rule is issued.

(I) LABELING REQUIREMENTS.—

(i) IN GENERAL.—Subject to clauses (ii) through (iv), not later than 18 months after the date of issuance of applicable Department of Energy testing procedures, the Commission, in consultation with the Secretary and the Administrator of the Environmental Protection Agency (acting through the Energy Star program), shall, by regulation, prescribe labeling or other disclosure requirements for the energy use of—

(I) televisions;

(II) personal computers;

(III) cable or satellite set-top boxes;

(IV) stand-alone digital video recorder boxes; and

(V) personal computer monitors.

(ii) ALTERNATE TESTING PROCEDURES.—In the absence of applicable testing procedures described in clause (i) for products described in subclauses (I) through (V) of that clause, the Commission may, by regulation, prescribe labeling or other disclosure requirements for a consumer product category described in clause (i) if the Commission—

(I) identifies adequate non-Department of Energy testing procedures for those products; and

(II) determines that labeling of, or other disclosures relating to, those products is likely to assist consumers in making purchasing decisions.

(iii) DEADLINE AND REQUIREMENTS FOR LABELING.—

(I) DEADLINE.—Not later than 18 months after the date of promulgation of any requirements under clause (i) or (ii), the Commission shall require labeling of, or other disclosure requirements for, electronic products described in clause (i).

(II) REQUIREMENTS.—The requirements prescribed under clause (i) or (ii) may include specific requirements for each electronic product to be labeled with respect to the placement, size, and content of Energy Guide labels.

(iv) DETERMINATION OF FEASIBILITY.—Clause (i) or (ii) shall not apply in any case in which the Commission determines that labeling in accordance with this subsection—

(I) is not technologically or economically feasible; or

(II) is not likely to assist consumers in making purchasing decisions.

(3) The Commission may prescribe a labeling rule under this section applicable to covered products of a type specified in paragraph (20) of section 6292(a) of this title (or a class thereof) if—

(A) the Commission or the Secretary has made a determination with respect to such type (or class thereof) that labeling in accordance with this section will assist purchasers in making purchasing decisions,

(B) the Secretary has prescribed test procedures under section 6293(b)(1)(B) of this title for such type (or class thereof), and

(C) the Commission determines with respect to such type (or class thereof) that application of labeling rules under this section to such type (or class thereof) is economically and technologically feasible.

(4) Any determination under this subsection shall be published in the Federal Register.

(5)(A) For covered products described in subsections (u) through (ff) of section 6295 of this title, after a test procedure has been prescribed under section 6293 of this title, the Secretary or the Commission, as appropriate, may prescribe, by rule, under this section labeling requirements for the products.

(B) In the case of products to which TP–1 standards under section 6295(y) of this title apply, labeling requirements shall be based on the "Standard for the Labeling of Distribution Transformer Efficiency" prescribed by the National Electrical Manufacturers Association (NEMA TP–3) as in effect on August 8, 2005.

(C) In the case of dehumidifiers covered under section 6295(dd) of this title, the Commission shall not require an "Energy Guide" label.

(6) AUTHORITY TO INCLUDE ADDITIONAL PRODUCT CATEGORIES.—The Commission may, by regulation, require labeling or other disclosures in accordance with this subsection for any consumer product not specified in this subsection or section 6292 of this title if the Commission determines that labeling for the product is likely to assist consumers in making purchasing decisions.

(b) Rules in effect; new rules

(1)(A) Any labeling rule in effect on March 17, 1987, shall remain in effect until amended, by rule, by the Commission.

(B) After March 17, 1987, and not later than 30 days after the date on which a proposed test procedure applicable to a covered product of any of the types specified in paragraphs (1) through (13), and paragraphs (15) through (20) of section 6292(a) of this title (or class thereof) is prescribed under section 6293(b) of this title, the Commission shall publish a proposed labeling rule applicable to such type (or class thereof).

(2) The Commission shall afford interested persons an opportunity to present written or oral data, views, and comments with respect to the proposed labeling rules published under paragraph (1). The period for such presentations shall not be less than 45 days.

(3) Not earlier than 45 days nor later than 60 days after the date on which test procedures are prescribed under section 6293(b) of this title with respect to covered products of any type (or class thereof) specified in paragraphs (1) through (12) of section 6292(a) of this title, the Commission shall prescribe labeling rules with respect to covered products of such type (or class thereof). Not earlier than 45 days after the date on which test procedures are prescribed under section 6293(b) of this title with respect to covered products of a type specified in paragraph (20) of section 6292(a) of this title, the Commission may prescribe labeling rules with respect to covered products of such type (or class thereof).

(4) A labeling rule prescribed under paragraph (3) shall take effect not later than 3 months after the date of prescription of such rule, except that such rules may take effect not later than 6 months after such date of prescription if the Commission determines that such extension is necessary to allow persons subject to such rules adequate time to come into compliance with such rules.

(5) The Commission may delay the publication of a proposed labeling rule, or the prescription of a labeling rule, beyond the dates specified in paragraph (1) or (3), if it determines that it cannot publish proposed labeling rules or prescribe labeling rules which meet the requirements of this section on or prior to the date specified in the applicable paragraph and publishes such determination in the Federal Register, together with the reasons therefor. In any such case, it shall publish proposed labeling rules or prescribe labeling rules for covered products of such type (or class thereof) as soon as practicable unless it determines (A) that labeling in accordance with this section is not economically or technically feasible, or (B) in the case of a type specified in paragraphs (3), (5), and (7) of section 6292(a) of this title, that labeling in accordance with this section is not likely to assist consumers in purchasing decisions. Any such determination shall be published in the Federal Register, together with the reasons therefor. This paragraph shall not apply to the prescription of a labeling rule with respect to covered products of a type specified in paragraph (20) of section 6292(a) of this title.

(c) Content of label

(1) Subject to paragraph (6), a rule prescribed under this section shall require that each covered product in the type or class of covered products to which the rule applies bear a label which discloses—

(A) the estimated annual operating cost of such product (determined in accordance with test procedures prescribed under section 6293 of this title), except that if—

(i) the Secretary determines that disclosure of estimated annual operating cost is not technologically feasible, or

(ii) the Commission determines that such disclosure is not likely to assist consumers in making purchasing decisions or is not economically feasible,

the Commission shall require disclosure of a different useful measure of energy consumption (determined in accordance with test procedures prescribed under section 6293 of this title); and

(B) information respecting the range of estimated annual operating costs for covered products to which the rule applies; except that if the Commission requires disclosure under subparagraph (A) of a measure of energy consumption different from estimated annual operating cost, then the label shall disclose the range of such measure of energy consumption of covered products to which such rule applies.

(2) A rule under this section shall include the following:

(A) A description of the type or class of covered products to which such rule applies.

(B) Subject to paragraph (6), information respecting the range of estimated annual operating costs or other useful measure of energy consumption (determined in such manner as the rule may prescribe) for such type or class of covered products.

(C) A description of the test procedures under section 6293 of this title used in determining the estimated annual operating costs or other measure of energy consumption of the type or class of covered products.

(D) A prototype label and directions for displaying such label.

(3) A rule under this section shall require that the label be displayed in a manner that the Commission determines is likely to assist consumers in making purchasing decisions and is appropriate to carry out this part. The Commission may permit a tag to be used in lieu of a label in any case in which the Commission finds that a tag will carry out the purposes for which the label was intended.

(4) A rule under this section applicable to a covered product may require disclosure, in any printed matter displayed or distributed at the point of sale of such product, of any information which may be required under this section to be disclosed on the label of such product. Requirements under this paragraph shall not apply to any broadcast advertisement or any advertisement in any newspaper, magazine, or other periodical.

(5) The Commission may require that a manufacturer of a covered product to which a rule under this section applies—

(A) include on the label,

(B) separately attach to the product, or

(C) ship with the product,

additional information relating to energy consumption, including instructions for the maintenance, use, or repair of the covered product, if the Commission determines that such additional information would assist consumers in making purchasing decisions or in using such product, and that such requirement would not be unduly burdensome to manufacturers.

(6) The Commission may delay the effective date of the requirement specified in paragraph (1)(B) of this subsection applicable to a type or class of covered product, insofar as it requires the disclosure on the label of information respecting range of a measure of energy consumption, for not more than

12 months after the date on which the rule under this section is first applicable to such type or class, if the Commission determines that such information will not be available within an adequate period of time before such date.

(7) Paragraphs (1), (2), (3), (5), and (6) of this subsection shall not apply to the covered product specified in paragraphs (13), (14), (15), (16), (17), and (18) of section 6292(a) of this title.

(8) If a manufacturer of a covered product specified in paragraph (15) or (17) of section 6292(a) of this title elects to provide a label for such covered product conveying the estimated annual operating cost of such product or the range of estimated annual operating costs for the type or class of such product—

(A) such estimated cost or range of costs shall be determined in accordance with test procedures prescribed under section 6293 of this title;

(B) the format of such label shall be in accordance with a format prescribed by the Commission; and

(C) such label shall be displayed in a manner, prescribed by the Commission, to be likely to assist consumers in making purchasing decisions and appropriate to carry out the purposes of this chapter.

(9) DISCRETIONARY APPLICATION.—The Commission may apply paragraphs (1), (2), (3), (5), and (6) of this subsection to the labeling of any product covered by paragraph (2)(I) or (6) of subsection (a).

(d) Effective date

A rule under this section (or an amendment thereto) shall not apply to any covered product the manufacture of which was completed prior to the effective date of such rule or amendment, as the case may be.

(e) Study of certain products

The Secretary, in consultation with the Commission, shall study consumer products for which labeling rules under this section have not been proposed, in order to determine (1) the aggregate energy consumption of such products, and (2) whether the imposition of labeling requirements under this section would be feasible and useful to consumers in making purchasing decisions. The Secretary shall include the results of such study in the annual report under section 6308 of this title.

(f) Consultation

The Secretary and the Commission shall consult with each other on a continuing basis as may be necessary or appropriate to carry out their respective responsibilities under this part. Before the Commission makes any determination under subsection (a)(1), it shall obtain the views of the Secretary and shall take such views into account in making such determination.

(g) Other authority of the Commission

Until such time as labeling rules under this section take effect with respect to a type or class of covered product, this section shall not affect any authority of the Commission under the Federal Trade Commission Act [15 U.S.C. 41 et seq.] to require labeling with respect to energy consumption of such type or class of covered product.

(Pub. L. 94–163, title III, §324, Dec. 22, 1975, 89 Stat. 920; Pub. L. 95–619, title IV, §425(b), (c), title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3265, 3288; Pub. L. 100–12, §11(a)(1), (b)(2), Mar. 17, 1987, 101 Stat. 124, 125; Pub. L. 100–357, §2(d), June 28, 1988, 102 Stat. 672; Pub. L. 102–486, title I, §123(e), Oct. 24, 1992, 106 Stat. 2822; Pub. L. 105–388, §5(a)(4), Nov. 13, 1998, 112 Stat. 3478; Pub. L. 109–58, title I, §137, Aug. 8, 2005, 119 Stat. 645; Pub. L. 110–140, title III, §§321(b), 324(d), 325, Dec. 19, 2007, 121 Stat. 1584, 1593, 1595; Pub. L. 112–210, §10(a)(12), Dec. 18, 2012, 126 Stat. 1525; Pub. L. 115–115, §2(c)(2), Jan. 12, 2018, 131 Stat. 2281.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(2)(E)(ii), (F)(ii) and (c)(8)(C), was in the original "this Act", meaning Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 871, known as the Energy Policy and Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

The Federal Trade Commission Act, referred to in subsec. (g), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

AMENDMENTS

2018—Pub. L. 115–115 substituted "(20) of section 6292(a)" for "(19) of section 6292(a)" wherever appearing.

2012—Subsec. (c)(9). Pub. L. 112–210, §10(a)(12), made technical amendment to directory language of Pub. L. 110–140, §325(b). See 2007 Amendment note below.

2007—Subsec. (a)(2)(C). Pub. L. 110–140, §324(d)(2), added subpar. (C). Former subpar. (C) redesignated (D).

Subsec. (a)(2)(C)(iii). Pub. L. 110–140, §321(b), added cl. (iii).

Subsec. (a)(2)(D) to (H). Pub. L. 110–140, §324(d)(1), redesignated subpars. (C) to (G) as (D) to (H), respectively.

Subsec. (a)(2)(I). Pub. L. 110–140, §325(a)(1), added subpar. (I).

Subsec. (a)(6). Pub. L. 110–140, §325(a)(2), added par. (6).

Subsec. (c)(9). Pub. L. 110–140, §325(b), as amended by Pub. L. 112–210, §10(a)(12), added par. (9).

2005—Subsec. (a)(2)(F), (G). Pub. L. 109–58, §137(a), added subpars. (F) and (G).

Subsec. (a)(5). Pub. L. 109–58, §137(b), added par. (5).

1998—Subsec. (a)(2)(C)(ii). Pub. L. 105–388 substituted "section 6295(i)" for "section 6295(j)".

1992—Subsec. (a)(2)(C) to (E). Pub. L. 102–486, §123(e)(1), added subpars. (C) to (E).

Subsec. (a)(3). Pub. L. 102–486, §123(e)(2), substituted "(19)" for "(14)".

Subsec. (b)(1)(B). Pub. L. 102–486, §123(e)(3), substituted "(13), and paragraphs (15) through (19)" for "(14)".

Subsec. (b)(3), (5). Pub. L. 102–486, §123(e)(4), substituted "(19)" for "(14)".

Subsec. (c)(7). Pub. L. 102–486, §123(e)(5)(A), substituted "paragraphs (13), (14), (15), (16), (17), and (18) of section 6292(a)" for "paragraph (13) of section 6292".

Subsec. (c)(8). Pub. L. 102–486, §123(e)(5)(B), added par. (8).

1988—Subsec. (a)(2). Pub. L. 100–357, §2(d)(1), designated existing provision as subpar. (A) and added subpar. (B).

Subsecs. (a)(3), (b)(1)(B), (3), (5). Pub. L. 100–357, §2(d)(2), substituted "(14)" for "(13)".

Subsec. (c)(7). Pub. L. 100–357, §2(d)(3), added par. (7).

1987—Subsec. (a). Pub. L. 100–12, §11(b)(2)(A), inserted heading.

Subsec. (a)(1). Pub. L. 100–12, §11(a)(1)(A), substituted "paragraphs (1), (2), (4), (6), and (8) through (12)" for "paragraphs (1) through (9)".

Subsec. (a)(2). Pub. L. 100–12, §11(a)(1)(B), substituted "paragraphs (3), (5), and (7)" for "paragraphs (10) through (13)".

Subsec. (a)(3). Pub. L. 100–12, §11(a)(1)(C)(i), substituted "paragraph (13)" for "paragraph (14)".

Subsec. (a)(3)(A). Pub. L. 100–12, §11(a)(1)(C)(ii), added subpar. (A) and struck out former subpar. (A) which read as follows: "the Commission or the Secretary has made a determination with respect to such type (or class thereof) under section 6293(a)(5)(B) of this title,".

Subsec. (a)(3)(B). Pub. L. 100–12, §11(a)(1)(C)(iii), substituted "section 6293(b)(1)(B)" for "section 6293(a)(5)".

Subsec. (b). Pub. L. 100–12, §11(a)(1)(D), inserted heading.

Subsec. (b)(1). Pub. L. 100–12, §11(a)(1)(D), added par. (1) and struck out former par. (1) which read as follows: "Not later than 30 days after the date on which a proposed test procedure applicable to a covered product of any of the types specified in paragraphs (1) through (14) of section 6292(a) of this title (or class thereof) is published under section 6293(a) of this title, the Commission shall publish a proposed labeling rule applicable to such type (or class thereof)."

Subsec. (b)(3). Pub. L. 100–12, §11(a)(1)(E), substituted "section 6293(b)" for "section 6293" in two places, "(12)" for "(13)", and "(13)" for "(14)".

Subsec. (b)(5). Pub. L. 100–12, §11(a)(1)(F), substituted "(3), (5), and (7)" for "(10) through (13)" and "(13)" for "(14)".

Subsec. (c). Pub. L. 100–12, §11(b)(2)(B), inserted heading.

Subsec. (d). Pub. L. 100–12, §11(b)(2)(C), inserted heading.
Subsec. (e). Pub. L. 100–12, §11(b)(2)(D), inserted heading.
Subsec. (f). Pub. L. 100–12, §11(b)(2)(E), inserted heading.
Pub. L. 100–12, §11(a)(1)(G), struck out "or (2)" after "subsection (a)(1)".
Subsec. (g). Pub. L. 100–12, §11(b)(2)(F), inserted heading.

1978—Subsec. (a)(1), (2). Pub. L. 95–619, §425(b), struck out labeling rule exception where Administrator had determined under section 6293(a)(6) of this title that test procedures could not be developed pursuant to section 6293(b) of this title.

Subsec. (a)(3). Pub. L. 95–619, §691(b)(2), substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration, in cls. (A) and (B).

Subsec. (c)(1)(A)(i). Pub. L. 95–619, §691(b)(2), substituted "Secretary" for "Administrator".

Subsec. (c)(5). Pub. L. 95–619, §425(c), inserted "including instructions for the maintenance, use, or repair of the covered product," after "energy consumption".

Subsecs. (e), (f). Pub. L. 95–619, §691(b)(2), substituted "Secretary" for "Administrator" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–210 effective as if included in the Energy Independence and Security Act of 2007, Pub. L. 110–140, see section 10(a)(13) of Pub. L. 112–210, set out as a note under section 6291 of this title.

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.

MARKET ASSESSMENTS AND CONSUMER AWARENESS PROGRAM

Pub. L. 110–140, title III, §321(c), Dec. 19, 2007, 121 Stat. 1584, provided that:

"(1) IN GENERAL.—In cooperation with the Administrator of the Environmental Protection Agency, the Secretary of Commerce, the Federal Trade Commission, lighting and retail industry associations, energy efficiency organizations, and any other entities that the Secretary of Energy determines to be appropriate, the Secretary of Energy shall—

"(A) conduct an annual assessment of the market for general service lamps and compact fluorescent lamps—

"(i) to identify trends in the market shares of lamp types, efficiencies, and light output levels purchased by residential and nonresidential consumers; and

"(ii) to better understand the degree to which consumer decisionmaking is based on lamp power levels or watts, light output or lumens, lamp lifetime, and other factors, including information required on labels mandated by the Federal Trade Commission;

"(B) provide the results of the market assessment to the Federal Trade Commission for consideration in the rulemaking described in section 324(a)(2)(C)(iii) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)(2)(C)(iii)); and

"(C) in cooperation with industry trade associations, lighting industry members, utilities, and other interested parties, carry out a proactive national program of consumer awareness, information, and education that broadly uses the media and other effective communication techniques over an extended period of time to help consumers understand the lamp labels and make energy-efficient lighting choices that meet the needs of consumers.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $10,000,000 for each of fiscal years 2009 through 2012."

§6294a. Energy Star program

(a) In general

There is established within the Department of Energy and the Environmental Protection Agency a voluntary program to identify and promote energy-efficient products and buildings in order to reduce

energy consumption, improve energy security, and reduce pollution through voluntary labeling of, or other forms of communication about, products and buildings that meet the highest energy conservation standards.

(b) Division of responsibilities

Responsibilities under the program shall be divided between the Department of Energy and the Environmental Protection Agency in accordance with the terms of applicable agreements between those agencies.

(c) Duties

The Administrator and the Secretary shall—

(1) promote Energy Star compliant technologies as the preferred technologies in the marketplace for—

(A) achieving energy efficiency; and

(B) reducing pollution;

(2) work to enhance public awareness of the Energy Star label, including by providing special outreach to small businesses;

(3) preserve the integrity of the Energy Star label;

(4) regularly update Energy Star product criteria for product categories;

(5) solicit comments from interested parties prior to establishing or revising an Energy Star product category, specification, or criterion (or prior to effective dates for any such product category, specification, or criterion);

(6) on adoption of a new or revised product category, specification, or criterion, provide reasonable notice to interested parties of any changes (including effective dates) in product categories, specifications, or criteria, along with—

(A) an explanation of the changes; and

(B) as appropriate, responses to comments submitted by interested parties; and

(7) provide appropriate lead time (which shall be 270 days, unless the Agency or Department specifies otherwise) prior to the applicable effective date for a new or a significant revision to a product category, specification, or criterion, taking into account the timing requirements of the manufacturing, product marketing, and distribution process for the specific product addressed.

(d) Deadlines

The Secretary shall establish new qualifying levels—

(1) not later than January 1, 2006, for clothes washers and dishwashers, effective beginning January 1, 2007; and

(2) not later than January 1, 2008, for clothes washers, effective beginning July 1, 2009.

(Pub. L. 94–163, title III, §324A, as added Pub. L. 109–58, title I, §131(a), Aug. 8, 2005, 119 Stat. 620; amended Pub. L. 110–140, title III, §311(b), Dec. 19, 2007, 121 Stat. 1564.)

EDITORIAL NOTES

AMENDMENTS

2007—Subsec. (d)(2). Pub. L. 110–140 substituted "July 1, 2009" for "January 1, 2010".

STATUTORY NOTES AND RELATED SUBSIDIARIES

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.

§6294b. WaterSense program

(a) Establishment of WaterSense program

(1) In general

There is established within the Environmental Protection Agency a voluntary program, to be known as the WaterSense program, to identify and promote water-efficient products, buildings, landscapes, facilities, processes, and services in order to, through voluntary labeling of, or other forms of communications regarding, such products, buildings, landscapes, facilities, processes, and services while meeting strict performance criteria, sensibly—

(A) reduce water use;

(B) reduce the strain on public water systems, community water systems, and wastewater and stormwater infrastructure;

(C) conserve energy used to pump, heat, transport, and treat water; and

(D) preserve water resources for future generations.

(2) Inclusions

Categories of products, buildings, landscapes, facilities, processes, and services that may be included under the program include—

(A) irrigation technologies and services;

(B) point-of-use water treatment devices;

(C) plumbing products;

(D) water reuse and recycling technologies;

(E) landscaping and gardening products, including moisture control or water enhancing technologies;

(F) xeriscaping and other landscape conversions that reduce water use;

(G) whole house humidifiers; and

(H) water-efficient buildings or facilities.

(b) Duties

The Administrator of the Environmental Protection Agency, in coordination with the Secretary of Energy as appropriate, shall—

(1) establish—

(A) a WaterSense label to be used for products, buildings, landscapes, facilities, processes, and services meeting the certification criteria established pursuant to this section; and

(B) the procedure, including the methods and means, and criteria by which products, buildings, landscapes, facilities, processes, and services may be certified to display the WaterSense label;

(2) enhance public awareness regarding the WaterSense label through outreach and public education;

(3) preserve the integrity of the WaterSense label by—

(A) establishing and maintaining feasible performance criteria so that products, buildings, landscapes, facilities, processes, and services certified to display the WaterSense label perform as well or better than less water-efficient counterparts;

(B) overseeing WaterSense certifications made by third parties, which shall be independent third-party product certification bodies accredited by an accreditation entity domiciled in the United States;

(C) using testing protocols, from the appropriate, applicable, and relevant consensus standards, for the purpose of determining compliance with performance criteria; and

(D) auditing the use of the WaterSense label in the marketplace and preventing cases of misuse;

(4) not more frequently than every 6 years after adoption or major revision of any WaterSense performance criteria, review and, if appropriate, revise the performance criteria to achieve

additional water savings;

(5) in revising any WaterSense criteria—

(A) provide reasonable notice to interested parties and the public of any changes, including effective dates, and an explanation of the changes;

(B) solicit comments from interested parties and the public prior to any changes;

(C) as appropriate, respond to comments submitted by interested parties and the public; and

(D) provide an appropriate transition time prior to the applicable effective date of any changes, taking into account the timing necessary for the manufacture, marketing, training, and distribution of the specific product, building, landscape, process, or service category being addressed; and

(6) not later than December 31, 2019, consider for review and revise, if necessary, any WaterSense performance criteria adopted before January 1, 2012.

(c) Transparency

The Administrator of the Environmental Protection Agency shall, to the extent practicable and not less than annually, estimate and make available to the public the relative water and energy savings attributable to the use of WaterSense-labeled products, buildings, landscapes, facilities, processes, and services.

(d) Distinction of authorities

In setting or maintaining specifications and criteria for Energy Star pursuant to section 6294a of this title, and WaterSense under this section, the Secretary of Energy and the Administrator of the Environmental Protection Agency shall coordinate to prevent duplicative or conflicting requirements among the respective programs.

(e) No warranty

A WaterSense label shall not create any express or implied warranty.

(f) Methods for establishing performance criteria

In establishing performance criteria for products, buildings, landscapes, facilities, processes, or services pursuant to this section, the Administrator of the Environmental Protection Agency shall use technical specifications and testing protocols established by voluntary consensus standards organizations relevant to specific products, buildings, landscapes, facilities, processes, or services, as appropriate.

(g) Definition of feasible

The term "feasible" means feasible with the use of the best technology, techniques, and other means that the Administrator of the Environmental Protection Agency finds, after examination for efficacy under field conditions and not solely under laboratory conditions, are available (taking cost into consideration).

(Pub. L. 94–163, title III, §324B, as added Pub. L. 115–270, title IV, §4306(a), Oct. 23, 2018, 132 Stat. 3884.)

§6295. Energy conservation standards

(a) Purposes

The purposes of this section are to—

(1) provide Federal energy conservation standards applicable to covered products; and

(2) authorize the Secretary to prescribe amended or new energy conservation standards for each type (or class) of covered product.

(b) Standards for refrigerators, refrigerator-freezers, and freezers

(1) The following is the maximum energy use allowed in kilowatt hours per year for the following products (other than those described in paragraph (2)) manufactured on or after January 1, 1990:

	Energy Standards Equations
Refrigerators and Refrigerator-Freezers with manual defrost	16.3 AV+316
Refrigerator-Freezers—partial automatic defrost	21.8 AV+429
Refrigerator-Freezers—automatic defrost with:	
Top mounted freezer without ice	23.5 AV+471
Side mounted freezer without ice	27.7 AV+488
Bottom mounted freezer without ice	27.7 AV+488
Top mounted freezer with through the door ice service	26.4 AV+535
Side mounted freezer with through the door ice	30.9 AV+547
Upright Freezers with:	
Manual defrost	10.9 AV+422
Automatic defrost	16.0 AV+623
Chest Freezers and all other freezers	14.8 AV+223

(2) The standards described in paragraph (1) do not apply to refrigerators and refrigerator-freezers with total refrigerated volume exceeding 39 cubic feet or freezers with total refrigerated volume exceeding 30 cubic feet.

(3)(A)(i) The Secretary shall publish a proposed rule, no later than July 1, 1988, to determine if the standards established by paragraph (1) should be amended. The Secretary shall publish a final rule no later than July 1, 1989, which shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after January 1, 1993. If such a final rule is not published before January 1, 1990, any amendment of such standards shall apply to products manufactured on or after January 1, 1995. Nothing in this subsection provides any justification or defense for a failure by the Secretary to comply with the nondiscretionary duty to publish final rules by the dates stated in this paragraph.

(ii)(I) If the Secretary does not publish a final rule before January 1, 1990, relating to the revision of the energy conservation standards for refrigerators, refrigerator-freezers and freezers, the regulations which established standards for such products and were promulgated by the California Energy Commission on December 14, 1984, to be effective January 1, 1992 (or any amendments to such standards that are not more stringent than the standards in the original regulations), shall apply in California to such products, effective beginning January 1, 1993, and shall not be preempted after such effective date by any energy conservation standard established in this section or prescribed, on or after January 1, 1990, under this section.

(II) If the Secretary does not publish a final rule before January 1, 1992, relating to the revision of the energy conservation standards for refrigerators, refrigerator-freezers and freezers, State regulations which apply to such products manufactured on or after January 1, 1995, shall apply to such products until the effective date of a rule issued under this section with respect to such products.

(B) After the publication of a final rule under subparagraph (A), the Secretary shall publish a final rule no later than five years after the date of publication of the previous final rule. The Secretary shall determine in such rule whether to amend the standards in effect for the products described in paragraph (1).

(C) Any amendment prescribed under subparagraph (B) shall apply to products manufactured after a date which is five years after—

(i) the effective date of the previous amendment; or

(ii) if the previous final rule did not amend the standards, the earliest date by which the previous amendment could have been effective;

except that in no case may any amended standard apply to products manufactured within three

years after publication of the final rule establishing such amended standard.

(4) REFRIGERATORS AND FREEZERS MANUFACTURED ON OR AFTER JANUARY 1, 2014.—

(A) IN GENERAL.—Not later than December 31, 2010, the Secretary shall publish a final rule determining whether to amend the standards in effect for refrigerators, refrigerator-freezers, and freezers manufactured on or after January 1, 2014.

(B) AMENDED STANDARDS.—The final rule shall contain any amended standards.

(c) Standards for room air conditioners

(1) The energy efficiency ratio of room air conditioners shall be not less than the following for products manufactured on or after January 1, 1990:

Product Class:	Ratio
Without Reverse Cycle and With Louvered Sides:	
Less than 6,000 Btu	8.0
6,000 to 7,999 Btu	8.5
8,000 to 13,999 Btu	9.0
14,000 to 19,999 Btu	8.8
20,000 and more Btu	8.2
Without Reverse Cycle and Without Louvered Sides:	
Less than 6,000 Btu	8.0
6,000 to 7,999 Btu	8.5
8,000 to 13,999 Btu	8.5
14,000 to 19,999 Btu	8.5
20,000 and more Btu	8.2
With Reverse Cycle and With Louvered Sides	8.5
With Reverse Cycle, Without Louvered Sides	8.0

(2)(A) The Secretary shall publish a final rule no later than January 1, 1992, to determine if the standards established under paragraph (1) should be amended. Such rule shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after January 1, 1995.

(B) After January 1, 1992, the Secretary shall publish a final rule no later than five years after the date of publication of a previous final rule. The Secretary shall determine in such rule whether to amend the standards in effect for room air conditioners.

(C) Any amendment prescribed under subparagraph (B) shall apply to products manufactured after a date which is five years after—

(i) the effective date of the previous amendment; or

(ii) if the previous final rule did not amend the standards, the earliest date by which a previous amendment could have been effective;

except that in no case may any amended standard apply to products manufactured within three years after publication of the final rule establishing such amended standard.

(d) Standards for central air conditioners and heat pumps

(1) The seasonal energy efficiency ratio of central air conditioners and central air conditioning heat pumps shall be not less than the following:

(A) Split Systems: 10.0 for products manufactured on or after January 1, 1992.

(B) Single Package Systems: 9.7 for products manufactured on or after January 1, 1993.

(2) The heating seasonal performance factor of central air conditioning heat pumps shall be not less than the following:

(A) Split Systems: 6.8 for products manufactured on or after January 1, 1992.

(B) Single Package Systems: 6.6 for products manufactured on or after January 1, 1993.

(3)(A) The Secretary shall publish a final rule no later than January 1, 1994, to determine whether the standards established under paragraph (1) should be amended. Such rule shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after January 1, 1999. The Secretary shall publish a final rule no later than January 1, 1994, to determine whether the standards established under paragraph (2) shall be amended. Such rule shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after January 1, 2002.

(B) The Secretary shall publish a final rule after January 1, 1994, and no later than January 1, 2001, to determine whether the standards in effect for central air conditioners and central air conditioning heat pumps should be amended. Such rule shall provide that any amendment shall apply to products manufactured on or after January 1, 2006.

(4) STANDARDS FOR THROUGH-THE-WALL CENTRAL AIR CONDITIONERS, THROUGH-THE-WALL CENTRAL AIR CONDITIONING HEAT PUMPS, AND SMALL DUCT, HIGH VELOCITY SYSTEMS.—

(A) DEFINITIONS.—In this paragraph:

(i) SMALL DUCT, HIGH VELOCITY SYSTEM.—The term "small duct, high velocity system" means a heating and cooling product that contains a blower and indoor coil combination that—

(I) is designed for, and produces, at least 1.2 inches of external static pressure when operated at the certified air volume rate of 220–350 CFM per rated ton of cooling; and

(II) when applied in the field, uses high velocity room outlets generally greater than 1,000 fpm that have less than 6.0 square inches of free area.

(ii) THROUGH-THE-WALL CENTRAL AIR CONDITIONER; THROUGH-THE-WALL CENTRAL AIR CONDITIONING HEAT PUMP.—The terms "through-the-wall central air conditioner" and "through-the-wall central air conditioning heat pump" mean a central air conditioner or heat pump, respectively, that is designed to be installed totally or partially within a fixed-size opening in an exterior wall, and—

(I) is not weatherized;

(II) is clearly and permanently marked for installation only through an exterior wall;

(III) has a rated cooling capacity no greater than 30,000 Btu/hr;

(IV) exchanges all of its outdoor air across a single surface of the equipment cabinet; and

(V) has a combined outdoor air exchange area of less than 800 square inches (split systems) or less than 1,210 square inches (single packaged systems) as measured on the surface area described in subclause (IV).

(iii) REVISION.—The Secretary may revise the definitions contained in this subparagraph through publication of a final rule.

(B) SMALL-DUCT HIGH-VELOCITY SYSTEMS.—

(i) SEASONAL ENERGY EFFICIENCY RATIO.—The seasonal energy efficiency ratio for small-duct high-velocity systems shall be not less than—

(I) 11.00 for products manufactured on or after January 23, 2006; and

(II) 12.00 for products manufactured on or after January 1, 2015.

(ii) HEATING SEASONAL PERFORMANCE FACTOR.—The heating seasonal performance factor for small-duct high-velocity systems shall be not less than—

(I) 6.8 for products manufactured on or after January 23, 2006; and

(II) 7.2 for products manufactured on or after January 1, 2015.

(C) SUBSEQUENT RULEMAKINGS.—The Secretary shall conduct subsequent rulemakings for through-the-wall central air conditioners, through-the-wall central air conditioning heat pumps, and small duct, high velocity systems as part of any rulemaking under this section used to review or revise standards for other central air conditioners and heat pumps.

(e) Standards for water heaters; pool heaters; direct heating equipment

(1) The energy factor of water heaters shall be not less than the following for products manufactured on or after January 1, 1990:

(A) Gas Water Heater:	.62(.0019 x Rated Storage Volume in gallons)
(B) Oil Water Heater:	.59(.0019 x Rated Storage Volume in gallons)
(C) Electric Water Heater:	.95(.00132 x Rated Storage Volume in gallons)

(2) The thermal efficiency of pool heaters manufactured on or after January 1, 1990, shall not be less than 78 percent.

(3) The efficiencies of gas direct heating equipment manufactured on or after January 1, 1990, shall be not less than the following:

Wall	
Fan type	
Up to 42,000 Btu/hour	73% AFUE
Over 42,000 Btu/hour	74% AFUE
Gravity type	
Up to 10,000 Btu/hour	59% AFUE
Over 10,000 Btu/hour up to 12,000 Btu/hour	60% AFUE
Over 12,000 Btu/hour up to 15,000 Btu/hour	61% AFUE
Over 15,000 Btu/hour up to 19,000 Btu/hour	62% AFUE
Over 19,000 Btu/hour up to 27,000 Btu/hour	63% AFUE
Over 27,000 Btu/hour up to 46,000 Btu/hour	64% AFUE
Over 46,000 Btu/hour	65% AFUE
Floor	
Up to 37,000 Btu/hour	56% AFUE
Over 37,000 Btu/hour	57% AFUE
Room	
Up to 18,000 Btu/hour	57% AFUE
Over 18,000 Btu/hour up to 20,000 Btu/hour	58% AFUE
Over 20,000 Btu/hour up to 27,000 Btu/hour	63% AFUE
Over 27,000 Btu/hour up to 46,000 Btu/hour	64% AFUE
Over 46,000 Btu/hour	65% AFUE

(4)(A) The Secretary shall publish final rules no later than January 1, 1992, to determine whether the standards established by paragraph (1), (2), or (3) for water heaters, pool heaters, and direct

heating equipment should be amended. Such rule shall provide that any amendment shall apply to products manufactured on or after January 1, 1995.

(B) The Secretary shall publish a final rule no later than January 1, 2000, to determine whether standards in effect for such products should be amended. Such rule shall provide that any such amendment shall apply to products manufactured on or after January 1, 2005.

(5) UNIFORM EFFICIENCY DESCRIPTOR FOR COVERED WATER HEATERS.—

(A) DEFINITIONS.—In this paragraph:

(i) COVERED WATER HEATER.—The term "covered water heater" means—

(I) a water heater; and

(II) a storage water heater, instantaneous water heater, and unfired hot water storage tank (as defined in section 6311 of this title).

(ii) FINAL RULE.—The term "final rule" means the final rule published under this paragraph.

(B) PUBLICATION OF FINAL RULE.—Not later than 1 year after December 18, 2012, the Secretary shall publish a final rule that establishes a uniform efficiency descriptor and accompanying test methods for covered water heaters.

(C) PURPOSE.—The purpose of the final rule shall be to replace with a uniform efficiency descriptor—

(i) the energy factor descriptor for water heaters established under this subsection; and

(ii) the thermal efficiency and standby loss descriptors for storage water heaters, instantaneous water heaters, and unfired water storage tanks established under section 6313(a)(5) of this title.

(D) EFFECT OF FINAL RULE.—

(i) IN GENERAL.—Notwithstanding any other provision of this subchapter, effective beginning on the effective date of the final rule, the efficiency standard for covered water heaters shall be denominated according to the efficiency descriptor established by the final rule.

(ii) EFFECTIVE DATE.—The final rule shall take effect 1 year after the date of publication of the final rule under subparagraph (B).

(E) CONVERSION FACTOR.—

(i) IN GENERAL.—The Secretary shall develop a mathematical conversion factor for converting the measurement of efficiency for covered water heaters from the test procedures in effect on December 18, 2012, to the new energy descriptor established under the final rule.

(ii) APPLICATION.—The conversion factor shall apply to models of covered water heaters affected by the final rule and tested prior to the effective date of the final rule.

(iii) EFFECT ON EFFICIENCY REQUIREMENTS.—The conversion factor shall not affect the minimum efficiency requirements for covered water heaters otherwise established under this subchapter.

(iv) USE.—During the period described in clause (v), a manufacturer may apply the conversion factor established by the Secretary to rerate existing models of covered water heaters that are in existence prior to the effective date of the rule described in clause (v)(II) to comply with the new efficiency descriptor.

(v) PERIOD.—Clause (iv) shall apply during the period—

(I) beginning on the date of publication of the conversion factor in the Federal Register; and

(II) ending on the later of 1 year after the date of publication of the conversion factor, or December 31, 2015.

(F) EXCLUSIONS.—The final rule may exclude a specific category of covered water heaters from the uniform efficiency descriptor established under this paragraph if the Secretary determines

that the category of water heaters—

(i) does not have a residential use and can be clearly described in the final rule; and

(ii) are [1] effectively rated using the thermal efficiency and standby loss descriptors applied (as of December 18, 2012) to the category under section 6313(a)(5) of this title.

(G) OPTIONS.—The descriptor set by the final rule may be—

(i) a revised version of the energy factor descriptor in use as of December 18, 2012;

(ii) the thermal efficiency and standby loss descriptors in use as of that date;

(iii) a revised version of the thermal efficiency and standby loss descriptors;

(iv) a hybrid of descriptors; or

(v) a new approach.

(H) APPLICATION.—The efficiency descriptor and accompanying test method established under the final rule shall apply, to the maximum extent practicable, to all water heating technologies in use as of December 18, 2012, and to future water heating technologies.

(I) PARTICIPATION.—The Secretary shall invite interested stakeholders to participate in the rulemaking process used to establish the final rule.

(J) TESTING OF ALTERNATIVE DESCRIPTORS.—In establishing the final rule, the Secretary shall contract with the National Institute of Standards and Technology, as necessary, to conduct testing and simulation of alternative descriptors identified for consideration.

(K) EXISTING COVERED WATER HEATERS.—A covered water heater shall be considered to comply with the final rule on and after the effective date of the final rule and with any revised labeling requirements established by the Federal Trade Commission to carry out the final rule if the covered water heater—

(i) was manufactured prior to the effective date of the final rule; and

(ii) complied with the efficiency standards and labeling requirements in effect prior to the final rule.

(6) ADDITIONAL STANDARDS FOR GRID-ENABLED WATER HEATERS.—

(A) DEFINITIONS.—In this paragraph:

(i) ACTIVATION LOCK.—The term "activation lock" means a control mechanism (either a physical device directly on the water heater or a control system integrated into the water heater) that is locked by default and contains a physical, software, or digital communication that must be activated with an activation key to enable the product to operate at its designed specifications and capabilities and without which activation the product will provide not greater than 50 percent of the rated first hour delivery of hot water certified by the manufacturer.

(ii) GRID-ENABLED WATER HEATER.—The term "grid-enabled water heater" means an electric resistance water heater that—

(I) has a rated storage tank volume of more than 75 gallons;

(II) is manufactured on or after April 16, 2015;

(III) has—

(aa) an energy factor of not less than 1.061 minus the product obtained by multiplying—

(AA) the rated storage volume of the tank, expressed in gallons; and

(BB) 0.00168; or

(bb) an equivalent alternative standard prescribed by the Secretary and developed pursuant to paragraph (5)(E);

(IV) is equipped at the point of manufacture with an activation lock; and

(V) bears a permanent label applied by the manufacturer that—

(aa) is made of material not adversely affected by water;

(bb) is attached by means of non-water-soluble adhesive; and

(cc) advises purchasers and end-users of the intended and appropriate use of the product

with the following notice printed in 16.5 point Arial Narrow Bold font:

"IMPORTANT INFORMATION: This water heater is intended only for use as part of an electric thermal storage or demand response program. It will not provide adequate hot water unless enrolled in such a program and activated by your utility company or another program operator. Confirm the availability of a program in your local area before purchasing or installing this product.".

(B) REQUIREMENT.—The manufacturer or private labeler shall provide the activation key for a grid-enabled water heater only to a utility or other company that operates an electric thermal storage or demand response program that uses such a grid-enabled water heater.

(C) REPORTS.—

(i) MANUFACTURERS.—The Secretary shall require each manufacturer of grid-enabled water heaters to report to the Secretary annually the quantity of grid-enabled water heaters that the manufacturer ships each year.

(ii) OPERATORS.—The Secretary shall require utilities and other demand response and thermal storage program operators to report annually the quantity of grid-enabled water heaters activated for their programs using forms of the Energy Information Agency or using such other mechanism that the Secretary determines appropriate after an opportunity for notice and comment.

(iii) CONFIDENTIALITY REQUIREMENTS.—The Secretary shall treat shipment data reported by manufacturers as confidential business information.

(D) PUBLICATION OF INFORMATION.—

(i) IN GENERAL.—In 2017 and 2019, the Secretary shall publish an analysis of the data collected under subparagraph (C) to assess the extent to which shipped products are put into use in demand response and thermal storage programs.

(ii) PREVENTION OF PRODUCT DIVERSION.—If the Secretary determines that sales of grid-enabled water heaters exceed by 15 percent or greater the quantity of such products activated for use in demand response and thermal storage programs annually, the Secretary shall, after opportunity for notice and comment, establish procedures to prevent product diversion for non-program purposes.

(E) COMPLIANCE.—

(i) IN GENERAL.—Subparagraphs (A) through (D) shall remain in effect until the Secretary determines under this section that—

(I) grid-enabled water heaters do not require a separate efficiency requirement; or

(II) sales of grid-enabled water heaters exceed by 15 percent or greater the quantity of such products activated for use in demand response and thermal storage programs annually and procedures to prevent product diversion for non-program purposes would not be adequate to prevent such product diversion.

(ii) EFFECTIVE DATE.—If the Secretary exercises the authority described in clause (i) or amends the efficiency requirement for grid-enabled water heaters, that action will take effect on the date described in subsection (m)(4)(A)(ii).

(iii) CONSIDERATION.—In carrying out this section with respect to electric water heaters, the Secretary shall consider the impact on thermal storage and demand response programs, including any impact on energy savings, electric bills, peak load reduction, electric reliability, integration of renewable resources, and the environment.

(iv) REQUIREMENTS.—In carrying out this paragraph, the Secretary shall require that grid-enabled water heaters be equipped with communication capability to enable the grid-enabled water heaters to participate in ancillary services programs if the Secretary determines that the technology is available, practical, and cost-effective.

(f) Standards for furnaces and boilers

(1) Furnaces (other than furnaces designed solely for installation in mobile homes) manufactured

on or after January 1, 1992, shall have an annual fuel utilization efficiency of not less than 78 percent, except that—

(A) boilers (other than gas steam boilers) shall have an annual fuel utilization efficiency of not less than 80 percent and gas steam boilers shall have an annual fuel utilization efficiency of not less than 75 percent; and

(B) the Secretary shall prescribe a final rule not later than January 1, 1989, establishing an energy conservation standard—

(i) which is for furnaces (other than furnaces designed solely for installation in mobile homes) having an input of less than 45,000 Btu per hour and manufactured on or after January 1, 1992;

(ii) which provides that the annual fuel utilization efficiency of such furnaces shall be a specific percent which is not less than 71 percent and not more than 78 percent; and

(iii) which the Secretary determines is not likely to result in a significant shift from gas heating to electric resistance heating with respect to either residential construction or furnace replacement.

(2) Furnaces which are designed solely for installation in mobile homes and which are manufactured on or after September 1, 1990, shall have an annual fuel utilization efficiency of not less than 75 percent.

(3) BOILERS.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), boilers manufactured on or after September 1, 2012, shall meet the following requirements:

Boiler Type	Minimum Annual Fuel Utilization Efficiency	Design Requirements
Gas Hot Water	82%	No Constant Burning Pilot, Automatic Means for Adjusting Water Temperature
Gas Steam	80%	No Constant Burning Pilot
Oil Hot Water	84%	Automatic Means for Adjusting Temperature
Oil Steam	82%	None
Electric Hot Water	None	Automatic Means for Adjusting Temperature
Electric Steam	None	None

(B) AUTOMATIC MEANS FOR ADJUSTING WATER TEMPERATURE.—

(i) IN GENERAL.—The manufacturer shall equip each gas, oil, and electric hot water boiler (other than a boiler equipped with a tankless domestic water heating coil) with automatic means for adjusting the temperature of the water supplied by the boiler to ensure that an incremental change in inferred heat load produces a corresponding incremental change in the temperature of water supplied.

(ii) SINGLE INPUT RATE.—For a boiler that fires at 1 input rate, the requirements of this subparagraph may be satisfied by providing an automatic means that allows the burner or heating element to fire only when the means has determined that the inferred heat load cannot be met by the residual heat of the water in the system.

(iii) NO INFERRED HEAT LOAD.—When there is no inferred heat load with respect to a hot water boiler, the automatic means described in clauses (i) and (ii) shall limit the temperature of the water in the boiler to not more than 140 degrees Fahrenheit.

(iv) OPERATION.—A boiler described in clause (i) or (ii) shall be operable only when the automatic means described in clauses (i), (ii), and (iii) is installed.

(C) EXCEPTION.—A boiler that is manufactured to operate without any need for electricity or any electric connection, electric gauges, electric pumps, electric wires, or electric devices shall not be required to meet the requirements of this paragraph.

(4)(A) The Secretary shall publish a final rule no later than January 1, 1992, to determine whether the standards established by paragraph (2) for mobile home furnaces should be amended. Such rule shall provide that any amendment shall apply to products manufactured on or after January 1, 1994.

(B) The Secretary shall publish a final rule no later than January 1, 1994, to determine whether the standards established by this subsection for furnaces (including mobile home furnaces) should be amended. Such rule shall provide that any amendment shall apply to products manufactured on or after January 1, 2002.

(C) After January 1, 1997, and before January 1, 2007, the Secretary shall publish a final rule to determine whether standards in effect for such products should be amended. Such rule shall contain such amendment, if any, and provide that any amendment shall apply to products manufactured on or after January 1, 2012.

(D) Notwithstanding any other provision of this chapter, if the requirements of subsection (o) are met, not later than December 31, 2013, the Secretary shall consider and prescribe energy conservation standards or energy use standards for electricity used for purposes of circulating air through duct work.

(g) Standards for dishwashers; clothes washers; clothes dryers; fluorescent lamp ballasts

(1) Dishwashers manufactured on or after January 1, 1988, shall be equipped with an option to dry without heat.

(2) All rinse cycles of clothes washers shall include an unheated water option, but may have a heated water rinse option, for products manufactured on or after January 1, 1988.

(3) Gas clothes dryers shall not be equipped with a constant burning pilot for products manufactured on or after January 1, 1988.

(4)(A) The Secretary shall publish final rules no later than January 1, 1990, to determine if the standards established under this subsection for products described in paragraphs (1), (2), and (3) should be amended. Such rules shall provide that any amendment shall apply to products the manufacture of which is completed on or after January 1, 1993.

(B) After January 1, 1990, the Secretary shall publish a final rule no later than five years after the date of publication of the previous final rule. The Secretary shall determine in such rule whether to amend the standards in effect for such products.

(C) Any such amendment shall apply to products manufactured after a date which is five years after—

(i) the effective date of the previous amendment; or

(ii) if the previous final rule did not amend the standard, the earliest date by which a previous amendment could have been in effect;

except that in no case may any amended standard apply to products manufactured within three years after publication of the final rule establishing such standard.

(5) Except as provided in paragraph (6), each fluorescent lamp ballast—

(A)(i) manufactured on or after January 1, 1990;

(ii) sold by the manufacturer on or after April 1, 1990; or

(iii) incorporated into a luminaire by a luminaire manufacturer on or after April 1, 1991; and

(B) designed—

(i) to operate at nominal input voltages of 120 or 277 volts;

(ii) to operate with an input current frequency of 60 Hertz; and

(iii) for use in connection with an F40T12, F96T12, or F96T12HO lamps;

shall have a power factor of 0.90 or greater and shall have a ballast efficacy factor not less than the following:

Application for Operation of	Ballast Input Voltage	Total Nominal Lamp Watts	Ballast Efficacy Factor
one F40T12 lamp	120	40	1.805
	277	40	1.805
two F40T12 lamps	120	80	1.060
	277	80	1.050
two F96T12 lamps	120	150	0.570
	277	150	0.570
two F96T12HO lamps	120	220	0.390
	277	220	0.390

(6) The standards described in paragraph (5) do not apply to (A) a ballast which is designed for dimming or for use in ambient temperatures of 0° F or less, or (B) a ballast which has a power factor of less than 0.90 and is designed and labeled for use only in residential building applications.

(7)(A) The Secretary shall publish a final rule no later than January 1, 1992, to determine if the standards established under paragraph (5) should be amended, including whether such standards should be amended so that they would be applicable to ballasts described in paragraph (6) and other fluorescent lamp ballasts. Such rule shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after January 1, 1995.

(B) After January 1, 1992, the Secretary shall publish a final rule no later than five years after the date of publication of a previous final rule. The Secretary shall determine in such rule whether to amend the standards in effect for fluorescent lamp ballasts, including whether such standards should be amended so that they would be applicable to additional fluorescent lamp ballasts.

(C) Any amendment prescribed under subparagraph (B) shall apply to products manufactured after a date which is five years after—

(i) the effective date of the previous amendment; or

(ii) if the previous final rule did not amend the standards, the earliest date by which a previous amendment could have been effective;

except that in no case may any amended standard apply to products manufactured within three years after publication of the final rule establishing such amended standard.

(8)(A) Each fluorescent lamp ballast (other than replacement ballasts or ballasts described in subparagraph (C))—

(i)(I) manufactured on or after July 1, 2009;

(II) sold by the manufacturer on or after October 1, 2009; or

(III) incorporated into a luminaire by a luminaire manufacturer on or after July 1, 2010; and

(ii) designed—

(I) to operate at nominal input voltages of 120 or 277 volts;

(II) to operate with an input current frequency of 60 Hertz; and

(III) for use in connection with F34T12 lamps, F96T12/ES lamps, or F96T12HO/ES lamps;

shall have a power factor of 0.90 or greater and shall have a ballast efficacy factor of not less than the following:

Application for operation of	**Ballast input voltage**	**Total nominal lamp watts**	**Ballast efficacy factor**
One F34T12 lamp	120/277	34	2.61

Two F34T12 lamps	120/277	68	1.35
Two F96T12/ES lamps	120/277	120	0.77
Two F96T12HO/ES lamps	120/277	190	0.42.

(B) The standards described in subparagraph (A) shall apply to all ballasts covered by subparagraph (A)(ii) that are manufactured on or after July 1, 2010, or sold by the manufacturer on or after October 1, 2010.

(C) The standards described in subparagraph (A) do not apply to—

(i) a ballast that is designed for dimming to 50 percent or less of the maximum output of the ballast;

(ii) a ballast that is designed for use with 2 F96T12HO lamps at ambient temperatures of negative 20°F or less and for use in an outdoor sign; or

(iii) a ballast that has a power factor of less than 0.90 and is designed and labeled for use only in residential applications.

(9) RESIDENTIAL CLOTHES WASHERS MANUFACTURED ON OR AFTER JANUARY 1, 2011.—

(A) IN GENERAL.—A top-loading or front-loading standard-size residential clothes washer manufactured on or after January 1, 2011, shall have—

(i) a Modified Energy Factor of at least 1.26; and

(ii) a water factor of not more than 9.5.

(B) AMENDMENT OF STANDARDS.—

(i) IN GENERAL.—Not later than December 31, 2011, the Secretary shall publish a final rule determining whether to amend the standards in effect for clothes washers manufactured on or after January 1, 2015.

(ii) AMENDED STANDARDS.—The final rule shall contain any amended standards.

(10) RESIDENTIAL DISHWASHERS MANUFACTURED ON OR AFTER JANUARY 1, 2010.—

(A) IN GENERAL.—A dishwasher manufactured on or after January 1, 2010, shall—

(i) for a standard size dishwasher not exceed 355 kWh/year and 6.5 gallons per cycle; and

(ii) for a compact size dishwasher not exceed 260 kWh/year and 4.5 gallons per cycle.

(B) AMENDMENT OF STANDARDS.—

(i) IN GENERAL.—Not later than January 1, 2015, the Secretary shall publish a final rule determining whether to amend the standards for dishwashers manufactured on or after January 1, 2018.

(ii) AMENDED STANDARDS.—The final rule shall contain any amended standards.

(h) Standards for kitchen ranges and ovens

(1) Gas kitchen ranges and ovens having an electrical supply cord shall not be equipped with a constant burning pilot for products manufactured on or after January 1, 1990.

(2)(A) The Secretary shall publish a final rule no later than January 1, 1992, to determine if the standards established for kitchen ranges and ovens in this subsection should be amended. Such rule shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after January 1, 1995.

(B) The Secretary shall publish a final rule no later than January 1, 1997, to determine whether standards in effect for such products should be amended. Such rule shall apply to products manufactured on or after January 1, 2000.

(i) General service fluorescent lamps, general service incandescent lamps, intermediate base incandescent lamps, candelabra base incandescent lamps, and incandescent reflector lamps

(1) STANDARDS.—

(A) DEFINITION OF EFFECTIVE DATE.—In this paragraph (other than subparagraph (D)), the term "effective date" means, with respect to each type of lamp specified in a table contained in subparagraph (B), the last day of the period of months corresponding to that type of lamp (as specified in the table) that follows October 24, 1992.

(B) MINIMUM STANDARDS.—Each of the following general service fluorescent lamps and incandescent reflector lamps manufactured after the effective date specified in the tables contained in this paragraph shall meet or exceed the following lamp efficacy and CRI standards:

FLUORESCENT LAMPS

Lamp Type	Nominal Lamp Wattage	Minimum CRI	Minimum Average Lamp Efficacy (LPW)	Effective Date (Period of Months)
4-foot medium bi-pin	>35 W	69	75.0	36
	35 W	45	75.0	36
2-foot U-shaped	>35 W	69	68.0	36
	35 W	45	64.0	36
8-foot slimline	65 W	69	80.0	18
	65 W	45	80.0	18
8-foot high output	>100 W	69	80.0	18
	100 W	45	80.0	18

INCANDESCENT REFLECTOR LAMPS

Nominal Lamp Wattage	Minimum Average Lamp Efficacy (LPW)	Effective Date (Period of Months)
40–50	10.5	36
51–66	11.0	36
67–85	12.5	36
86–115	14.0	36
116–155	14.5	36
156–205	15.0	36

(C) EXEMPTIONS.—The standards specified in subparagraph (B) shall not apply to the following types of incandescent reflector lamps:

(i) Lamps rated at 50 watts or less that are ER30, BR30, BR40, or ER40 lamps.

(ii) Lamps rated at 65 watts that are BR30, BR40, or ER40 lamps.

(iii) R20 incandescent reflector lamps rated 45 watts or less.

(D) EFFECTIVE DATES.—

(i) ER, BR, AND BPAR LAMPS.—The standards specified in subparagraph (B) shall apply with respect to ER incandescent reflector lamps, BR incandescent reflector lamps, BPAR incandescent reflector lamps, and similar bulb shapes on and after January 1, 2008.

(ii) LAMPS BETWEEN 2.25–2.75 INCHES IN DIAMETER.—The standards specified in subparagraph (B) shall apply with respect to incandescent reflector lamps with a diameter of more than 2.25 inches, but not more than 2.75 inches, on and after the later of January 1, 2008, or the date that is 180 days after December 19, 2007.

(2) Notwithstanding section 6302(a)(5) of this title and section 6302(b) of this title, it shall not be unlawful for a manufacturer to sell a lamp which is in compliance with the law at the time such lamp was manufactured.

(3) Not less than 36 months after October 24, 1992, the Secretary shall initiate a rulemaking procedure and shall publish a final rule not later than the end of the 54-month period beginning on October 24, 1992, to determine if the standards established under paragraph (1) should be amended. Such rule shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after the 36-month period beginning on the date such final rule is published.

(4) Not less than eight years after October 24, 1992, the Secretary shall initiate a rulemaking procedure and shall publish a final rule not later than nine years and six months after October 24, 1992, to determine if the standards in effect for fluorescent lamps and incandescent lamps should be amended. Such rule shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after the 36-month period beginning on the date such final rule is published.

(5) Not later than the end of the 24-month period beginning on the date labeling requirements under section 6294(a)(2)(C) [2] of this title become effective, the Secretary shall initiate a rulemaking procedure to determine if the standards in effect for fluorescent lamps and incandescent lamps should be amended so that they would be applicable to additional general service fluorescent [3] and shall publish, not later than 18 months after initiating such rulemaking, a final rule including such amended standards, if any. Such rule shall provide that the amendment shall apply to products manufactured after a date which is 36 months after the date such rule is published.

(6) STANDARDS FOR GENERAL SERVICE LAMPS.—

(A) RULEMAKING BEFORE JANUARY 1, 2014.—

(i) IN GENERAL.—Not later than January 1, 2014, the Secretary shall initiate a rulemaking procedure to determine whether—

(I) standards in effect for general service lamps should be amended to establish more stringent standards than the standards specified in paragraph (1)(A); and

(II) the exemptions for certain incandescent lamps should be maintained or discontinued based, in part, on exempted lamp sales collected by the Secretary from manufacturers.

(ii) SCOPE.—The rulemaking—

(I) shall not be limited to incandescent lamp technologies; and

(II) shall include consideration of a minimum standard of 45 lumens per watt for general service lamps.

(iii) AMENDED STANDARDS.—If the Secretary determines that the standards in effect for general service incandescent lamps should be amended, the Secretary shall publish a final rule not later than January 1, 2017, with an effective date that is not earlier than 3 years after the date on which the final rule is published.

(iv) PHASED-IN EFFECTIVE DATES.—The Secretary shall consider phased-in effective dates under this subparagraph after considering—

(I) the impact of any amendment on manufacturers, retiring and repurposing existing equipment, stranded investments, labor contracts, workers, and raw materials; and

(II) the time needed to work with retailers and lighting designers to revise sales and marketing strategies.

(v) BACKSTOP REQUIREMENT.—If the Secretary fails to complete a rulemaking in accordance with clauses (i) through (iv) or if the final rule does not produce savings that are greater than or equal to the savings from a minimum efficacy standard of 45 lumens per watt, effective beginning January 1, 2020, the Secretary shall prohibit the sale of any general service lamp that does not meet a minimum efficacy standard of 45 lumens per watt.

(vi) STATE PREEMPTION.—Neither section 6297(b) of this title nor any other provision of law shall preclude California or Nevada from adopting, effective beginning on or after January 1, 2018—

(I) a final rule adopted by the Secretary in accordance with clauses (i) through (iv);

(II) if a final rule described in subclause (I) has not been adopted, the backstop requirement under clause (v); or

(III) in the case of California, if a final rule described in subclause (I) has not been adopted, any California regulations relating to these covered products adopted pursuant to State statute in effect as of December 19, 2007.

(B) RULEMAKING BEFORE JANUARY 1, 2020.—

(i) IN GENERAL.—Not later than January 1, 2020, the Secretary shall initiate a rulemaking procedure to determine whether—

(I) standards in effect for general service incandescent lamps should be amended to reflect lumen ranges with more stringent maximum wattage than the standards specified in paragraph (1)(A); and

(II) the exemptions for certain incandescent lamps should be maintained or discontinued based, in part, on exempted lamp sales data collected by the Secretary from manufacturers.

(ii) SCOPE.—The rulemaking shall not be limited to incandescent lamp technologies.

(iii) AMENDED STANDARDS.—If the Secretary determines that the standards in effect for general service incandescent lamps should be amended, the Secretary shall publish a final rule not later than January 1, 2022, with an effective date that is not earlier than 3 years after the date on which the final rule is published.

(iv) PHASED-IN EFFECTIVE DATES.—The Secretary shall consider phased-in effective dates under this subparagraph after considering—

(I) the impact of any amendment on manufacturers, retiring and repurposing existing equipment, stranded investments, labor contracts, workers, and raw materials; and

(II) the time needed to work with retailers and lighting designers to revise sales and marketing strategies.

(7)(A) With respect to any lamp to which standards are applicable under this subsection or any lamp specified in section 6317 of this title, the Secretary shall inform any Federal entity proposing actions which would adversely impact the energy consumption or energy efficiency of such lamp of the energy conservation consequences of such action. It shall be the responsibility of such Federal entity to carefully consider the Secretary's comments.

(B) Notwithstanding subsection (n)(1), the Secretary shall not be prohibited from amending any standard, by rule, to permit increased energy use or to decrease the minimum required energy efficiency of any lamp to which standards are applicable under this subsection if such action is warranted as a result of other Federal action (including restrictions on materials or processes) which would have the effect of either increasing the energy use or decreasing the energy efficiency of such product.

(8) Not later than the date on which standards established pursuant to this subsection become effective, or, with respect to high-intensity discharge lamps covered under section 6317 of this title, the effective date of standards established pursuant to such section, each manufacturer of a product to which such standards are applicable shall file with the Secretary a laboratory report certifying compliance with the applicable standard for each lamp type. Such report shall include the lumen output and wattage consumption for each lamp type as an average of measurements taken over the preceding 12-month period. With respect to lamp types which are not manufactured during the 12-month period preceding the date such standards become effective, such report shall be filed with the Secretary not later than the date which is 12 months after the date manufacturing is commenced and shall include the lumen output and wattage consumption for each such lamp type as an average of measurements taken during such 12-month period.

(j) Standards for showerheads and faucets

(1) The maximum water use allowed for any showerhead manufactured after January 1, 1994, is 2.5 gallons per minute when measured at a flowing water pressure of 80 pounds per square inch. Any such showerhead shall also meet the requirements of ASME/ANSI A112.18.1M–1989, 7.4.3(a).

(2) The maximum water use allowed for any of the following faucets manufactured after January 1, 1994, when measured at a flowing water pressure of 80 pounds per square inch, is as follows:

Lavatory faucets	2.5 gallons per minute
Lavatory replacement aerators	2.5 gallons per minute
Kitchen faucets	2.5 gallons per minute
Kitchen replacement aerators	2.5 gallons per minute
Metering faucets	0.25 gallons per cycle

(3)(A) If the maximum flow rate requirements or the design requirements of ASME/ANSI Standard A112.18.1M–1989 are amended to improve the efficiency of water use of any type or class of showerhead or faucet and are approved by ANSI, the Secretary shall, not later than 12 months after the date of such amendment, publish a final rule establishing an amended uniform national standard for that product at the level specified in the amended ASME/ANSI Standard A112.18.1M and providing that such standard shall apply to products manufactured after a date which is 12 months after the publication of such rule, unless the Secretary determines, by rule published in the Federal Register, that adoption of a uniform national standard at the level specified in such amended ASME/ANSI Standard A112.18.1M—

(i) is not technologically feasible and economically justified under subsection (o);

(ii) is not consistent with the maintenance of public health and safety; or

(iii) is not consistent with the purposes of this chapter.

(B)(i) As part of the rulemaking conducted under subparagraph (A), the Secretary shall also determine if adoption of a uniform national standard for any type or class of showerhead or faucet more stringent than such amended ASME/ANSI Standard A112.18.1M—

(I) would result in additional conservation of energy or water;

(II) would be technologically feasible and economically justified under subsection (o); and

(III) would be consistent with the maintenance of public health and safety.

(ii) If the Secretary makes an affirmative determination under clause (i), the final rule published under subparagraph (A) shall waive the provisions of section 6297(c) of this title with respect to any State regulation concerning the water use or water efficiency of such type or class of showerhead or faucet if such State regulation—

(I) is more stringent than amended ASME/ANSI Standard A112.18.1M for such type or class of showerhead or faucet and the standard in effect for such product on the day before the date on which a final rule is published under subparagraph (A); and

(II) is applicable to any sale or installation of all products in such type or class of showerhead or faucet.

(C) If, after any period of five consecutive years, the maximum flow rate requirements of the ASME/ANSI standard for showerheads are not amended to improve the efficiency of water use of such products, or after any such period such requirements for faucets are not amended to improve the efficiency of water use of such products, the Secretary shall, not later than six months after the end of such five-year period, publish a final rule waiving the provisions of section 6297(c) of this title with respect to any State regulation concerning the water use or water efficiency of such type or class of showerhead or faucet if such State regulation—

(i) is more stringent than the standards in effect for such type of class of showerhead or faucet; and

(ii) is applicable to any sale or installation of all products in such type or class of showerhead or faucet.

(k) Standards for water closets and urinals

(1)(A) Except as provided in subparagraph (B), the maximum water use allowed in gallons per flush for any of the following water closets manufactured after January 1, 1994, is the following:

Gravity tank-type toilets	1.6 gpf.
Flushometer tank toilets	1.6 gpf.
Electromechanical hydraulic toilets	1.6 gpf.
Blowout toilets	3.5 gpf.

(B) The maximum water use allowed for any gravity tank-type white 2-piece toilet which bears an adhesive label conspicuous upon installation consisting of the words "Commercial Use Only" manufactured after January 1, 1994, and before January 1, 1997, is 3.5 gallons per flush.

(C) The maximum water use allowed for flushometer valve toilets, other than blowout toilets, manufactured after January 1, 1997, is 1.6 gallons per flush.

(2) The maximum water use allowed for any urinal manufactured after January 1, 1994, is 1.0 gallon per flush.

(3)(A) If the maximum flush volume requirements of ASME Standard A112.19.6–1990 are amended to improve the efficiency of water use of any low consumption water closet or low consumption urinal and are approved by ANSI, the Secretary shall, not later than 12 months after the date of such amendment, publish a final rule establishing an amended uniform national standard for that product at the level specified in amended ASME/ANSI Standard A112.19.6 and providing that such standard shall apply to products manufactured after a date which is one year after the publication of such rule, unless the Secretary determines, by rule published in the Federal Register, that adoption of a uniform national standard at the level specified in such amended ASME/ANSI Standard A112.19.6—

(i) is not technologically feasible and economically justified under subsection (o);

(ii) is not consistent with the maintenance of public health and safety; or

(iii) is not consistent with the purposes of this chapter.

(B)(i) As part of the rulemaking conducted under subparagraph (A), the Secretary shall also determine if adoption of a uniform national standard for any type or class of low consumption water closet or low consumption urinal more stringent than such amended ASME/ANSI Standard A112.19.6 for such product—

(I) would result in additional conservation of energy or water;

(II) would be technologically feasible and economically justified under subsection (o); and

(III) would be consistent with the maintenance of public health and safety.

(ii) If the Secretary makes an affirmative determination under clause (i), the final rule published under subparagraph (A) shall waive the provisions of section 6297(c) of this title with respect to any State regulation concerning the water use or water efficiency of such type or class of low consumption water closet or low consumption urinal if such State regulation—

(I) is more stringent than amended ASME/ANSI Standard A112.19.6 for such type or class of low consumption water closet or low consumption urinal and the standard in effect for such product on the day before the date on which a final rule is published under subparagraph (A); and

(II) is applicable to any sale or installation of all products in such type or class of low

consumption water closet or low consumption urinal.

(C) If, after any period of five consecutive years, the maximum flush volume requirements of the ASME/ANSI standard for low consumption water closets are not amended to improve the efficiency of water use of such products, or after any such period such requirements for low consumption urinals are not amended to improve the efficiency of water use of such products, the Secretary shall, not later than six months after the end of such five-year period, publish a final rule waiving the provisions of section 6297(c) of this title with respect to any State regulation concerning the water use or water efficiency of such type or class of water closet or urinal if such State regulation—

(i) is more stringent than the standards in effect for such type or class of water closet or urinal; and

(ii) is applicable to any sale or installation of all products in such type or class of water closet or urinal.

(l) Standards for other covered products

(1) The Secretary may prescribe an energy conservation standard for any type (or class) of covered products of a type specified in paragraph (20) of section 6292(a) of this title if the requirements of subsections (o) and (p) are met and the Secretary determines that—

(A) the average per household energy use within the United States by products of such type (or class) exceeded 150 kilowatt-hours (or its Btu equivalent) for any 12-month period ending before such determination;

(B) the aggregate household energy use within the United States by products of such type (or class) exceeded 4,200,000,000 kilowatt-hours (or its Btu equivalent) for any such 12-month period;

(C) substantial improvement in the energy efficiency of products of such type (or class) is technologically feasible; and

(D) the application of a labeling rule under section 6294 of this title to such type (or class) is not likely to be sufficient to induce manufacturers to produce, and consumers and other persons to purchase, covered products of such type (or class) which achieve the maximum energy efficiency which is technologically feasible and economically justified.

(2) Any new or amended standard for covered products of a type specified in paragraph (20) of section 6292(a) of this title shall not apply to products manufactured within five years after the publication of a final rule establishing such standard.

(3) The Secretary may, in accordance with subsections (o) and (p), prescribe an energy conservation standard for television sets. Any such standard may not become effective with respect to products manufactured before January 1, 1992.

(4) ENERGY EFFICIENCY STANDARDS FOR CERTAIN LAMPS.—

(A) IN GENERAL.—The Secretary shall prescribe an energy efficiency standard for rough service lamps, vibration service lamps, 3-way incandescent lamps, 2,601–3,300 lumen general service incandescent lamps, and shatter-resistant lamps in accordance with this paragraph.

(B) BENCHMARKS.—Not later than 1 year after December 19, 2007, the Secretary, in consultation with the National Electrical Manufacturers Association, shall—

(i) collect actual data for United States unit sales for each of calendar years 1990 through 2006 for each of the 5 types of lamps described in subparagraph (A) to determine the historical growth rate of the type of lamp; and

(ii) construct a model for each type of lamp based on coincident economic indicators that closely match the historical annual growth rate of the type of lamp to provide a neutral comparison benchmark to model future unit sales after calendar year 2006.

(C) ACTUAL SALES DATA.—

(i) IN GENERAL.—Effective for each of calendar years 2010 through 2025, the Secretary, in consultation with the National Electrical Manufacturers Association, shall—

(I) collect actual United States unit sales data for each of 5 types of lamps described in

subparagraph (A); and

(II) not later than 90 days after the end of each calendar year, compare the lamp sales in that year with the sales predicted by the comparison benchmark for each of the 5 types of lamps described in subparagraph (A).

(ii) CONTINUATION OF TRACKING.—

(I) DETERMINATION.—Not later than January 1, 2023, the Secretary shall determine if actual sales data should be tracked for the lamp types described in subparagraph (A) after calendar year 2025.

(II) CONTINUATION.—If the Secretary finds that the market share of a lamp type described in subparagraph (A) could significantly erode the market share for general service lamps, the Secretary shall continue to track the actual sales data for the lamp type.

(D) ROUGH SERVICE LAMPS.—

(i) IN GENERAL.—Effective beginning with the first year that the reported annual sales rate for rough service lamps demonstrates actual unit sales of rough service lamps that achieve levels that are at least 100 percent higher than modeled unit sales for that same year, the Secretary shall—

(I) not later than 90 days after the end of the previous calendar year, issue a finding that the index has been exceeded; and

(II) not later than the date that is 1 year after the end of the previous calendar year, complete an accelerated rulemaking to establish an energy conservation standard for rough service lamps.

(ii) BACKSTOP REQUIREMENT.—If the Secretary fails to complete an accelerated rulemaking in accordance with clause (i)(II), effective beginning 1 year after the date of the issuance of the finding under clause (i)(I), the Secretary shall require rough service lamps to—

(I) have a shatter-proof coating or equivalent technology that is compliant with NSF/ANSI 51 and is designed to contain the glass if the glass envelope of the lamp is broken and to provide effective containment over the life of the lamp;

(II) have a maximum 40-watt limitation; and

(III) be sold at retail only in a package containing 1 lamp.

(E) VIBRATION SERVICE LAMPS.—

(i) IN GENERAL.—Effective beginning with the first year that the reported annual sales rate for vibration service lamps demonstrates actual unit sales of vibration service lamps that achieve levels that are at least 100 percent higher than modeled unit sales for that same year, the Secretary shall—

(I) not later than 90 days after the end of the previous calendar year, issue a finding that the index has been exceeded; and

(II) not later than the date that is 1 year after the end of the previous calendar year, complete an accelerated rulemaking to establish an energy conservation standard for vibration service lamps.

(ii) BACKSTOP REQUIREMENT.—If the Secretary fails to complete an accelerated rulemaking in accordance with clause (i)(II), effective beginning 1 year after the date of the issuance of the finding under clause (i)(I), the Secretary shall require vibration service lamps to—

(I) have a maximum 40-watt limitation; and

(II) be sold at retail only in a package containing 1 lamp.

(F) 3-WAY INCANDESCENT LAMPS.—

(i) IN GENERAL.—Effective beginning with the first year that the reported annual sales rate

for 3-way incandescent lamps demonstrates actual unit sales of 3-way incandescent lamps that achieve levels that are at least 100 percent higher than modeled unit sales for that same year, the Secretary shall—

(I) not later than 90 days after the end of the previous calendar year, issue a finding that the index has been exceeded; and

(II) not later than the date that is 1 year after the end of the previous calendar year, complete an accelerated rulemaking to establish an energy conservation standard for 3-way incandescent lamps.

(ii) BACKSTOP REQUIREMENT.—If the Secretary fails to complete an accelerated rulemaking in accordance with clause (i)(II), effective beginning 1 year after the date of issuance of the finding under clause (i)(I), the Secretary shall require that—

(I) each filament in a 3-way incandescent lamp meet the new maximum wattage requirements for the respective lumen range established under subsection (i)(1)(A) [2] ; and

(II) 3-way lamps be sold at retail only in a package containing 1 lamp.

(G) 2,601–3,300 LUMEN GENERAL SERVICE INCANDESCENT LAMPS.—Effective beginning with the first year that the reported annual sales rate demonstrates actual unit sales of 2,601–3,300 lumen general service incandescent lamps in the lumen range of 2,601 through 3,300 lumens (or, in the case of a modified spectrum, in the lumen range of 1,951 through 2,475 lumens) that achieve levels that are at least 100 percent higher than modeled unit sales for that same year, the Secretary shall impose—

(i) a maximum 95-watt limitation on general service incandescent lamps in the lumen range of 2,601 through 3,300 lumens; and

(ii) a requirement that those lamps be sold at retail only in a package containing 1 lamp.

(H) SHATTER-RESISTANT LAMPS.—

(i) IN GENERAL.—Effective beginning with the first year that the reported annual sales rate for shatter-resistant lamps demonstrates actual unit sales of shatter-resistant lamps that achieve levels that are at least 100 percent higher than modeled unit sales for that same year, the Secretary shall—

(I) not later than 90 days after the end of the previous calendar year, issue a finding that the index has been exceeded; and

(II) not later than the date that is 1 year after the end of the previous calendar year, complete an accelerated rulemaking to establish an energy conservation standard for shatter-resistant lamps.

(ii) BACKSTOP REQUIREMENT.—If the Secretary fails to complete an accelerated rulemaking in accordance with clause (i)(II), effective beginning 1 year after the date of issuance of the finding under clause (i)(I), the Secretary shall impose—

(I) a maximum wattage limitation of 40 watts on shatter resistant lamps; and

(II) a requirement that those lamps be sold at retail only in a package containing 1 lamp.

(I) RULEMAKINGS BEFORE JANUARY 1, 2025.—

(i) IN GENERAL.—Except as provided in clause (ii), if the Secretary issues a final rule prior to January 1, 2025, establishing an energy conservation standard for any of the 5 types of lamps for which data collection is required under any of subparagraphs (D) through (G), the requirement to collect and model data for that type of lamp shall terminate unless, as part of the rulemaking, the Secretary determines that continued tracking is necessary.

(ii) BACKSTOP REQUIREMENT.—If the Secretary imposes a backstop requirement as a result of a failure to complete an accelerated rulemaking in accordance with clause (i)(II) of any

of subparagraphs (D) through (G),[4] the requirement to collect and model data for the applicable type of lamp shall continue for an additional 2 years after the effective date of the backstop requirement.

(m) Amendment of standards

(1) In general

Not later than 6 years after issuance of any final rule establishing or amending a standard, as required for a product under this part, the Secretary shall publish—

(A) a notice of the determination of the Secretary that standards for the product do not need to be amended, based on the criteria established under subsection (n)(2); or

(B) a notice of proposed rulemaking including new proposed standards based on the criteria established under subsection (o) and the procedures established under subsection (p).

(2) Notice

If the Secretary publishes a notice under paragraph (1), the Secretary shall—

(A) publish a notice stating that the analysis of the Department is publicly available; and

(B) provide an opportunity for written comment.

(3) Amendment of standard; new determination

(A) Amendment of standard

Not later than 2 years after a notice is issued under paragraph (1)(B), the Secretary shall publish a final rule amending the standard for the product.

(B) New determination

Not later than 3 years after a determination under paragraph (1)(A), the Secretary shall make a new determination and publication under subparagraph (A) or (B) of paragraph (1).

(4) Application to products

(A) In general

Except as provided in subparagraph (B), an amendment prescribed under this subsection shall apply to—

(i) with respect to refrigerators, refrigerator-freezers, freezers, room air conditioners, dishwashers, clothes washers, clothes dryers, fluorescent lamp ballasts, and kitchen ranges and ovens, such a product that is manufactured after the date that is 3 years after publication of the final rule establishing an applicable standard; and

(ii) with respect to central air conditioners, heat pumps, water heaters, pool heaters, direct heating equipment, and furnaces, such a product that is manufactured after the date that is 5 years after publication of the final rule establishing an applicable standard.

(B) Other new standards

A manufacturer shall not be required to apply new standards to a product with respect to which other new standards have been required during the prior 6-year period.

(5) Reports

The Secretary shall promptly submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate—

(A) a progress report every 180 days on compliance with this section, including a specific plan to remedy any failures to comply with deadlines for action established under this section; and

(B) all required reports to the Court or to any party to the Consent Decree in State of New York v Bodman, Consolidated Civil Actions No. 05 Civ. 7807 and No. 05 Civ. 7808.

(n) Petition for amended standard

(1) With respect to each covered product described in paragraphs (1) through (11), and in paragraphs (13) and (14) of section 6292(a) of this title, any person may petition the Secretary to

conduct a rulemaking to determine for a covered product if the standards contained either in the last final rule required under subsections (b) through (i) of this section or in a final rule published under this section should be amended.

(2) The Secretary shall grant a petition if he finds that it contains evidence which, assuming no other evidence were considered, provides an adequate basis for amending the standards under the following criteria—

(A) amended standards will result in significant conservation of energy;

(B) amended standards are technologically feasible; and

(C) amended standards are cost effective as described in subsection (o)(2)(B)(i)(II).

The grant of a petition by the Secretary under this subsection creates no presumption with respect to the Secretary's determination of any of the criteria in a rulemaking under this section.

(3) NOTICE OF DECISION.—Not later than 180 days after the date of receiving a petition, the Secretary shall publish in the Federal Register a notice of, and explanation for, the decision of the Secretary to grant or deny the petition.

(4) NEW OR AMENDED STANDARDS.—Not later than 3 years after the date of granting a petition for new or amended standards, the Secretary shall publish in the Federal Register—

(A) a final rule that contains the new or amended standards; or

(B) a determination that no new or amended standards are necessary.

(5) An amendment prescribed under this subsection shall apply to products manufactured after a date which is 5 years after—

(A) the effective date of the previous amendment pursuant to this part; or

(B) if the previous final rule published under this part did not amend the standard, the earliest date by which a previous amendment could have been in effect, except that in no case may an amended standard apply to products manufactured within 3 years (for refrigerators, refrigerator-freezers, and freezers, room air conditioners, dishwashers, clothes washers, clothes dryers, fluorescent lamp ballasts, general service fluorescent lamps, incandescent reflector lamps, and kitchen ranges and ovens) or 5 years (for central air conditioners and heat pumps, water heaters, pool heaters, direct heating equipment and furnaces) after publication of the final rule establishing a standard.

(o) Criteria for prescribing new or amended standards

(1) The Secretary may not prescribe any amended standard which increases the maximum allowable energy use, or, in the case of showerheads, faucets, water closets, or urinals, water use, or decreases the minimum required energy efficiency, of a covered product.

(2)(A) Any new or amended energy conservation standard prescribed by the Secretary under this section for any type (or class) of covered product shall be designed to achieve the maximum improvement in energy efficiency, or, in the case of showerheads, faucets, water closets, or urinals, water efficiency, which the Secretary determines is technologically feasible and economically justified.

(B)(i) In determining whether a standard is economically justified, the Secretary shall, after receiving views and comments furnished with respect to the proposed standard, determine whether the benefits of the standard exceed its burdens by, to the greatest extent practicable, considering—

(I) the economic impact of the standard on the manufacturers and on the consumers of the products subject to such standard;

(II) the savings in operating costs throughout the estimated average life of the covered product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered products which are likely to result from the imposition of the standard;

(III) the total projected amount of energy, or as applicable, water, savings likely to result directly from the imposition of the standard;

(IV) any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard;

(V) the impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;

(VI) the need for national energy and water conservation; and

(VII) other factors the Secretary considers relevant.

(ii) For purposes of clause (i)(V), the Attorney General shall make a determination of the impact, if any, of any lessening of competition likely to result from such standard and shall transmit such determination, not later than 60 days after the publication of a proposed rule prescribing or amending an energy conservation standard, in writing to the Secretary, together with an analysis of the nature and extent of such impact. Any such determination and analysis shall be published by the Secretary in the Federal Register.

(iii) If the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy, and as applicable, water, savings during the first year that the consumer will receive as a result of the standard, as calculated under the applicable test procedure, there shall be a rebuttable presumption that such standard level is economically justified. A determination by the Secretary that such criterion is not met shall not be taken into consideration in the Secretary's determination of whether a standard is economically justified.

(3) The Secretary may not prescribe an amended or new standard under this section for a type (or class) of covered product if—

(A) for products other than dishwashers, clothes washers, clothes dryers, and kitchen ranges and ovens, a test procedure has not been prescribed pursuant to section 6293 of this title with respect to that type (or class) of product; or

(B) the Secretary determines, by rule, that the establishment of such standard will not result in significant conservation of energy or, in the case of showerheads, faucets, water closets, or urinals, water, or that the establishment of such standard is not technologically feasible or economically justified.

For purposes of section 6297 of this title, a determination under subparagraph (B) with respect to any type (or class) of covered products shall have the same effect as would a standard prescribed for such type (or class).

(4) The Secretary may not prescribe an amended or new standard under this section if the Secretary finds (and publishes such finding) that interested persons have established by a preponderance of the evidence that the standard is likely to result in the unavailability in the United States in any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States at the time of the Secretary's finding. The failure of some types (or classes) to meet this criterion shall not affect the Secretary's determination of whether to prescribe a standard for other types (or classes).

(5) The Secretary may set more than 1 energy conservation standard for products that serve more than 1 major function by setting 1 energy conservation standard for each major function.

(6) REGIONAL STANDARDS FOR FURNACES, CENTRAL AIR CONDITIONERS, AND HEAT PUMPS.—

(A) IN GENERAL.—In any rulemaking to establish a new or amended standard, the Secretary may consider the establishment of separate standards by geographic region for furnaces (except boilers), central air conditioners, and heat pumps.

(B) NATIONAL AND REGIONAL STANDARDS.—

(i) NATIONAL STANDARD.—If the Secretary establishes a regional standard for a product, the Secretary shall establish a base national standard for the product.

(ii) REGIONAL STANDARDS.—If the Secretary establishes a regional standard for a product, the Secretary may establish more restrictive standards for the product by geographic region as follows:

(I) For furnaces, the Secretary may establish 1 additional standard that is applicable in a

geographic region defined by the Secretary.

(II) For any cooling product, the Secretary may establish 1 or 2 additional standards that are applicable in 1 or 2 geographic regions as may be defined by the Secretary.

(C) BOUNDARIES OF GEOGRAPHIC REGIONS.—

(i) IN GENERAL.—Subject to clause (ii), the boundaries of additional geographic regions established by the Secretary under this paragraph shall include only contiguous States.

(ii) ALASKA AND HAWAII.—The States of Alaska and Hawaii may be included under this paragraph in a geographic region that the States are not contiguous to.

(iii) INDIVIDUAL STATES.—Individual States shall be placed only into a single region under this paragraph.

(D) PREREQUISITES.—In establishing additional regional standards under this paragraph, the Secretary shall—

(i) establish additional regional standards only if the Secretary determines that—

(I) the establishment of additional regional standards will produce significant energy savings in comparison to establishing only a single national standard; and

(II) the additional regional standards are economically justified under this paragraph; and

(ii) consider the impact of the additional regional standards on consumers, manufacturers, and other market participants, including product distributors, dealers, contractors, and installers.

(E) APPLICATION; EFFECTIVE DATE.—

(i) BASE NATIONAL STANDARD.—Any base national standard established for a product under this paragraph shall—

(I) be the minimum standard for the product; and

(II) apply to all products manufactured or imported into the United States on and after the effective date for the standard.

(ii) REGIONAL STANDARDS.—Any additional and more restrictive regional standard established for a product under this paragraph shall apply to any such product installed on or after the effective date of the standard in States in which the Secretary has designated the standard to apply.

(F) CONTINUATION OF REGIONAL STANDARDS.—

(i) IN GENERAL.—In any subsequent rulemaking for any product for which a regional standard has been previously established, the Secretary shall determine whether to continue the establishment of separate regional standards for the product.

(ii) REGIONAL STANDARD NO LONGER APPROPRIATE.—Except as provided in clause (iii), if the Secretary determines that regional standards are no longer appropriate for a product, beginning on the effective date of the amended standard for the product—

(I) there shall be 1 base national standard for the product with Federal enforcement; and

(II) State authority for enforcing a regional standard for the product shall terminate.

(iii) REGIONAL STANDARD APPROPRIATE BUT STANDARD OR REGION CHANGED.—

(I) STATE NO LONGER CONTAINED IN REGION.—Subject to subclause (III), if a State is no longer contained in a region in which a regional standard that is more stringent than the base national standard applies, the authority of the State to enforce the regional standard shall terminate.

(II) STANDARD OR REGION REVISED SO THAT EXISTING REGIONAL STANDARD EQUALS BASE NATIONAL STANDARD.—If the Secretary revises a base national standard for a product or the geographic definition of a region so that an existing

regional standard for a State is equal to the revised base national standard—

(aa) the authority of the State to enforce the regional standard shall terminate on the effective date of the revised base national standard; and

(bb) the State shall be subject to the revised base national standard.

(III) STANDARD OR REGION REVISED SO THAT EXISTING REGIONAL STANDARD EQUALS BASE NATIONAL STANDARD.—If the Secretary revises a base national standard for a product or the geographic definition of a region so that the standard for a State is lower than the previously approved regional standard, the State may continue to enforce the previously approved standard level.

(iv) WAIVER OF FEDERAL PREEMPTION.—Nothing in this paragraph diminishes the authority of a State to enforce a State regulation for which a waiver of Federal preemption has been granted under section 6297(d) of this title.

(G) ENFORCEMENT.—

(i) BASE NATIONAL STANDARD.—

(I) IN GENERAL.—The Secretary shall enforce any base national standard.

(II) TRADE ASSOCIATION CERTIFICATION PROGRAMS.—In enforcing the base national standard, the Secretary shall use, to the maximum extent practicable, national standard nationally recognized certification programs of trade associations.

(ii) REGIONAL STANDARDS.—

(I) ENFORCEMENT PLAN.—Not later than 90 days after the date of the issuance of a final rule that establishes a regional standard, the Secretary shall initiate a rulemaking to develop and implement an effective enforcement plan for regional standards for the products that are covered by the final rule.

(II) RESPONSIBLE ENTITIES.—Any rules regarding enforcement of a regional standard shall clearly specify which entities are legally responsible for compliance with the standards and for making any required information or labeling disclosures.

(III) FINAL RULE.—Not later than 15 months after the date of the issuance of a final rule that establishes a regional standard for a product, the Secretary shall promulgate a final rule covering enforcement of regional standards for the product.

(IV) INCORPORATION BY STATES AND LOCALITIES.—A State or locality may incorporate any Federal regional standard into State or local building codes or State appliance standards.

(V) STATE ENFORCEMENT.—A State agency may seek enforcement of a Federal regional standard in a Federal court of competent jurisdiction.

(H) INFORMATION DISCLOSURE.—

(i) IN GENERAL.—Not later than 90 days after the date of the publication of a final rule that establishes a regional standard for a product, the Federal Trade Commission shall undertake a rulemaking to determine the appropriate 1 or more methods for disclosing information so that consumers, distributors, contractors, and installers can easily determine whether a specific piece of equipment that is installed in a specific building is in conformance with the regional standard that applies to the building.

(ii) METHODS.—A method of disclosing information under clause (i) may include—

(I) modifications to the Energy Guide label; or

(II) other methods that make it easy for consumers and installers to use and understand at the point of installation.

(iii) COMPLETION OF RULEMAKING.—The rulemaking shall be completed not later 15 months after the date of the publication of a final rule that establishes a regional standard for a

product.

(p) Procedure for prescribing new or amended standards

Any new or amended energy conservation standard shall be prescribed in accordance with the following procedure:

(1) A proposed rule which prescribes an amended or new energy conservation standard or prescribes no amendment or no new standard for a type (or class) of covered products shall be published in the Federal Register. In prescribing any such proposed rule with respect to a standard, the Secretary shall determine the maximum improvement in energy efficiency or maximum reduction in energy use that is technologically feasible for each type (or class) of covered products. If such standard is not designed to achieve such efficiency or use, the Secretary shall state in the proposed rule the reasons therefor.

(2) After the publication of such proposed rulemaking, the Secretary shall, in accordance with section 6306 of this title, afford interested persons an opportunity, during a period of not less than 60 days, to present oral and written comments (including an opportunity to question those who make such presentations, as provided in such section) on matters relating to such proposed rule, including—

(A) whether the standard to be prescribed is economically justified (taking into account those factors which the Secretary must consider under subsection (o)(2)) or will result in the effects described in subsection (o)(4);

(B) whether the standard will achieve the maximum improvement in energy efficiency which is technologically feasible;

(C) if the standard will not achieve such improvement, whether the reasons for not achieving such improvement are adequate; and

(D) whether such rule should prescribe a level of energy use or efficiency which is higher or lower than that which would otherwise apply in the case of any group of products within the type (or class) that will be subject to such standard.

(3) A final rule prescribing an amended or new energy conservation standard or prescribing no amended or new standard for a type (or class) of covered products shall be published as soon as is practicable, but not less than 90 days, after publication of the proposed rule in the Federal Register.

(4) DIRECT FINAL RULES.—

(A) IN GENERAL.—On receipt of a statement that is submitted jointly by interested persons that are fairly representative of relevant points of view (including representatives of manufacturers of covered products, States, and efficiency advocates), as determined by the Secretary, and contains recommendations with respect to an energy or water conservation standard—

(i) if the Secretary determines that the recommended standard contained in the statement is in accordance with subsection (o) or section 6313(a)(6)(B) of this title, as applicable, the Secretary may issue a final rule that establishes an energy or water conservation standard and is published simultaneously with a notice of proposed rulemaking that proposes a new or amended energy or water conservation standard that is identical to the standard established in the final rule to establish the recommended standard (referred to in this paragraph as a "direct final rule"); or

(ii) if the Secretary determines that a direct final rule cannot be issued based on the statement, the Secretary shall publish a notice of the determination, together with an explanation of the reasons for the determination.

(B) PUBLIC COMMENT.—The Secretary shall solicit public comment for a period of at least 110 days with respect to each direct final rule issued by the Secretary under subparagraph (A)(i).

(C) WITHDRAWAL OF DIRECT FINAL RULES.—

(i) IN GENERAL.—Not later than 120 days after the date on which a direct final rule

issued under subparagraph (A)(i) is published in the Federal Register, the Secretary shall withdraw the direct final rule if—

(I) the Secretary receives 1 or more adverse public comments relating to the direct final rule under subparagraph (B)(i) [5] or any alternative joint recommendation; and

(II) based on the rulemaking record relating to the direct final rule, the Secretary determines that such adverse public comments or alternative joint recommendation may provide a reasonable basis for withdrawing the direct final rule under subsection (o), section 6313(a)(6)(B) of this title, or any other applicable law.

(ii) ACTION ON WITHDRAWAL.—On withdrawal of a direct final rule under clause (i), the Secretary shall—

(I) proceed with the notice of proposed rulemaking published simultaneously with the direct final rule as described in subparagraph (A)(i); and

(II) publish in the Federal Register the reasons why the direct final rule was withdrawn.

(iii) TREATMENT OF WITHDRAWN DIRECT FINAL RULES.—A direct final rule that is withdrawn under clause (i) shall not be considered to be a final rule for purposes of subsection (o).

(D) EFFECT OF PARAGRAPH.—Nothing in this paragraph authorizes the Secretary to issue a direct final rule based solely on receipt of more than 1 statement containing recommended standards relating to the direct final rule.

(q) Special rule for certain types or classes of products

(1) A rule prescribing an energy conservation standard for a type (or class) of covered products shall specify a level of energy use or efficiency higher or lower than that which applies (or would apply) for such type (or class) for any group of covered products which have the same function or intended use, if the Secretary determines that covered products within such group—

(A) consume a different kind of energy from that consumed by other covered products within such type (or class); or

(B) have a capacity or other performance-related feature which other products within such type (or class) do not have and such feature justifies a higher or lower standard from that which applies (or will apply) to other products within such type (or class).

In making a determination under this paragraph concerning whether a performance-related feature justifies the establishment of a higher or lower standard, the Secretary shall consider such factors as the utility to the consumer of such a feature, and such other factors as the Secretary deems appropriate.

(2) Any rule prescribing a higher or lower level of energy use or efficiency under paragraph (1) shall include an explanation of the basis on which such higher or lower level was established.

(r) Inclusion in standards of test procedures and other requirements

Any new or amended energy conservation standard prescribed under this section shall include, where applicable, test procedures prescribed in accordance with section 6293 of this title and may include any requirement which the Secretary determines is necessary to assure that each covered product to which such standard applies meets the required minimum level of energy efficiency or maximum quantity of energy use specified in such standard.

(s) Determination of compliance with standards

Compliance with, and performance under, the energy conservation standards (except for design standards authorized by this part) established in, or prescribed under, this section shall be determined using the test procedures and corresponding compliance criteria prescribed under section 6293 of this title.

(t) Small manufacturer exemption

(1) Subject to paragraph (2), the Secretary may, on application of any manufacturer, exempt such manufacturer from all or part of the requirements of any energy conservation standard established in or prescribed under this section for any period not longer than the 24-month period beginning on the date such rule becomes effective, if the Secretary finds that the annual gross revenues of such manufacturer from all its operations (including the manufacture and sale of covered products) does not exceed $8,000,000 for the 12-month period preceding the date of the application. In making such finding with respect to any manufacturer, the Secretary shall take into account the annual gross revenues of any other person who controls, is controlled by, or is under common control with, such manufacturer.

(2) The Secretary may not exercise the authority granted under paragraph (1) with respect to any type (or class) of covered product subject to an energy conservation standard under this section unless the Secretary makes a finding, after obtaining the written views of the Attorney General, that a failure to allow an exemption under paragraph (1) would likely result in a lessening of competition.

(u) Battery charger and external power supply electric energy consumption

(1)(A) Not later than 18 months after August 8, 2005, the Secretary shall, after providing notice and an opportunity for comment, prescribe, by rule, definitions and test procedures for the power use of battery chargers and external power supplies.

(B) In establishing the test procedures under subparagraph (A), the Secretary shall—

(i) consider existing definitions and test procedures used for measuring energy consumption in standby mode and other modes; and

(ii) assess the current and projected future market for battery chargers and external power supplies.

(C) The assessment under subparagraph (B)(ii) shall include—

(i) estimates of the significance of potential energy savings from technical improvements to battery chargers and external power supplies; and

(ii) suggested product classes for energy conservation standards.

(D) Not later than 18 months after August 8, 2005, the Secretary shall hold a scoping workshop to discuss and receive comments on plans for developing energy conservation standards for energy use for battery chargers and external power supplies.

(E) EXTERNAL POWER SUPPLIES AND BATTERY CHARGERS.—

(i) ENERGY CONSERVATION STANDARDS.—

(I) EXTERNAL POWER SUPPLIES.—Not later than 2 years after August 8, 2005, the Secretary shall issue a final rule that determines whether energy conservation standards shall be issued for external power supplies or classes of external power supplies.

(II) BATTERY CHARGERS.—Not later than July 1, 2011, the Secretary shall issue a final rule that prescribes energy conservation standards for battery chargers or classes of battery chargers or determine that no energy conservation standard is technically feasible and economically justified.

(ii) For each product class, any energy conservation standards issued under clause (i) shall be set at the lowest level of energy use that—

(I) meets the criteria and procedures of subsections (o), (p), (q), (r), (s), and (t); and

(II) would result in significant overall annual energy savings, considering standby mode and other operating modes.

(2) The Secretary and the Administrator shall collaborate and develop programs (including programs under section 6294a of this title and other voluntary industry agreements or codes of conduct) that are designed to reduce standby mode energy use.

(3) EFFICIENCY STANDARDS FOR CLASS A EXTERNAL POWER SUPPLIES.—

(A) IN GENERAL.—Subject to subparagraphs (B) through (E), a class A external power supply manufactured on or after the later of July 1, 2008, or December 19, 2007, shall meet the

following standards:

Active Mode	
Nameplate Output	**Required Efficiency (decimal equivalent of a percentage)**
Less than 1 watt	0.5 times the Nameplate Output
From 1 watt to not more than 51 watts	The sum of 0.09 times the Natural Logarithm of the Nameplate Output and 0.5
Greater than 51 watts	0.85

No-Load Mode	
Nameplate Output	**Maximum Consumption**
Not more than 250 watts	0.5 watts

(B) NONCOVERED SUPPLIES.—A class A external power supply shall not be subject to subparagraph (A) if the class A external power supply is—

(i) manufactured during the period beginning on July 1, 2008, and ending on June 30, 2015; and

(ii) made available by the manufacturer as a service part or a spare part for an end-use product—

(I) that constitutes the primary load; and

(II) was manufactured before July 1, 2008.

(C) MARKING.—Any class A external power supply manufactured on or after the later of July 1, 2008 or December 19, 2007, shall be clearly and permanently marked in accordance with the External Power Supply International Efficiency Marking Protocol, as referenced in the "Energy Star Program Requirements for Single Voltage External AC–DC and AC–AC Power Supplies, version 1.1" published by the Environmental Protection Agency.

(D) AMENDMENT OF STANDARDS.—

(i) FINAL RULE BY JULY 1, 2011.—

(I) IN GENERAL.—Not later than July 1, 2011, the Secretary shall publish a final rule to determine whether the standards established under subparagraph (A) should be amended.

(II) ADMINISTRATION.—The final rule shall—

(aa) contain any amended standards; and

(bb) apply to products manufactured on or after July 1, 2013.

(ii) FINAL RULE BY JULY 1, 2021.—

(I) IN GENERAL.—Not later than July 1, 2021 the Secretary shall publish a final rule to

determine whether the standards then in effect should be amended.

(II) ADMINISTRATION.—The final rule shall—

(aa) contain any amended standards; and

(bb) apply to products manufactured on or after July 1, 2023.

(E) NONAPPLICATION OF NO-LOAD MODE ENERGY EFFICIENCY STANDARDS TO EXTERNAL POWER SUPPLIES FOR CERTAIN SECURITY OR LIFE SAFETY ALARMS OR SURVEILLANCE SYSTEMS.—

(i) DEFINITION OF SECURITY OR LIFE SAFETY ALARM OR SURVEILLANCE SYSTEM.—In this subparagraph:

(I) IN GENERAL.—The term "security or life safety alarm or surveillance system" means equipment designed and marketed to perform any of the following functions (on a continuous basis):

(aa) Monitor, detect, record, or provide notification of intrusion or access to real property or physical assets or notification of threats to life safety.

(bb) Deter or control access to real property or physical assets, or prevent the unauthorized removal of physical assets.

(cc) Monitor, detect, record, or provide notification of fire, gas, smoke, flooding, or other physical threats to real property, physical assets, or life safety.

(II) EXCLUSION.—The term "security or life safety alarm or surveillance system" does not include any product with a principal function other than life safety, security, or surveillance that—

(aa) is designed and marketed with a built-in alarm or theft-deterrent feature; or

(bb) does not operate necessarily and continuously in active mode.

(ii) NONAPPLICATION OF NO-LOAD MODE REQUIREMENTS.—The No-Load Mode energy efficiency standards established by this paragraph shall not apply to an external power supply manufactured before the effective date of the amendment under subparagraph (D)(ii) that—

(I) is an AC-to-AC external power supply;

(II) has a nameplate output of 20 watts or more;

(III) is certified to the Secretary as being designed to be connected to a security or life safety alarm or surveillance system component; and

(IV) on establishment within the External Power Supply International Efficiency Marking Protocol, as referenced in the "Energy Star Program Requirements for Single Voltage External Ac–Dc and Ac–Ac Power Supplies", published by the Environmental Protection Agency, of a distinguishing mark for products described in this clause, is permanently marked with the distinguishing mark.

(iii) ADMINISTRATION.—In carrying out this subparagraph, the Secretary shall—

(I) require, with appropriate safeguard for the protection of confidential business information, the submission of unit shipment data on an annual basis; and

(II) restrict the eligibility of external power supplies for the exemption provided under this subparagraph on a finding that a substantial number of the external power supplies are being marketed to or installed in applications other than security or life safety alarm or surveillance systems.

(iv) TREATMENT IN RULE.—In the rule under subparagraph (D)(ii) and subsequent amendments the Secretary may treat some or all external power supplies designed to be connected to a security or life safety alarm or surveillance system as a separate product class or may extend the nonapplication under clause (ii).

(4) END-USE PRODUCTS.—An energy conservation standard for external power supplies shall not constitute an energy conservation standard for the separate end-use product to which the external power supply is connected.

(5) EXEMPT SUPPLIES.—

(A) FEBRUARY 10, 2014, RULE.—

(i) IN GENERAL.—An external power supply shall not be subject to the final rule entitled "Energy Conservation Program: Energy Conservation Standards for External Power Supplies", published at 79 Fed. Reg. 7845 (February 10, 2014), if the external power supply—

(I) is manufactured during the period beginning on February 10, 2016, and ending on February 10, 2020;

(II) is marked in accordance with the External Power Supply International Efficiency Marking Protocol, as in effect on February 10, 2016;

(III) meets, where applicable, the standards under paragraph (3)(A), and has been certified to the Secretary as meeting International Efficiency Level IV or higher of the External Power Supply International Efficiency Marking Protocol, as in effect on February 10, 2016; and

(IV) is made available by the manufacturer as a service part or a spare part for an end-use product that—

(aa) constitutes the primary load; and

(bb) was manufactured before February 10, 2016.

(ii) REPORTING.—The Secretary may require manufacturers of products exempted pursuant to clause (i) to report annual total units shipped as service and spare parts that fall below International Efficiency Level VI.

(iii) LIMITATION OF EXEMPTION.—The Secretary may issue a rule, after providing public notice and opportunity for public comment, to limit the applicability of the exemption established under clause (i) if the Secretary determines that the exemption is resulting in a significant reduction of the energy savings that would otherwise result from the final rule described in such clause.

(B) AMENDED STANDARDS.—

(i) IN GENERAL.—The Secretary may exempt an external power supply from any amended standard under this subsection if the external power supply—

(I) is manufactured within four years of the compliance date of the amended standard;

(II) complies with applicable marking requirements adopted by the Secretary prior to the amendment;

(III) meets the standards that were in effect prior to the amendment; and

(IV) is made available by the manufacturer as a service part or a spare part for an end-use product that—

(aa) constitutes the primary load; and

(bb) was manufactured before the compliance date of the amended standard.

(ii) REPORTING.—The Secretary may require manufacturers of a product exempted pursuant to clause (i) to report annual total units shipped as service and spare parts that do not meet the amended standard.

(v) Refrigerated beverage vending machines

(1) Not later than 4 years after August 8, 2005, the Secretary shall prescribe, by rule, energy conservation standards for refrigerated bottle or canned beverage vending machines.

(2) In establishing energy conservation standards under this subsection, the Secretary shall use the criteria and procedures prescribed under subsections (o) and (p).

(3) Any energy conservation standard prescribed under this subsection shall apply to products manufactured 3 years after the date of publication of a final rule establishing the energy conservation standard.

(w) Illuminated exit signs

An illuminated exit sign manufactured on or after January 1, 2006, shall meet the version 2.0 Energy Star Program performance requirements for illuminated exit signs prescribed by the Environmental Protection Agency.

(x) Torchieres

A torchiere manufactured on or after January 1, 2006—

(1) shall consume not more than 190 watts of power; and

(2) shall not be capable of operating with lamps that total more than 190 watts.

(y) Low voltage dry-type distribution transformers

The efficiency of a low voltage dry-type distribution transformer manufactured on or after January 1, 2007, shall be the Class I Efficiency Levels for distribution transformers specified in table 4–2 of the "Guide for Determining Energy Efficiency for Distribution Transformers" published by the National Electrical Manufacturers Association (NEMA TP–1–2002).

(z) Traffic signal modules and pedestrian modules

Any traffic signal module or pedestrian module manufactured on or after January 1, 2006, shall—

(1) meet the performance requirements used under the Energy Star program of the Environmental Protection Agency for traffic signals, as in effect on August 8, 2005; and

(2) be installed with compatible, electrically connected signal control interface devices and conflict monitoring systems.

(aa) Unit heaters

A unit heater manufactured on or after the date that is 3 years after August 8, 2005, shall—

(1) be equipped with an intermittent ignition device; and

(2) have power venting or an automatic flue damper.

(bb) Medium base compact fluorescent lamps

(1) A bare lamp and covered lamp (no reflector) medium base compact fluorescent lamp manufactured on or after January 1, 2006, shall meet the following requirements prescribed by the August 9, 2001, version of the Energy Star Program Requirements for Compact Fluorescent Lamps, Energy Star Eligibility Criteria, Energy-Efficiency Specification issued by the Environmental Protection Agency and Department of Energy:

(A) Minimum initial efficacy.

(B) Lumen maintenance at 1000 hours.

(C) Lumen maintenance at 40 percent of rated life.

(D) Rapid cycle stress test.

(E) Lamp life.

(2) The Secretary may, by rule, establish requirements for color quality (CRI), power factor, operating frequency, and maximum allowable start time based on the requirements prescribed by the August 9, 2001, version of the Energy Star Program Requirements for Compact Fluorescent Lamps.

(3) The Secretary may, by rule—

(A) revise the requirements established under paragraph (2); or

(B) establish other requirements, after considering energy savings, cost effectiveness, and consumer satisfaction.

(cc) Dehumidifiers

(1) Dehumidifiers manufactured on or after October 1, 2007, shall have an Energy Factor that meets or exceeds the following values:

Product Capacity (pints/day):	Minimum Energy Factor (Liters/kWh)
25.00 or less	1.00

25.01 – 35.00	1.20
35.01 – 54.00	1.30
54.01 – 74.99	1.50
75.00 or more	2.25.

(2) DEHUMIDIFIERS MANUFACTURED ON OR AFTER OCTOBER 1, 2012 .—Dehumidifiers manufactured on or after October 1, 2012, shall have an Energy Factor that meets or exceeds the following values:

Product Capacity (pints/day):	Minimum Energy Factor (liters/kWh)
Up to 35.00	1.35
35.01–45.00	1.50
45.01–54.00	1.60
54.01–75.00	1.70
Greater than 75.00	2.5.

(dd) Commercial prerinse spray valves

Commercial prerinse spray valves manufactured on or after January 1, 2006, shall have a flow rate of not more than 1.6 gallons per minute.

(ee) Mercury vapor lamp ballasts

Mercury vapor lamp ballasts (other than specialty application mercury vapor lamp ballasts) shall not be manufactured or imported after January 1, 2008.

(ff) Ceiling fans and ceiling fan light kits

(1)(A) All ceiling fans manufactured on or after January 1, 2007, shall have the following features:

(i) Fan speed controls separate from any lighting controls.

(ii) Adjustable speed controls (either more than 1 speed or variable speed).

(iii) The capability of reversible fan action, except for—

(I) fans sold for industrial applications;

(II) fans sold for outdoor applications; and

(III) cases in which safety standards would be violated by the use of the reversible mode.

(B) The Secretary may define the exceptions described in clause (iv) in greater detail, but shall not substantively expand the exceptions.

(2)(A) Ceiling fan light kits with medium screw base sockets manufactured on or after January 1, 2007, shall be packaged with screw-based lamps to fill all screw base sockets.

(B) The screw-based lamps required under subparagraph (A) shall—

(i) meet the Energy Star Program Requirements for Compact Fluorescent Lamps, version 3.0, issued by the Department of Energy; or

(ii) use light sources other than compact fluorescent lamps that have lumens per watt performance at least equivalent to comparably configured compact fluorescent lamps meeting the Energy Star Program Requirements described in clause (i).

(3) Ceiling fan light kits with pin-based sockets for fluorescent lamps manufactured on or after January 1, 2007 shall—

(A) meet the Energy Star Program Requirements for Residential Light Fixtures version 4.0 issued by the Environmental Protection Agency; and

(B) be packaged with lamps to fill all sockets.

(4)(A) By January 1, 2007, the Secretary shall consider and issue requirements for any ceiling fan lighting kits other than those covered in paragraphs (2) and (3), including candelabra screw base

sockets.

(B) The requirements issued under subparagraph (A) shall be effective for products manufactured 2 years after the date of the final rule.

(C) If the Secretary fails to issue a final rule by the date specified in subparagraph (A), any type of ceiling fan lighting kit described in subparagraph (A) that is manufactured after January 1, 2009—

(i) shall not be capable of operating with lamps that total more than 190 watts; and

(ii) shall be packaged with lamps to fill all sockets.

(5)(A) After January 1, 2010, the Secretary may consider, and issue, if the requirements of subsections (o) and (p) are met, amended energy efficiency standards for ceiling fan light kits.

(B) Any amended standards issued under subparagraph (A) shall apply to products manufactured not earlier than 2 years after the date of publication of the final rule establishing the amended standard.

(6)(A) Notwithstanding any other provision of this chapter, the Secretary may consider, and issue, if the requirements of subsections (o) and (p) are met, energy efficiency or energy use standards for electricity used by ceiling fans to circulate air in a room.

(B) In issuing the standards under subparagraph (A), the Secretary shall consider—

(i) exempting, or setting different standards for, certain product classes for which the primary standards are not technically feasible or economically justified; and

(ii) establishing separate exempted product classes for highly decorative fans for which air movement performance is a secondary design feature.

(C)(i) Large-diameter ceiling fans manufactured on or after January 21, 2020, shall—

(I) not be required to meet minimum ceiling fan efficiency in terms of ratio of the total airflow to the total power consumption as described in the final rule titled "Energy Conservation Program: Energy Conservation Standards for Ceiling Fans" (82 Fed. Reg. 6826 (January 19, 2017)); and

(II) have a CFEI greater than or equal to—

(aa) 1.00 at high speed; and

(bb) 1.31 at 40 percent speed or the nearest speed that is not less than 40 percent speed.

(ii) For purposes of this subparagraph, the term "CFEI" means the Fan Energy Index for large-diameter ceiling fans, calculated in accordance with ANSI/AMCA Standard 208–18 titled "Calculation of the Fan Energy Index", with the following modifications:

(I) Using an Airflow Constant (Q_0) of 26,500 cubic feet per minute.

(II) Using a Pressure Constant (P_0) of 0.0027 inches water gauge.

(III) Using a Fan Efficiency Constant ($_0$) of 42 percent.

(7) Section 6297 of this title shall apply to the products covered in paragraphs (1) through (4) beginning on August 8, 2005, except that any State or local labeling requirement for ceiling fans prescribed or enacted before August 8, 2005, shall not be preempted until the labeling requirements applicable to ceiling fans established under section 6294 of this title take effect.

(gg) Standby mode energy use

(1) Definitions

(A) In general

Unless the Secretary determines otherwise pursuant to subparagraph (B), in this subsection:

(i) Active mode

The term "active mode" means the condition in which an energy-using product—

(I) is connected to a main power source;

(II) has been activated; and

(III) provides 1 or more main functions.

(ii) Off mode

The term "off mode" means the condition in which an energy-using product—

(I) is connected to a main power source; and

(II) is not providing any standby or active mode function.

(iii) Standby mode

The term "standby mode" means the condition in which an energy-using product—

(I) is connected to a main power source; and

(II) offers 1 or more of the following user-oriented or protective functions:

(aa) To facilitate the activation or deactivation of other functions (including active mode) by remote switch (including remote control), internal sensor, or timer.

(bb) Continuous functions, including information or status displays (including clocks) or sensor-based functions.

(B) Amended definitions

The Secretary may, by rule, amend the definitions under subparagraph (A), taking into consideration the most current versions of Standards 62301 and 62087 of the International Electrotechnical Commission.

(2) Test procedures

(A) In general

Test procedures for all covered products shall be amended pursuant to section 6293 of this title to include standby mode and off mode energy consumption, taking into consideration the most current versions of Standards 62301 and 62087 of the International Electrotechnical Commission, with such energy consumption integrated into the overall energy efficiency, energy consumption, or other energy descriptor for each covered product, unless the Secretary determines that—

(i) the current test procedures for a covered product already fully account for and incorporate the standby mode and off mode energy consumption of the covered product; or

(ii) such an integrated test procedure is technically infeasible for a particular covered product, in which case the Secretary shall prescribe a separate standby mode and off mode energy use test procedure for the covered product, if technically feasible.

(B) Deadlines

The test procedure amendments required by subparagraph (A) shall be prescribed in a final rule no later than the following dates:

(i) December 31, 2008, for battery chargers and external power supplies.

(ii) March 31, 2009, for clothes dryers, room air conditioners, and fluorescent lamp ballasts.

(iii) June 30, 2009, for residential clothes washers.

(iv) September 30, 2009, for residential furnaces and boilers.

(v) March 31, 2010, for residential water heaters, direct heating equipment, and pool heaters.

(vi) March 31, 2011, for residential dishwashers, ranges and ovens, microwave ovens, and dehumidifiers.

(C) Prior product standards

The test procedure amendments adopted pursuant to subparagraph (B) shall not be used to determine compliance with product standards established prior to the adoption of the amended test procedures.

(3) Incorporation into standard

(A) In general

Subject to subparagraph (B), based on the test procedures required under paragraph (2), any final rule establishing or revising a standard for a covered product, adopted after July 1, 2010,

shall incorporate standby mode and off mode energy use into a single amended or new standard, pursuant to subsection (o), if feasible.

(B) Separate standards

If not feasible, the Secretary shall prescribe within the final rule a separate standard for standby mode and off mode energy consumption, if justified under subsection (o).

(hh) Metal halide lamp fixtures

(1) Standards

(A) In general

Subject to subparagraphs (B) and (C), metal halide lamp fixtures designed to be operated with lamps rated greater than or equal to 150 watts but less than or equal to 500 watts shall contain—

(i) a pulse-start metal halide ballast with a minimum ballast efficiency of 88 percent;

(ii) a magnetic probe-start ballast with a minimum ballast efficiency of 94 percent; or

(iii) a nonpulse-start electronic ballast with—

(I) a minimum ballast efficiency of 92 percent for wattages greater than 250 watts; and

(II) a minimum ballast efficiency of 90 percent for wattages less than or equal to 250 watts.

(B) Exclusions

The standards established under subparagraph (A) shall not apply to—

(i) fixtures with regulated lag ballasts;

(ii) fixtures that use electronic ballasts that operate at 480 volts; or

(iii) fixtures that—

(I) are rated only for 150 watt lamps;

(II) are rated for use in wet locations, as specified by the National Electrical Code 2002, section 410.4(A); and

(III) contain a ballast that is rated to operate at ambient air temperatures above 50°C, as specified by UL 1029–2001.

(C) Application

The standards established under subparagraph (A) shall apply to metal halide lamp fixtures manufactured on or after the later of—

(i) January 1, 2009; or

(ii) the date that is 270 days after December 19, 2007.

(2) Final rule by January 1, 2012

(A) In general

Not later than January 1, 2012, the Secretary shall publish a final rule to determine whether the standards established under paragraph (1) should be amended.

(B) Administration

The final rule shall—

(i) contain any amended standard; and

(ii) apply to products manufactured on or after January 1, 2015.

(3) Final rule by January 1, 2019

(A) In general

Not later than January 1, 2019, the Secretary shall publish a final rule to determine whether the standards then in effect should be amended.

(B) Administration

The final rule shall—

(i) contain any amended standards; and

(ii) apply to products manufactured after January 1, 2022.

(4) Design and performance requirements

Notwithstanding any other provision of law, any standard established pursuant to this subsection may contain both design and performance requirements.

(ii) Application date

Section 6297 of this title applies—

(1) to products for which energy conservation standards are to be established under subsection (l), (u), or (v) beginning on the date on which a final rule is issued by the Secretary, except that any State or local standard prescribed or enacted for the product before the date on which the final rule is issued shall not be preempted until the energy conservation standard established under subsection (l), (u), or (v) for the product takes effect; and

(2) to products for which energy conservation standards are established under subsections (w) through (hh) on August 8, 2005, except that any State or local standard prescribed or enacted before August 8, 2005, shall not be preempted until the energy conservation standards established under subsections (w) through (hh) take effect.

(Pub. L. 94–163, title III, §325, Dec. 22, 1975, 89 Stat. 923; Pub. L. 94–385, title I, §161, Aug. 14, 1976, 90 Stat. 1140; Pub. L. 95–619, title IV, §422, Nov. 9, 1978, 92 Stat. 3259; Pub. L. 100–12, §5, Mar. 17, 1987, 101 Stat. 107; Pub. L. 100–357, §2(e), June 28, 1988, 102 Stat. 673; Pub. L. 102–486, title I, §123(f), Oct. 24, 1992, 106 Stat. 2824; Pub. L. 105–388, §5(a)(5), Nov. 13, 1998, 112 Stat. 3478; Pub. L. 109–58, title I, §135(c), Aug. 8, 2005, 119 Stat. 628; Pub. L. 110–140, title III, §§301(c), 303–305(a), 306(a), 307, 308(a), 309–311(a), 316(c)(2), (d), 321(a)(3), 322(b), 324(e), Dec. 19, 2007, 121 Stat. 1550, 1552, 1553, 1556, 1559–1561, 1563, 1573, 1577, 1588, 1593; Pub. L. 111–360, §1, Jan. 4, 2011, 124 Stat. 4051; Pub. L. 112–210, §§3, 5(a), (c), 10(a)(1), (8), (11), (b)(1), Dec. 18, 2012, 126 Stat. 1514, 1517, 1519, 1522, 1524, 1525; Pub. L. 113–263, §2, Dec. 18, 2014, 128 Stat. 2937; Pub. L. 114–11, title II, §201(1), Apr. 30, 2015, 129 Stat. 186; Pub. L. 115–78, §2, Nov. 2, 2017, 131 Stat. 1256; Pub. L. 115–115, §2(c)(3), Jan. 12, 2018, 131 Stat. 2281; Pub. L. 116–260, div. Z, title I, §1008(a), Dec. 27, 2020, 134 Stat. 2437.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (f)(4)(D), (j)(3)(A)(iii), (k)(3)(A)(iii), and (ff)(6)(A), was in the original "this Act", meaning Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 871, known as the Energy Policy and Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

Subpar. (C) of section 6294(a)(2) of this title, referred to in subsec. (i)(5), was redesignated (D) and a new subpar. (C) was added by Pub. L. 110–140, title III, §324(d), Dec. 19, 2007, 121 Stat. 1593.

Subsection (i), referred to in subsec. (l)(4)(F)(ii)(I), was amended by Pub. L. 110–140, title III, §322(b), Dec. 19, 2007, 121 Stat. 1588, by striking out par. (1) and adding a new par. (1), and as so amended, subsec. (i)(1)(A) does not relate to maximum wattage requirements. However, provisions similar to those contained in former subsec. (i)(1)(A) are now contained in subsec. (i)(1)(B). See 2007 Amendment notes below.

AMENDMENTS

2020—Subsec. (ff)(6)(C). Pub. L. 116–260 added subpar. (C).

2018—Subsec. (l)(1), (2). Pub. L. 115–115 substituted "paragraph (20)" for "paragraph (19)".

2017—Subsec. (u)(3)(D)(ii). Pub. L. 115–78, §2(a), substituted "2021" for "2015" in heading and subcl. (I) and "2023" for "2017" in subcl. (II)(bb).

Subsec. (u)(3)(E)(ii). Pub. L. 115–78, §2(b)(1), substituted "the effective date of the amendment under subparagraph (D)(ii)" for "July 1, 2017," in introductory provisions.

Subsec. (u)(3)(E)(iv). Pub. L. 115–78, §2(b)(2), added cl. (iv).

2015—Subsec. (e)(6). Pub. L. 114–11 added par. (6).

2014—Subsec. (u)(5). Pub. L. 113–263 added par. (5).

2012—Subsec. (d)(4). Pub. L. 112–210, §5(a), added par. (4).

Subsec. (e)(5). Pub. L. 112–210, §3, added par. (5).

Subsec. (g)(8)(C)(ii). Pub. L. 112–210, §10(b)(1), substituted "negative 20°F" for "20°F".

Subsec. (i)(1). Pub. L. 112–210, §10(a)(11), made technical amendment to directory language of Pub. L. 110–140, §322(b). See 2007 Amendment note below.

Subsec. (l)(4)(A). Pub. L. 112–210, §10(a)(8), struck out "only" before "in accordance with this paragraph".

Subsec. (n)(3) to (5). Pub. L. 112–210, §5(c), added pars. (3) and (4) and redesignated former par. (3) as (5).

Subsec. (u)(4). Pub. L. 112–210, §10(a)(1), redesignated par. (7) as (4) and substituted "supply is connected" for "supplies is connected".

Subsec. (u)(7). Pub. L. 112–210, §10(a)(1)(A), redesignated par. (7) as (4).

2011—Subsec. (u)(3)(A). Pub. L. 111–360, §1(1), substituted "(E)" for "(D)".

Subsec. (u)(3)(E). Pub. L. 111–360, §1(2), added subpar. (E).

2007—Subsec. (b)(4). Pub. L. 110–140, §311(a)(3), added par. (4).

Subsec. (f). Pub. L. 110–140, §303(1), inserted "and boilers" after "furnaces" in heading.

Subsec. (f)(3), (4). Pub. L. 110–140, §303(2), (3), added par. (3) and redesignated former par. (3) as (4).

Subsec. (f)(4)(D). Pub. L. 110–140, §304, substituted "not later than December 31, 2013, the Secretary shall" for "the Secretary may".

Subsec. (g)(9), (10). Pub. L. 110–140, §311(a)(2), added pars. (9) and (10).

Subsec. (i). Pub. L. 110–140, §321(a)(3)(A)(i), which directed amendment of subsec. (i) by inserting ", general service incandescent lamps, intermediate base incandescent lamps, candelabra base incandescent lamps," after "fluorescent lamps" in "section heading", was executed by making the insertion in subsec. (i) heading to reflect the probable intent of Congress.

Subsec. (i)(1). Pub. L. 110–140, §322(b), as amended by Pub. L. 112–210, §10(a)(11), added par. (1) and struck out former par. (1) which related to, in subpar. (A), lamp efficacy, new maximum wattage, and CRI standards for general service fluorescent lamps, general service incandescent lamps, intermediate base incandescent lamps, candelabra base incandescent lamps, and incandescent reflector lamps, in subpar. (B), color rendering index requirements of certain general service or general illumination application lamps, in subpar. (C), maximum wattage of candelabra incandescent lamps and intermediate base incandescent lamps, in subpar. (D), petition for exemption from requirements, in subpar. (E), petition to establish standards, and, in subpar. (F), definition of effective date.

Pub. L. 110–140, §321(a)(3)(A)(ii), in subpar. (A), in introductory provisions, inserted ", general service incandescent lamps, intermediate base incandescent lamps, candelabra base incandescent lamps," after "fluorescent lamps" and ", new maximum wattage," after "lamp efficacy", inserted tables relating to general service incandescent lamps and modified spectrum general service incandescent lamps, added subpars. (B) to (F), and struck out former subpar. (B) which read as follows: "For the purposes of the tables set forth in subparagraph (A), the term 'effective date' means the last day of the month set forth in the table which follows October 24, 1992."

Subsec. (i)(5). Pub. L. 110–140, §321(a)(3)(A)(iii), struck out "and general service incandescent lamps" after "general service fluorescent".

Subsec. (i)(6) to (8). Pub. L. 110–140, §321(a)(3)(A)(iv), (v), added par. (6) and redesignated former pars. (6) and (7) as (7) and (8), respectively.

Subsec. (l)(4). Pub. L. 110–140, §321(a)(3)(B), added par. (4).

Subsec. (m). Pub. L. 110–140, §305(a), added subsec. (m) and struck out former subsec. (m) which related to further rulemaking.

Subsec. (o)(6). Pub. L. 110–140, §306(a), added par. (6).

Subsec. (p)(1) to (3). Pub. L. 110–140, §307, redesignated pars. (2) to (4) as (1) to (3), respectively, and struck out former par. (1) which read as follows: "The Secretary—

"(A) shall publish an advance notice of proposed rulemaking which specifies the type (or class) of covered products to which the rule may apply;

"(B) shall invite interested persons to submit, within 60 days after the date of publication of such advance notice, written presentations of data, views, and arguments in response to such notice; and

"(C) may identify proposed or amended standards that may be prescribed."

Subsec. (p)(4). Pub. L. 110–140, §308(a), added par. (4).

Pub. L. 110–140, §307(2), redesignated par. (4) as (3).

Subsec. (u)(1)(E). Pub. L. 110–140, §309(1), inserted heading.

Subsec. (u)(1)(E)(i). Pub. L. 110–140, §309, inserted cl. heading, designated existing provisions as subcl. (I), inserted subcl. heading, substituted "2 years" for "3 years", struck out "battery chargers and" before "external power supplies" in two places, and added subcl. (II).

Subsec. (u)(2) to (5). Pub. L. 110–140, §310(1), redesignated pars. (5) and (6) as (2) and (3), respectively,

and struck out former pars. (2) to (4) which related to revision of test procedures and energy conservation standards with respect to covered products that were major sources of standby mode energy consumption, prohibition against proposal of a standard unless applicable test procedures had been issued, and applicability of standard to products manufactured or imported beginning 3 years after the date of issuance, respectively.

Subsec. (u)(6). Pub. L. 110–140, §310(1)(B), redesignated par. (6) as (3).

Pub. L. 110–140, §301(c), added par. (6).

Subsec. (u)(7). Pub. L. 110–140, §301(c), added par. (7).

Subsec. (v). Pub. L. 110–140, §316(d)(1)(A), struck out "Ceiling fans and" before "refrigerated beverage" in heading.

Subsec. (v)(1) to (4). Pub. L. 110–140, §316(d)(1)(B), (C), redesignated pars. (2) to (4) as (1) to (3), respectively, and struck out former par. (1) which read as follows: "Not later than 1 year after August 8, 2005, the Secretary shall prescribe, by rule, test procedures and energy conservation standards for ceiling fans and ceiling fan light kits. If the Secretary sets such standards, the Secretary shall consider exempting or setting different standards for certain product classes for which the primary standards are not technically feasible or economically justified, and establishing separate or exempted product classes for highly decorative fans for which air movement performance is a secondary design feature."

Subsec. (cc)(2). Pub. L. 110–140, §311(a)(1), added par. (2) and struck out former par. (2) which directed the Secretary to publish a final rule not later than Oct. 1, 2009, which would determine whether standards established under par. (1) were to be amended, and directed that such rule was to contain any amendment by the Secretary and be applicable to products manufactured on or after Oct. 1, 2012, and further directed that, if the Secretary did not publish such an amendment, dehumidifiers manufactured on or after Oct. 1, 2012, would have an Energy Factor that would meet or exceed values provided in a table of product capacities and minimum Energy Factors.

Subsec. (ee). Pub. L. 110–140, §316(c)(2), inserted "(other than specialty application mercury vapor lamp ballasts)" before "shall".

Subsec. (ff)(1)(A)(iii), (iv). Pub. L. 110–140, §316(d)(2)(A), redesignated cl. (iv) as (iii), inserted "fans sold for" before "outdoor" in subcl. (II), and struck out former cl. (iii) which read as follows: "Adjustable speed controls (either more than 1 speed or variable speed)."

Subsec. (ff)(4)(C). Pub. L. 110–140, §316(d)(2)(B)(i), substituted "date specified in subparagraph (A)" for "date specified in subparagraph (B)" in introductory provisions.

Subsec. (ff)(4)(C)(ii). Pub. L. 110–140, §316(d)(2)(B)(ii), added cl. (ii) and struck out former cl. (ii) which read as follows: "shall include the lamps described in clause (i) in the ceiling fan lighting kits."

Subsec. (ff)(6)(B) to (D). Pub. L. 110–140, §316(d)(2)(C), redesignated subpars. (C) and (D) as cls. (i) and (ii), respectively, of subpar. (B).

Subsec. (ff)(7). Pub. L. 110–140, §316(d)(2)(D), substituted "established under section 6294" for "established under section 6297".

Subsec. (gg). Pub. L. 110–140, §310(3), added subsec. (gg). Former subsec. (gg) redesignated (hh).

Subsec. (hh). Pub. L. 110–140, §324(e)(2), added subsec. (hh). Former subsec. (hh) redesignated (ii).

Pub. L. 110–140, §310(2), (4), redesignated subsec. (gg) as (hh) and substituted "(gg)" for "(ff)" in two places in par. (2).

Subsec. (ii). Pub. L. 110–140, §324(e)(1), (3), redesignated subsec. (hh) as (ii) and substituted "(hh)" for "(gg)" in two places in par. (2).

2005—Subsec. (f)(3)(D). Pub. L. 109–58, §135(c)(1), added subpar. (D).

Subsec. (g)(6)(B). Pub. L. 109–58, §135(c)(2)(A), inserted "and labeled" after "designed".

Subsec. (g)(8). Pub. L. 109–58, §135(c)(2)(B), added par. (8).

Subsec. (o)(5). Pub. L. 109–58, §135(c)(3), added par. (5).

Subsecs. (u) to (gg). Pub. L. 109–58, §135(c)(4), added subsecs. (u) to (gg).

1998—Subsec. (e)(4)(A). Pub. L. 105–388, §5(a)(5)(A), substituted "paragraph" for "paragraphs".

Subsec. (g). Pub. L. 105–388, §5(a)(5)(B), substituted "ballasts" for "ballasts;" in heading.

1992—Subsecs. (i) to (k). Pub. L. 102–486, §123(f)(2), added subsecs. (i) to (k). Former subsecs. (i) to (k) redesignated (l) to (n), respectively.

Subsec. (l). Pub. L. 102–486, §123(f)(1), redesignated subsec. (i) as (l). Former subsec. (l) redesignated (o).

Subsec. (l)(1). Pub. L. 102–486, §123(f)(3), substituted "paragraph (19)" for "paragraph (14)" and "subsections (o) and (p)" for "subsections (l) and (m)".

Subsec. (l)(2). Pub. L. 102–486, §123(f)(3)(A), substituted "(19)" for "(14)".

Subsec. (l)(3). Pub. L. 102–486, §123(f)(3)(B), substituted "(o) and (p)" for "(l) and (m)".

Subsec. (m). Pub. L. 102–486, §123(f)(1), (4), redesignated subsec. (j) as (m) and substituted "(i)" for "(h)" in introductory provisions. Former subsec. (m) redesignated (p).

Subsec. (n). Pub. L. 102–486, §123(f)(1), redesignated subsec. (k) as (n). Former subsec. (n) redesignated (q).

Subsec. (n)(1). Pub. L. 102–486, §123(f)(5)(A), substituted ", and in paragraphs (13) and (14)" for "and in paragraph (13)" and "subsections (b) through (i)" for "subsections (b) through (h)".

Subsec. (n)(2)(C). Pub. L. 102–486, §123(f)(5)(B), substituted "subsection (o)(2)(B)(i)(II)" for "subsection (l)(2)(B)(i)(II)".

Subsec. (n)(3)(B). Pub. L. 102–486, §123(f)(5)(C), inserted "general service fluorescent lamps, incandescent reflector lamps," after "fluorescent lamp ballasts,".

Subsec. (o). Pub. L. 102–486, §123(f)(1), redesignated subsec. (l) as (o). Former subsec. (o) redesignated (r).

Subsec. (o)(1). Pub. L. 102–486, §123(f)(6)(A), inserted "or, in the case of showerheads, faucets, water closets, or urinals, water use," after "energy use,".

Subsec. (o)(2)(A). Pub. L. 102–486, §123(f)(6)(B), inserted ", or, in the case of showerheads, faucets, water closets, or urinals, water efficiency," after "energy efficiency".

Subsec. (o)(2)(B)(i)(III). Pub. L. 102–486, §123(f)(6)(C), inserted ", or as applicable, water," after "energy".

Subsec. (o)(2)(B)(i)(VI). Pub. L. 102–486, §123(f)(6)(D), inserted "and water" after "energy".

Subsec. (o)(2)(B)(iii). Pub. L. 102–486, §123(f)(6)(E), substituted "energy, and as applicable, water, savings" for "energy savings".

Subsec. (o)(3)(B). Pub. L. 102–486, §123(f)(6)(F), inserted ", in the case of showerheads, faucets, water closets, or urinals, water, or" after "energy or".

Subsec. (p). Pub. L. 102–486, §123(f)(1), redesignated subsec. (m) as (p). Former subsec. (p) redesignated (s).

Subsec. (p)(3)(A). Pub. L. 102–486, §123(f)(7), substituted "subsection (o)(2)" for "subsection (l)(2)" and "subsection (o)(4)" for "subsection (l)(4)".

Subsecs. (q) to (t). Pub. L. 102–486, §123(f)(1), redesignated subsecs. (n) to (q) as (q) to (t), respectively.

1988—Subsec. (e)(1)(C). Pub. L. 100–357, §2(e)(3), inserted "Volume" after "Rated Storage".

Subsec. (g). Pub. L. 100–357, §2(e)(1)(A), inserted "; fluorescent lamp ballasts;" in heading.

Subsec. (g)(5) to (7). Pub. L. 100–357, §2(e)(1)(B), added pars. (5) to (7).

Subsec. (i)(1), (2). Pub. L. 100–357, §2(e)(2), substituted "(14)" for "(13)".

Subsec. (j)(B). Pub. L. 100–357, §2(e)(4)(A), inserted "fluorescent lamp ballasts," after "clothes dryers," and substituted "heating" for "hearing".

Subsec. (k)(1). Pub. L. 100–357, §2(e)(4)(B)(i), inserted "and in paragraph (13)" after "(11)".

Subsec. (k)(3)(B). Pub. L. 100–357, §2(e)(4)(B)(ii), inserted "fluorescent lamp ballasts," after "clothes dryers,".

1987—Pub. L. 100–12 amended section generally, revising and restating as subsecs. (a) to (q) provisions formerly contained in subsecs. (a) to (j).

1978—Subsec. (a). Pub. L. 95–619 substituted provisions authorizing Secretary to prescribe an energy efficiency standard for each type of covered product specified in section 6292(a)(1) to (13) of this title, authorizing such prescription for any type of covered product specified in section 6292(a)(14) of this title where certain conditions are found to exist, and requiring publication of a list of those types of covered products considered subject to prescribed standards in the Federal Register not later than two years after Nov. 9, 1978, for provisions requiring the Administrator, meaning the Administrator of the Federal Energy Administration, to direct the National Bureau of Standards to develop an energy efficiency improvement target for each type of covered product listed in section 6292(a)(1) to (10) of this title, requiring prescription of such a target by the Administrator not later than ninety days after Aug. 14, 1976, requiring such targets be designed to exceed by 1980 by at least twenty percent the aggregate energy efficiency of the covered products as manufactured in 1972, requiring similar energy efficiency targets be prescribed for covered products specified in section 6292(a)(11) to (13) of this title not later than one year after Aug. 14, 1976, authorizing the Administrator to modify periodically any established targets, requiring the manufacturers of any covered products to submit reports as requested by the Administrator to help in establishing and reaching such targets, authorizing the Administrator to commence proceedings in certain situations to prescribe initial or revised targets, specifying when improvements of energy efficiency are economically justified, and authorizing the Attorney General to determine any negative effects on competition so as to make certain improvements economically unjustified.

Subsec. (b). Pub. L. 95–619 substituted provisions specifying preconditions for prescription of a standard for a type or class of covered products for provisions specifying the procedure to be followed in prescribing energy efficiency standards.

Subsec. (c). Pub. L. 95–619 substituted provisions requiring energy efficiency standards for each type of covered products be designed to achieve the maximum improvement in energy efficiency which the Secretary determines feasible and justified and requiring such standards be phased in over a period not to exceed five years for provisions relating to the prescription of test procedures and the requirements necessary to meet minimum energy efficiency levels.

Subsec. (d). Pub. L. 95–619 substituted provisions relating to a determination by the Secretary of the economic justification of any particular energy efficiency standard and a determination by the Attorney General of the impact on competition of any proposed standard for provisions relating to labeling rules.

Subsecs. (e) to (j). Pub. L. 95–619 added subsecs. (e) to (j).

1976—Subsec. (a)(1)(A). Pub. L. 94–385, §161(a), transferred authority to determine energy targets from the Administrator to the National Bureau of Standards and substituted 90 days after August 14, 1976, for 180 days after December 22, 1975, for the promulgation of rules by the Administrator.

Subsec. (a)(2). Pub. L. 94–385, §161(b), transferred authority to determine energy targets from the Administrator to the National Bureau of Standards and substituted one year after August 14, 1976, for one year after December 22, 1975, for the promulgation of rules by the Administrator.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by section 10(a)(1), (8), (11) of Pub. L. 112–210 effective as if included in the Energy Independence and Security Act of 2007, Pub. L. 110–140, see section 10(a)(13) of Pub. L. 112–210, set out as a note under section 6291 of this title.

Pub. L. 112–210, §10(b)(2), Dec. 18, 2012, 126 Stat. 1525, provided that: "This subsection [amending this section] and the amendment made by this subsection take effect as if included in the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 594)."

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

Pub. L. 116–260, div. Z, title I, §1008(b), Dec. 27, 2020, 134 Stat. 2437, provided that: "For purposes of section 325(m) of the Energy Policy and Conservation Act (42 U.S.C. 6295(m)), the standard established in section 325(ff)(6)(C) of such Act [42 U.S.C. 6295(ff)(6)(C)] (as added by subsection (a) of this section) shall be treated as if such standard was issued on January 19, 2017."

LIGHTING TECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAM

Pub. L. 110–140, title III, §321(g), Dec. 19, 2007, 121 Stat. 1586, provided that:

"(1) IN GENERAL.—The Secretary [of Energy] may carry out a lighting technology research and development program—

"(A) to support the research, development, demonstration, and commercial application of lamps and related technologies sold, offered for sale, or otherwise made available in the United States; and

"(B) to assist manufacturers of general service lamps in the manufacturing of general service lamps that, at a minimum, achieve the wattage requirements imposed as a result of the amendments made by subsection (a) [amending this section and sections 6291 and 6292 of this title].

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $10,000,000 for each of fiscal years 2008 through 2013.

"(3) TERMINATION OF AUTHORITY.—The program under this subsection shall terminate on September 30, 2015."

[1] So in original. Probably should be "is".

[2] See References in Text note below.

[3] So in original. The word "lamps" probably should appear after "fluorescent".

[4] So in original. Subpar. (G) does not contain a cl. (i)(II).

[5] *So in original. Probably should be "subparagraph (A)(i)".*

§6296. Requirements of manufacturers

(a) In general

Each manufacturer of a covered product to which a rule under section 6294 of this title applies shall provide a label which meets, and is displayed in accordance with, the requirements of such rule. If such manufacturer or any distributor, retailer, or private labeler of such product advertises such product in a catalog from which it may be purchased, such catalog shall contain all information required to be displayed on the label, except as otherwise provided by rule of the Commission. The preceding sentence shall not require that a catalog contain information respecting a covered product if the distribution of such catalog commenced before the effective date of the labeling rule under section 6294 of this title applicable to such product.

(b) Notification

(1) Each manufacturer of a covered product to which a rule under section 6294 of this title applies shall notify the Secretary or the Commission—

(A) not later than 60 days after the date such rule takes effect, of the models in current production (and starting serial numbers of those models) to which such rule applies; and

(B) prior to commencement of production, of all models subsequently produced (and starting serial numbers of those models) to which such rule applies.

(2) If requested by the Secretary or Commission, the manufacturer of a covered product to which a rule under section 6294 of this title applies shall provide, within 30 days of the date of the request, the data from which the information included on the label and required by the rule was derived. Data shall be kept on file by the manufacturer for a period specified in the rule.

(3) When requested—

(A) by the Secretary for purposes of ascertaining whether a product subject to a standard established in or prescribed under section 6295 of this title is in compliance with that standard, or

(B) by the Commission for purposes of ascertaining whether the information set out on a label of a product, as required under section 6294 of this title, is accurate,

each manufacturer of such a product shall supply at his expense a reasonable number of such covered products to any laboratory designated by the Secretary or the Commission, as the case may be. Any reasonable charge levied by the laboratory for such testing shall be borne by the United States, if and to the extent provided in appropriation Acts.

(4) Each manufacturer of a covered product to which a rule under section 6294 of this title applies shall annually, at a time specified by the Commission, supply to the Commission relevant data respecting energy consumption or water use developed in accordance with the test procedures applicable to such product under section 6293 of this title.

(5) A rule under section 6293, 6294, or 6295 of this title may require the manufacturer or his agent to permit a representative designated by the Commission or the Secretary to observe any testing required by this part and inspect the results of such testing.

(c) Deadline

Each manufacturer shall use labels reflecting the range data required to be disclosed under section 6294(c)(1)(B) of this title after the expiration of 60 days following the date of publication of any revised table of ranges unless the rule under section 6294 of this title provides for a later date. The Commission may not require labels be changed to reflect revised tables of ranges more often than annually.

(d) Information requirements

(1) For purposes of carrying out this part, the Secretary may require, under this part or other

provision of law administered by the Secretary, each manufacturer of a covered product to submit information or reports to the Secretary with respect to energy efficiency, energy use, or, in the case of showerheads, faucets, water closets, and urinals, water use of such covered product and the economic impact of any proposed energy conservation standard, as the Secretary determines may be necessary to establish and revise test procedures, labeling rules, and energy conservation standards for such product and to insure compliance with the requirements of this part. In making any determination under this paragraph, the Secretary shall consider existing public sources of information, including nationally recognized certification programs of trade associations.

(2) The Secretary shall exercise authority under this section in a manner designed to minimize unnecessary burdens on manufacturers of covered products.

(3) The provisions of section 796(d) of title 15 shall apply with respect to information obtained under this subsection to the same extent and in the same manner as they apply with respect to energy information obtained under section 796 of title 15.

(Pub. L. 94–163, title III, §326, Dec. 22, 1975, 89 Stat. 926; Pub. L. 95–619, title IV, §425(d), title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3265, 3288; Pub. L. 100–12, §§6, 11(a)(2), (b)(3), Mar. 17, 1987, 101 Stat. 117, 125; Pub. L. 102–486, title I, §123(g), Oct. 24, 1992, 106 Stat. 2829.)

EDITORIAL NOTES

AMENDMENTS

1992—Subsec. (b)(4). Pub. L. 102–486, §123(g)(1), inserted "or water use" after "consumption".

Subsec. (d)(1). Pub. L. 102–486, §123(g)(2), substituted ", energy use, or, in the case of showerheads, faucets, water closets, and urinals, water use" for "or energy use".

1987—Subsec. (a). Pub. L. 100–12, §11(b)(3)(A), inserted heading.

Subsec. (b). Pub. L. 100–12, §11(b)(3)(B), inserted heading.

Subsec. (b)(3)(A). Pub. L. 100–12, §11(a)(2), inserted "established in or" before "prescribed under".

Subsec. (c). Pub. L. 100–12, §11(b)(3)(C), inserted heading.

Subsec. (d). Pub. L. 100–12, §6, inserted "Information requirements" as heading and amended text generally. Prior to amendment, text read as follows: "For purposes of carrying out this part, the Secretary may require, under authority otherwise available to him under this part or other provisions of law administered by him, each manufacturer of covered products to submit such information or reports of any kind or nature directly to the Secretary with respect to energy efficiency of such covered products, and with respect to the economic impact of any proposed energy efficiency standard, as the Secretary determines may be necessary to establish and revise test procedures, labeling rules, and energy efficiency standards for such products and to insure compliance with the requirements of this part. The provisions of section 796(d) of title 15 shall apply with respect to information obtained under this subsection to the same extent and in the same manner as it applies with respect to energy information obtained under section 796 of title 15."

1978—Subsec. (b)(1). Pub. L. 95–619, §425(d)(2), inserted requirement that manufacturers of covered products give notice to the Secretary of models affected by rules promulgated under section 6294 of this title and expanded the notice requirement itself to include models manufactured more than sixty days after the date a particular rule takes effect.

Subsec. (b)(2). Pub. L. 95–619, §691(b)(2), substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration.

Subsec. (b)(3). Pub. L. 95–619, §425(d)(3), authorized Secretary to request submission of covered products for purposes of ascertaining whether a particular product complies with standards under section 6295 of this title and also authorized Secretary to designate testing laboratories for the submitted products.

Subsec. (b)(5). Pub. L. 95–619, §691(b)(2), substituted "Secretary" for "Administrator".

Subsec. (d). Pub. L. 95–619, §425(d)(1), added subsec. (d).

§6297. Effect on other law

(a) Preemption of testing and labeling requirements

(1) Effective on March 17, 1987, this part supersedes any State regulation insofar as such State regulation provides at any time for the disclosure of information with respect to any measure of

energy consumption or water use of any covered product if—

(A) such State regulation requires testing or the use of any measure of energy consumption, water use, or energy descriptor in any manner other than that provided under section 6293 of this title; or

(B) such State regulation requires disclosure of information with respect to the energy use, energy efficiency, or water use of any covered product other than information required under section 6294 of this title.

(2) For purposes of this section, the following definitions apply:

(A) The term "State regulation" means a law, regulation, or other requirement of a State or its political subdivisions. With respect to showerheads, faucets, water closets, and urinals, such term shall also mean a law, regulation, or other requirement of a river basin commission that has jurisdiction within a State.

(B) The term "river basin commission" means—

(i) a commission established by interstate compact to apportion, store, regulate, or otherwise manage or coordinate the management of the waters of a river basin; and

(ii) a commission established under section 1962b(a) of this title.

(b) General rule of preemption for energy conservation standards before Federal standard becomes effective for product

Effective on March 17, 1987, and ending on the effective date of an energy conservation standard established under section 6295 of this title for any covered product, no State regulation, or revision thereof, concerning the energy efficiency, energy use, or water use of the covered product shall be effective with respect to such covered product, unless the State regulation or revision—

(1)(A) was prescribed or enacted before January 8, 1987, and is applicable to products before January 3, 1988, or in the case of any portion of any regulation which establishes requirements for fluorescent lamp ballasts, was prescribed or enacted before June 28, 1988, or in the case of any portion of any regulation which establishes requirements for fluorescent or incandescent lamps, flow rate requirements for showerheads or faucets, or water use requirements for water closets or urinals, was prescribed or enacted before October 24, 1992; or

(B) in the case of any portion of any regulation that establishes requirements for general service incandescent lamps, intermediate base incandescent lamps, or candelabra base lamps, was enacted or adopted by the State of California or Nevada before December 4, 2007, except that—

(i) the regulation adopted by the California Energy Commission with an effective date of January 1, 2008, shall only be effective until the effective date of the Federal standard for the applicable lamp category under subparagraphs (A), (B), and (C) of section 6295(i)(1) of this title; and

(ii) the States of California and Nevada may, at any time, modify or adopt a State standard for general service lamps to conform with Federal standards with effective dates no earlier than 12 months prior to the Federal effective dates prescribed under subparagraphs (A), (B), and (C) of section 6295(i)(1) of this title, at which time any prior regulations adopted by the State of California or Nevada shall no longer be effective.

(2) is a State procurement regulation described in subsection (e);

(3) is a regulation described in subsection (f)(1) or is prescribed or enacted in a building code for new construction described in subsection (f)(2);

(4) is a regulation prohibiting the use in pool heaters of a constant burning pilot, or is a regulation (or portion thereof) regulating fluorescent lamp ballasts other than those to which paragraph (5) of section 6295(g) of this title is applicable, or is a regulation (or portion thereof) regulating fluorescent or incandescent lamps other than those to which section 6295(i) of this title is applicable, or is a regulation (or portion thereof) regulating showerheads or faucets other than those to which section 6295(j) of this title is applicable or regulating lavatory faucets (other than metering faucets) for installation in public places, or is a regulation (or portion thereof) regulating water closets or urinals other than those to which section 6295(k) of this title is applicable;

(5) is a regulation described in subsection (d)(5)(B) for which a waiver has been granted under subsection (d);

(6) is a regulation effective on or after January 1, 1992, concerning the energy efficiency or energy use of television sets; or

(7) is a regulation (or portion thereof) concerning the water efficiency or water use of low consumption flushometer valve water closets.

(c) General rule of preemption for energy conservation standards when Federal standard becomes effective for product

Except as provided in section 6295(b)(3)(A)(ii) of this title, subparagraphs (B) and (C) of section 6295(j)(3) of this title, and subparagraphs (B) and (C) of section 6295(k)(3) of this title and effective on the effective date of an energy conservation standard established in or prescribed under section 6295 of this title for any covered product, no State regulation concerning the energy efficiency, energy use, or water use of such covered product shall be effective with respect to such product unless the regulation—

(1) is a regulation described in paragraph (2) or (4) of subsection (b), except that a State regulation (or portion thereof) regulating fluorescent lamp ballasts other than those to which paragraph (5) of section 6295(g) of this title is applicable shall be effective only until the effective date of a standard that is prescribed by the Secretary under paragraph (7) of such section and is applicable to such ballasts, except that a State regulation (or portion thereof) regulating fluorescent or incandescent lamps other than those for which section 6295(i) of this title is applicable shall be effective only until the effective date of a standard that is prescribed by the Secretary and is applicable to such lamps;

(2) is a regulation which has been granted a waiver under subsection (d);

(3) is in a building code for new construction described in subsection (f)(3);

(4) is a regulation concerning the water use of lavatory faucets adopted by the State of New York or the State of Georgia before October 24, 1992;

(5) is a regulation concerning the water use of lavatory or kitchen faucets adopted by the State of Rhode Island prior to October 24, 1992;

(6) is a regulation (or portion thereof) concerning the water efficiency or water use of gravity tank-type low consumption water closets for installation in public places, except that such a regulation shall be effective only until January 1, 1997; or

(7)(A) is a regulation concerning standards for commercial prerinse spray valves adopted by the California Energy Commission before January 1, 2005; or

(B) is an amendment to a regulation described in subparagraph (A) that was developed to align California regulations with changes in American Society for Testing and Materials Standard F2324;

(8)(A) is a regulation concerning standards for pedestrian modules adopted by the California Energy Commission before January 1, 2005; or

(B) is an amendment to a regulation described in subparagraph (A) that was developed to align California regulations to changes in the Institute for Transportation Engineers standards, entitled "Performance Specification: Pedestrian Traffic Control Signal Indications"; and

(9) is a regulation concerning metal halide lamp fixtures adopted by the California Energy Commission on or before January 1, 2011, except that—

(A) if the Secretary fails to issue a final rule within 180 days after the deadlines for rulemakings in section 6295(hh) of this title, notwithstanding any other provision of this section, preemption shall not apply to a regulation concerning metal halide lamp fixtures adopted by the California Energy Commission—

(i) on or before July 1, 2015, if the Secretary fails to meet the deadline specified in section 6295(hh)(2) of this title; or

(ii) on or before July 1, 2022, if the Secretary fails to meet the deadline specified in section 6295(hh)(3) of this title.

(d) Waiver of Federal preemption

(1)(A) Any State or river basin commission with a State regulation which provides for any energy conservation standard or other requirement with respect to energy use, energy efficiency, or water use for any type (or class) of covered product for which there is a Federal energy conservation standard under section 6295 of this title may file a petition with the Secretary requesting a rule that such State regulation become effective with respect to such covered product.

(B) Subject to paragraphs (2) through (5), the Secretary shall, within the period described in paragraph (2) and after consideration of the petition and the comments of interested persons, prescribe such rule if the Secretary finds (and publishes such finding) that the State or river basin commission has established by a preponderance of the evidence that such State regulation is needed to meet unusual and compelling State or local energy or water interests.

(C) For purposes of this subsection, the term "unusual and compelling State or local energy or water interests" means interests which—

(i) are substantially different in nature or magnitude than those prevailing in the United States generally; and

(ii) are such that the costs, benefits, burdens, and reliability of energy or water savings resulting from the State regulation make such regulation preferable or necessary when measured against the costs, benefits, burdens, and reliability of alternative approaches to energy or water savings or production, including reliance on reasonably predictable market-induced improvements in efficiency of all products subject to the State regulation.

The factors described in clause (ii) shall be evaluated within the context of the State's energy plan and forecast, and, with respect to a State regulation for which a petition has been submitted to the Secretary which provides for any energy conservation standard or requirement with respect to water use of a covered product, within the context of the water supply and groundwater management plan, water quality program, and comprehensive plan (if any) of the State or river basin commission for improving, developing, or conserving a waterway affected by water supply development.

(2) The Secretary shall give notice of any petition filed under paragraph (1)(A) and afford interested persons a reasonable opportunity to make written comments, including rebuttal comments, thereon. The Secretary shall, within the 6-month period beginning on the date on which any such petition is filed, deny such petition or prescribe the requested rule, except that the Secretary may publish a notice in the Federal Register extending such period to a date certain but no longer than one year after the date on which the petition was filed. Such notice shall include the reasons for delay. In the case of any denial of a petition under this subsection, the Secretary shall publish in the Federal Register notice of, and the reasons for, such denial.

(3) The Secretary may not prescribe a rule under this subsection if the Secretary finds (and publishes such finding) that interested persons have established, by a preponderance of the evidence, that such State regulation will significantly burden manufacturing, marketing, distribution, sale, or servicing of the covered product on a national basis. In determining whether to make such finding, the Secretary shall evaluate all relevant factors, including—

(A) the extent to which the State regulation will increase manufacturing or distribution costs of manufacturers, distributors, and others;

(B) the extent to which the State regulation will disadvantage smaller manufacturers, distributors, or dealers or lessen competition in the sale of the covered product in the State;

(C) the extent to which the State regulation would cause a burden to manufacturers to redesign and produce the covered product type (or class), taking into consideration the extent to which the regulation would result in a reduction—

(i) in the current models, or in the projected availability of models, that could be shipped on the effective date of the regulation to the State and within the United States; or

(ii) in the current or projected sales volume of the covered product type (or class) in the State and the United States; and

(D) the extent to which the State regulation is likely to contribute significantly to a proliferation of State appliance efficiency requirements and the cumulative impact such requirements would

have.

(4) The Secretary may not prescribe a rule under this subsection if the Secretary finds (and publishes such finding) that interested persons have established, by a preponderance of the evidence, that the State regulation is likely to result in the unavailability in the State of any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the State at the time of the Secretary's finding, except that the failure of some classes (or types) to meet this criterion shall not affect the Secretary's determination of whether to prescribe a rule for other classes (or types).

(5) No final rule prescribed by the Secretary under this subsection may—

(A) permit any State regulation to become effective with respect to any covered product manufactured within three years after such rule is published in the Federal Register or within five years if the Secretary finds that such additional time is necessary due to the substantial burdens of retooling, redesign, or distribution needed to comply with the State regulation; or

(B) become effective with respect to a covered product manufactured before the earliest possible effective date specified in section 6295 of this title for the initial amendment of the energy conservation standard established in such section for the covered product; except that such rule may become effective before such date if the Secretary finds (and publishes such finding) that, in addition to the other requirements of this subsection the State has established, by a preponderance of the evidence, that—

(i) there exists within the State an energy emergency condition or, if the State regulation provides for an energy conservation standard or other requirement with respect to the water use of a covered product for which there is a Federal energy conservation standard under subsection (j) or (k) of section 6295 of this title, a water emergency condition, which—

(I) imperils the health, safety, and welfare of its residents because of the inability of the State or utilities within the State to provide adequate quantities of gas or electric energy or, in the case of a water emergency condition, water or wastewater treatment, to its residents at less than prohibitive costs; and

(II) cannot be substantially alleviated by the importation of energy or, in the case of a water emergency condition, by the importation of water, or by the use of interconnection agreements; and

(ii) the State regulation is necessary to alleviate substantially such condition.

(6) In any case in which a State is issued a rule under paragraph (1) with respect to a covered product and subsequently a Federal energy conservation standard concerning such product is amended pursuant to section 6295 of this title, any person subject to such State regulation may file a petition with the Secretary requesting the Secretary to withdraw the rule issued under paragraph (1) with respect to such product in such State. The Secretary shall consider such petition in accordance with the requirements of paragraphs (1), (3), and (4), except that the burden shall be on the petitioner to show by a preponderance of the evidence that the rule received by the State under paragraph (1) should be withdrawn as a result of the amendment to the Federal standard. If the Secretary determines that the petitioner has shown that the rule issued by the State should be so withdrawn, the Secretary shall withdraw it.

(e) Exception for certain State procurement standards

Any State regulation which sets forth procurement standards for a State (or political subdivision thereof) shall not be superseded by the provisions of this part if such standards are more stringent than the corresponding Federal energy conservation standards.

(f) Exception for certain building code requirements

(1) A regulation or other requirement enacted or prescribed before January 8, 1987, that is contained in a State or local building code for new construction concerning the energy efficiency or energy use of a covered product is not superseded by this part until the effective date of the energy

conservation standard established in or prescribed under section 6295 of this title for such covered product.

(2) A regulation or other requirement, or revision thereof, enacted or prescribed on or after January 8, 1987, that is contained in a State or local building code for new construction concerning the energy efficiency or energy use of a covered product is not superseded by this part until the effective date of the energy conservation standard established in or prescribed under section 6295 of this title for such covered product if the code does not require that the energy efficiency of such covered product exceed—

(A) the applicable minimum efficiency requirement in a national voluntary consensus standard; or

(B) the minimum energy efficiency level in a regulation or other requirement of the State meeting the requirements of subsection (b)(1) or (b)(5),

whichever is higher.

(3) Effective on the effective date of an energy conservation standard for a covered product established in or prescribed under section 6295 of this title, a regulation or other requirement contained in a State or local building code for new construction concerning the energy efficiency or energy use of such covered product is not superseded by this part if the code complies with all of the following requirements:

(A) The code permits a builder to meet an energy consumption or conservation objective for a building by selecting items whose combined energy efficiencies meet the objective.

(B) The code does not require that the covered product have an energy efficiency exceeding the applicable energy conservation standard established in or prescribed under section 6295 of this title, except that the required efficiency may exceed such standard up to the level required by a regulation of that State for which the Secretary has issued a rule granting a waiver under subsection (d).

(C) The credit to the energy consumption or conservation objective allowed by the code for installing covered products having energy efficiencies exceeding such energy conservation standard established in or prescribed under section 6295 of this title or the efficiency level required in a State regulation referred to in subparagraph (B) is on a one-for-one equivalent energy use or equivalent cost basis.

(D) If the code uses one or more baseline building designs against which all submitted building designs are to be evaluated and such baseline building designs contain a covered product subject to an energy conservation standard established in or prescribed under section 6295 of this title, the baseline building designs are based on the efficiency level for such covered product which meets but does not exceed such standard or the efficiency level required by a regulation of that State for which the Secretary has issued a rule granting a waiver under subsection (d).

(E) If the code sets forth one or more optional combinations of items which meet the energy consumption or conservation objective, for every combination which includes a covered product the efficiency of which exceeds either standard or level referred to in subparagraph (D), there also shall be at least one combination which includes such covered product the efficiency of which does not exceed such standard or level by more than 5 percent, except that at least one combination shall include such covered product the efficiency of which meets but does not exceed such standard.

(F) The energy consumption or conservation objective is specified in terms of an estimated total consumption of energy (which may be calculated from energy loss- or gain-based codes) utilizing an equivalent amount of energy (which may be specified in units of energy or its equivalent cost).

(G) The estimated energy use of any covered product permitted or required in the code, or used in calculating the objective, is determined using the applicable test procedures prescribed under section 6293 of this title, except that the State may permit the estimated energy use calculation to be adjusted to reflect the conditions of the areas where the code is being applied if such adjustment is based on the use of the applicable test procedures prescribed under section 6293 of this title or other technically accurate documented procedure.

(4)(A) Subject to subparagraph (B), a State or local government is not required to submit a petition to the Secretary in order to enforce or apply its building code or to establish that the code meets the conditions set forth in this subsection.

(B) If a building code requires the installation of covered products with efficiencies exceeding both the applicable Federal standard established in or prescribed under section 6295 of this title and the applicable standard of such State, if any, that has been granted a waiver under subsection (d), such requirement of the building code shall not be applicable unless the Secretary has granted a waiver for such requirement under subsection (d).

(g) No warranty

Any disclosure with respect to energy use, energy efficiency, or estimated annual operating cost which is required to be made under the provisions of this part shall not create an express or implied warranty under State or Federal law that such energy efficiency will be achieved or that such energy use or estimated annual operating cost will not be exceeded under conditions of actual use.

(Pub. L. 94–163, title III, §327, Dec. 22, 1975, 89 Stat. 926; Pub. L. 95–619, title IV, §424, Nov. 9, 1978, 92 Stat. 3263; Pub. L. 100–12, §7, Mar. 17, 1987, 101 Stat. 117; Pub. L. 100–357, §2(f), June 28, 1988, 102 Stat. 674; Pub. L. 102–486, title I, §123(h), Oct. 24, 1992, 106 Stat. 2829; Pub. L. 109–58, title I, §135(d), Aug. 8, 2005, 119 Stat. 634; Pub. L. 110–140, title III, §§321(d), 324(f), Dec. 19, 2007, 121 Stat. 1585, 1594; Pub. L. 112–210, §10(a)(9), Dec. 18, 2012, 126 Stat. 1524.)

EDITORIAL NOTES

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2012—Subsec. (b)(1)(B). Pub. L. 112–210 inserted "and" after the semicolon in cl. (i), substituted a period for "; and" in cl. (ii), and struck out cl. (iii) which read as follows: "all other States may, at any time, modify or adopt a State standard for general service lamps to conform with Federal standards and effective dates."

2007—Subsec. (b)(1). Pub. L. 110–140, §321(d), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (c)(9). Pub. L. 110–140, §324(f), added par. (9).

2005—Subsec. (c)(7), (8). Pub. L. 109–58 added pars. (7) and (8).

1992—Subsec. (a)(1). Pub. L. 102–486, §123(h)(1)(A)–(C), in introductory provisions inserted "or water use" after "energy consumption", in par. (A) inserted ", water use," after "energy consumption", and in par. (B) substituted ", energy efficiency, or water use" for "or energy efficiency".

Subsec. (a)(2). Pub. L. 102–486, §123(h)(1)(D), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "For purposes of this section, the term 'State regulation' means a law, regulation, or other requirement of a State or its political subdivisions."

Subsec. (b). Pub. L. 102–486, §123(h)(2)(A), substituted ", energy use, or water use of the covered product" for "or energy use of the covered product".

Subsec. (b)(1). Pub. L. 102–486, §123(h)(2)(B), inserted before semicolon at end ", or in the case of any portion of any regulation which establishes requirements for fluorescent or incandescent lamps, flow rate requirements for showerheads or faucets, or water use requirements for water closets or urinals, was prescribed or enacted before October 24, 1992".

Subsec. (b)(4). Pub. L. 102–486, §123(h)(2)(C), inserted before semicolon at end ", or is a regulation (or portion thereof) regulating fluorescent or incandescent lamps other than those to which section 6295(i) of this title is applicable, or is a regulation (or portion thereof) regulating showerheads or faucets other than those to which section 6295(j) of this title is applicable or regulating lavatory faucets (other than metering faucets) for installation in public places, or is a regulation (or portion thereof) regulating water closets or urinals other than those to which section 6295(k) of this title is applicable".

Subsec. (b)(7). Pub. L. 102–486, §123(h)(2)(D)–(F), added par. (7).

Subsec. (c). Pub. L. 102–486, §123(h)(3)(A), inserted ", subparagraphs (B) and (C) of section 6295(j)(3) of this title, and subparagraphs (B) and (C) of section 6295(k)(3) of this title" after "section 6295(b)(3)(A)(ii) of this title" and substituted ", energy use, or water use" for "or energy use".

Subsec. (c)(1). Pub. L. 102–486, §123(h)(3)(B) inserted before semicolon at end ", except that a State regulation (or portion thereof) regulating fluorescent or incandescent lamps other than those for which section 6295(i) of this title is applicable shall be effective only until the effective date of a standard that is prescribed

by the Secretary and is applicable to such lamps".

Subsec. (c)(4) to (6). Pub. L. 102–486, §123(h)(3)(C)–(E), added pars. (4) to (6).

Subsec. (d)(1)(A). Pub. L. 102–486, §123(h)(4)(A), inserted "or river basin commission" after "Any State" and substituted ", energy efficiency, or water use" for "or energy efficiency".

Subsec. (d)(1)(B). Pub. L. 102–486, §123(h)(4)(B), substituted "State or river basin commission has" for "State has" and inserted "or water" after "energy".

Subsec. (d)(1)(C). Pub. L. 102–486, §123(h)(4)(C), in introductory provisions and cl. (ii) inserted "or water" after "energy" wherever appearing and in closing provisions inserted before period at end ", and, with respect to a State regulation for which a petition has been submitted to the Secretary which provides for any energy conservation standard or requirement with respect to water use of a covered product, within the context of the water supply and groundwater management plan, water quality program, and comprehensive plan (if any) of the State or river basin commission for improving, developing, or conserving a waterway affected by water supply development".

Subsec. (d)(5)(B)(i). Pub. L. 102–486, §123(h)(5), added cl. (i) and struck out former cl. (i) which read as follows: "an energy emergency condition exists within the State which—

"(I) imperils the health, safety, and welfare of its residents because of the inability of the State or utilities within the State to provide adequate quantities of gas or electric energy to its residents at less than prohibitive costs; and

"(II) cannot be substantially alleviated by the importation of energy or the use of interconnection agreements; and".

1988—Subsec. (b)(1). Pub. L. 100–357, §2(f)(1), inserted before semicolon ", or in the case of any portion of any regulation which establishes requirements for fluorescent lamp ballasts, was prescribed or enacted before June 28, 1988".

Subsec. (b)(4). Pub. L. 100–357, §2(f)(2), inserted before semicolon ", or is a regulation (or portion thereof) regulating fluorescent lamp ballasts other than those to which paragraph (5) of section 6295(g) of this title is applicable".

Subsec. (c)(1). Pub. L. 100–357, §2(f)(3), inserted before semicolon ", except that a State regulation (or portion thereof) regulating fluorescent lamp ballasts other than those to which paragraph (5) of section 6295(g) of this title is applicable shall be effective only until the effective date of a standard that is prescribed by the Secretary under paragraph (7) of such section and is applicable to such ballasts".

1987—Pub. L. 100–12 amended section generally, revising and restating as subsecs. (a) to (g) provisions formerly contained in subsecs. (a) to (e).

1978—Subsec. (a)(2). Pub. L. 95–619, §424(b), substituted "other requirement" for "similar requirement".

Subsec. (b). Pub. L. 95–619, §424(a), in par. (1) substituted provisions vesting power to prescribe rules superseding State energy efficiency regulations in the Secretary for provisions vesting such power in the Administrator of the Federal Energy Administration and provided that persons subject to such State regulations were to petition the Secretary for relief therefrom rather than the Administrator, in par. (2) inserted provisions authorizing the supersedure of any State regulation prescribed after Jan. 1, 1978 respecting energy use of any type of covered product and authorizing the filing of a petition by the State for exemption from any such supersedure, and struck out provision that a State regulation containing a more stringent energy efficiency standard than the corresponding Federal standard would not be superseded, and added pars. (3) to (5).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–210 effective as if included in the Energy Independence and Security Act of 2007, Pub. L. 110–140, see section 10(a)(13) of Pub. L. 112–210, set out as a note under section 6291 of this title.

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.

§6298. Rules

The Commission and the Secretary may each issue such rules as each deems necessary to carry

out the provisions of this part.

(Pub. L. 94–163, title III, §328, Dec. 22, 1975, 89 Stat. 928; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288.)

EDITORIAL NOTES

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1978—Pub. L. 95–619 substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration.

§6299. Authority to obtain information

(a) In general

For purposes of carrying out this part, the Commission and the Secretary may each sign and issue subpenas for the attendance and testimony of witnesses and the production of relevant books, records, papers, and other documents, and may each administer oaths. Witnesses summoned under the provisions of this section shall be paid the same fees and mileage as are paid to witnesses in the courts of the United States. In case of contumacy by, or refusal to obey a subpena served, upon any persons subject to this part, the Commission and the Secretary may each seek an order from the district court of the United States for any district in which such person is found or resides or transacts business requiring such person to appear and give testimony, or to appear and produce documents. Failure to obey any such order is punishable by such court as a contempt thereof.

(b) Confidentiality

Any information submitted by any person to the Secretary or the Commission under this part shall not be considered energy information as defined by section 796(e)(1) of title 15 for purposes of any verification examination authorized to be conducted by the Comptroller General under section 6381 of this title.

(Pub. L. 94–163, title III, §329, Dec. 22, 1975, 89 Stat. 928; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 100–12, §11(b)(4), Mar. 17, 1987, 101 Stat. 125.)

EDITORIAL NOTES

AMENDMENTS

1987—Pub. L. 100–12 inserted headings for subsecs. (a) and (b).

1978—Pub. L. 95–619 substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration, wherever appearing.

§6300. Exports

This part shall not apply to any covered product if (1) such covered product is manufactured, sold, or held for sale for export from the United States (or such product was imported for export), unless such product is in fact distributed in commerce for use in the United States, and (2) such covered product when distributed in commerce, or any container in which it is enclosed when so distributed, bears a stamp or label stating that such covered product is intended for export.

(Pub. L. 94–163, title III, §330, Dec. 22, 1975, 89 Stat. 928.)

§6301. Imports

Any covered product offered for importation in violation of section 6302 of this title shall be refused admission into the customs territory of the United States under rules issued by the Secretary

of the Treasury, except that the Secretary of the Treasury may, by such rules, authorize the importation of such covered product upon such terms and conditions (including the furnishing of a bond) as may appear to him appropriate to ensure that such covered product will not violate section 6302 of this title, or will be exported or abandoned to the United States. The Secretary of the Treasury shall prescribe rules under this section not later than 180 days after December 22, 1975.

(Pub. L. 94–163, title III, §331, Dec. 22, 1975, 89 Stat. 928.)

§6302. Prohibited acts

(a) In general

It shall be unlawful—

(1) for any manufacturer or private labeler to distribute in commerce any new covered product to which a rule under section 6294 of this title applies, unless such covered product is labeled in accordance with such rule;

(2) for any manufacturer, distributor, retailer, or private labeler to remove from any new covered product or render illegible any label required to be provided with such product under a rule under section 6294 of this title;

(3) for any manufacturer to fail to permit access to, or copying of, records required to be supplied under this part, or fail to make reports or provide other information required to be supplied under this part;

(4) for any person to fail to comply with an applicable requirement of section 6296(a), (b)(2), (b)(3), or (b)(5) of this title;

(5) for any manufacturer or private labeler to distribute in commerce any new covered product which is not in conformity with an applicable energy conservation standard established in or prescribed under this part, except to the extent that the new covered product is covered by a regional standard that is more stringent than the base national standard;

(6) for any manufacturer or private labeler to knowingly sell a product to a distributor, contractor, or dealer with knowledge that the entity routinely violates any regional standard applicable to the product;

(7) for any manufacturer, distributor, retailer, or private labeler to distribute in commerce an adapter that—

(A) is designed to allow an incandescent lamp that does not have a medium screw base to be installed into a fixture or lampholder with a medium screw base socket; and

(B) is capable of being operated at a voltage range at least partially within 110 and 130 volts; or

(8) for any person—

(A) to activate an activation lock for a grid-enabled water heater with knowledge that such water heater is not used as part of an electric thermal storage or demand response program;

(B) to distribute an activation key for a grid-enabled water heater with knowledge that such activation key will be used to activate a grid-enabled water heater that is not used as part of an electric thermal storage or demand response program;

(C) to otherwise enable a grid-enabled water heater to operate at its designed specification and capabilities with knowledge that such water heater is not used as part of an electric thermal storage or demand response program; or

(D) to knowingly remove or render illegible the label of a grid-enabled water heater described in section 6295(e)(6)(A)(ii)(V) of this title.

(b) "New covered product" defined

For purposes of this section, the term "new covered product" means a covered product the title of which has not passed to a purchaser who buys such product for purposes other than (1) reselling such product, or (2) leasing such product for a period in excess of one year.

(Pub. L. 94–163, title III, §332, Dec. 22, 1975, 89 Stat. 928; Pub. L. 100–12, §11(a)(3), (b)(5), Mar. 17, 1987, 101 Stat. 125; Pub. L. 110–140, title III, §§306(b), 321(e), Dec. 19, 2007, 121 Stat. 1559, 1586; Pub. L. 114–11, title II, §201(2), Apr. 30, 2015, 129 Stat. 188.)

EDITORIAL NOTES

AMENDMENTS

2015—Subsec. (a)(6) to (8). Pub. L. 114–11 redesignated par. (6) relating to prohibition of distribution in commerce of certain adapters as (7) and added par. (8).

2007—Subsec. (a)(4). Pub. L. 110–140, §321(e)(1), which directed the striking out of "or" after semicolon at end, could not be executed after amendment by Pub. L. 110–140, §306(b)(1). See below.

Pub. L. 110–140, §306(b)(1), struck out "or" after semicolon at end.

Subsec. (a)(5). Pub. L. 110–140, §321(e)(2), which directed substitution of "; or" for period at end, could not be executed after amendment by Pub. L. 110–140, §306(b)(2). See below.

Pub. L. 110–140, §306(b)(2), substituted "part, except to the extent that the new covered product is covered by a regional standard that is more stringent than the base national standard; or" for "part."

Subsec. (a)(6). Pub. L. 110–140, §321(e)(3), added par. (6) relating to prohibition of distribution in commerce of certain adapters.

Pub. L. 110–140, §306(b)(3), added par. (6) relating to sale of a product to a distributor, contractor, or dealer with knowledge that the entity routinely violates a regional standard.

1987—Subsec. (a). Pub. L. 100–12, §11(b)(5)(A), inserted heading.

Subsec. (a)(5). Pub. L. 100–12, §11(a)(3), substituted "energy conservation standard established in or prescribed under" for "energy efficiency standard prescribed under".

Subsec. (b). Pub. L. 100–12, §11(b)(5)(B), inserted heading.

STATUTORY NOTES AND RELATED SUBSIDIARIES

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.

§6303. Enforcement

(a) In general

Except as provided in subsection (c), any person who knowingly violates any provision of section 6302 of this title shall be subject to a civil penalty of not more than $100 for each violation. Such penalties shall be assessed by the Commission, except that penalties for violations of section 6302(a)(3) of this title which relate to requirements prescribed by the Secretary, violations of section 6302(a)(4) of this title which relate to requests of the Secretary under section 6296(b)(2) of this title, or violations of paragraph (5), (6), (7), or (8) of section 6302(a) of this title shall be assessed by the Secretary. Civil penalties assessed under this part may be compromised by the agency or officer authorized to assess the penalty, taking into account the nature and degree of the violation and the impact of the penalty upon a particular respondent. Each violation of paragraph (1), (2), (5), (6), (7), or (8) of section 6302(a) of this title shall constitute a separate violation with respect to each covered product, and each day of violation of section 6302(a)(3) or (4) of this title shall constitute a separate violation.

(b) "Knowingly" defined

As used in subsection (a), the term "knowingly" means (1) the having of actual knowledge, or (2) the presumed having of knowledge deemed to be possessed by a reasonable man who acts in the circumstances, including knowledge obtainable upon the exercise of due care.

(c) Special rule

It shall be an unfair or deceptive act or practice in or affecting commerce (within the meaning of

section 45(a)(1) of title 15) for any person to violate section 6293(c) of this title, except to the extent that such violation is prohibited under the provisions of section 6302(a)(1) of this title, in which case such provisions shall apply.

(d) Procedure for assessing penalty

(1) Before issuing an order assessing a civil penalty against any person under this section, the Secretary shall provide to such person notice of the proposed penalty. Such notice shall inform such person of his opportunity to elect in writing within 30 days after the date of receipt of such notice to have the procedures of paragraph (3) (in lieu of those of paragraph (2)) apply with respect to such assessment.

(2)(A) Unless an election is made within 30 calendar days after receipt of notice under paragraph (1) to have paragraph (3) apply with respect to such penalty, the Secretary shall assess the penalty, by order, after a determination of violation has been made on the record after an opportunity for an agency hearing pursuant to section 554 of title 5 before an administrative law judge appointed under section 3105 of such title 5. Such assessment order shall include the administrative law judge's findings and the basis for such assessment.

(B) Any person against whom a penalty is assessed under this paragraph may, within 60 calendar days after the date of the order of the Secretary assessing such penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceeding to the Secretary for such further action as the court may direct.

(3)(A) In the case of any civil penalty with respect to which the procedures of this paragraph have been elected, the Secretary shall promptly assess such penalty, by order, after the date of the receipt of the notice under paragraph (1) of the proposed penalty.

(B) If the civil penalty has not been paid within 60 calendar days after the assessment order has been made under subparagraph (A), the Secretary shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and the facts involved, and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, such assessment.

(C) Any election to have this paragraph apply may not be revoked except with the consent of the Secretary.

(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order under paragraph (2), or after the appropriate district court has entered final judgment in favor of the Secretary under paragraph (3), the Secretary shall institute an action to recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of such final assessment order or judgment shall not be subject to review.

(5)(A) Notwithstanding the provisions of title 28 or section 7192(c) of this title, the Secretary shall be represented by the general counsel of the Department of Energy (or any attorney or attorneys within the Department of Energy designated by the Secretary) who shall supervise, conduct, and argue any civil litigation to which paragraph (3) of this subsection applies (including any related collection action under paragraph (4)) in a court of the United States or in any other court, except the Supreme Court. However, the Secretary or the general counsel shall consult with the Attorney General concerning such litigation, and the Attorney General shall provide, on request, such assistance in the conduct of such litigation as may be appropriate.

(B) Subject to the provisions of section 7192(c) of this title, the Secretary shall be represented by the Attorney General, or the Solicitor General, as appropriate, in actions under this subsection, except to the extent provided in subparagraph (A) of this paragraph.

(C) Section 7172(d) of this title shall not apply with respect to the functions of the Secretary under this subsection.

(6) For purposes of applying the preceding provisions of this subsection in the case of the assessment of a penalty by the Commission for a violation of paragraphs (1) and (2) of section 6302

of this title, references in such provisions to "Secretary" and "Department of Energy" shall be considered to be references to the "Commission".

(Pub. L. 94–163, title III, §333, Dec. 22, 1975, 89 Stat. 929; Pub. L. 95–619, title IV, §§423, 425(e), title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3262, 3266, 3288; Pub. L. 100–12, §11(b)(6), Mar. 17, 1987, 101 Stat. 125; Pub. L. 114–11, title II, §201(3), Apr. 30, 2015, 129 Stat. 189.)

EDITORIAL NOTES

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–11 substituted "paragraph (5), (6), (7), or (8) of section 6302(a)" for "section 6302(a)(5)" and "paragraph (1), (2), (5), (6), (7), or (8) of section 6302(a)" for "paragraph (1), (2), or (5) of section 6302(a)".

1987—Pub. L. 100–12 inserted headings for subsecs. (a) to (d).

1978—Subsec. (a). Pub. L. 95–619, §§425(e)(1), 691(b)(2), substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration, wherever appearing, and "subsection (c)" for "subsection (b)".

Subsec. (c). Pub. L. 95–619, §425(e)(2), substituted "section 6293(c) of this title" for "section 6293(d)(2) of this title" and inserted provision making an exception from the unfair or deceptive act or practice rule.

Subsec. (d). Pub. L. 95–619, §423, added subsec. (d).

§6304. Injunctive enforcement

The United States district courts shall have jurisdiction to restrain (1) any violation of section 6302 of this title and (2) any person from distributing in commerce any covered product which does not comply with an applicable rule under section 6294 or 6295 of this title. Any such action shall be brought by the Commission, except that any such action to restrain any violation of section 6302(a)(3) of this title which relates to requirements prescribed by the Secretary, any violation of section 6302(a)(4) of this title which relates to requests of the Secretary under section 6296(b)(2) of this title, or any violation of paragraph (5), (6), (7), or (8) of section 6302(a) of this title shall be brought by the Secretary. Any such action to restrain any person from distributing in commerce a general service incandescent lamp that does not comply with the applicable standard established under section 6295(i) of this title or an adapter prohibited under section 6302(a)(7) of this title may also be brought by the attorney general of a State in the name of the State. Any such action may be brought in any United States district court for a district wherein any act, omission, or transaction constituting the violation occurred, or in such court for the district wherein the defendant is found or transacts business. In any action under this section, process may be served on a defendant in any other district in which the defendant resides or may be found.

(Pub. L. 94–163, title III, §334, Dec. 22, 1975, 89 Stat. 929; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 110–140, title III, §321(f), Dec. 19, 2007, 121 Stat. 1586; Pub. L. 114–11, title II, §201(4), Apr. 30, 2015, 129 Stat. 189.)

EDITORIAL NOTES

AMENDMENTS

2015—Pub. L. 114–11 substituted "paragraph (5), (6), (7), or (8) of section 6302(a)" for "section 6302(a)(5)" and "section 6302(a)(7)" for "section 6302(a)(6)".

2007—Pub. L. 110–140 inserted after second sentence "Any such action to restrain any person from distributing in commerce a general service incandescent lamp that does not comply with the applicable standard established under section 6295(i) of this title or an adapter prohibited under section 6302(a)(6) of this title may also be brought by the attorney general of a State in the name of the State."

1978—Pub. L. 95–619 substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration, wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

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.

§6305. Citizen suits

(a) Civil actions; jurisdiction

Except as otherwise provided in subsection (b), any person may commence a civil action against—

(1) any manufacturer or private labeler who is alleged to be in violation of any provision of this part or any rule under this part;

(2) any Federal agency which has a responsibility under this part where there is an alleged failure of such agency to perform any act or duty under this part which is not discretionary; or

(3) the Secretary in any case in which there is an alleged failure of the Secretary to comply with a nondiscretionary duty to issue a proposed or final rule according to the schedules set forth in section 6295 of this title.

The United States district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such provision or rule, or order such Federal agency to perform such act or duty, as the case may be. The courts shall advance on the docket, and expedite the disposition of, all causes filed therein pursuant to paragraph (3) of this subsection. If the court finds that the Secretary has failed to comply with a deadline established in section 6295 of this title, the court shall have jurisdiction to order appropriate relief, including relief that will ensure the Secretary's compliance with future deadlines for the same covered product.

(b) Limitation

No action may be commenced—

(1) under subsection (a)(1)—

(A) prior to 60 days after the date on which the plaintiff has given notice of the violation (i) to the Secretary, (ii) to the Commission, and (iii) to any alleged violator of such provision or rule, or

(B) if the Commission has commenced and is diligently prosecuting a civil action to require compliance with such provision or rule, but, in any such action, any person may intervene as a matter of right.

(2) under subsection (a)(2) prior to 60 days after the date on which the plaintiff has given notice of such action to the Secretary and Commission.

Notice under this subsection shall be given in such manner as the Commission shall prescribe by rule.

(c) Right to intervene

In such action under this section, the Secretary or the Commission (or both), if not a party, may intervene as a matter of right.

(d) Award of costs of litigation

The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

(e) Preservation of other relief

Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of this part or any rule thereunder, or to seek

any other relief (including relief against the Secretary or the Commission).

(f) Compliance in good faith

For purposes of this section, if a manufacturer or private labeler complied in good faith with a rule under this part, then he shall not be deemed to have violated any provision of this part by reason of the alleged invalidity of such rule.

(Pub. L. 94–163, title III, §335, Dec. 22, 1975, 89 Stat. 930; Pub. L. 95–619, title IV, §425(f), title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3266, 3288; Pub. L. 100–12, §§8, 11(b)(7), Mar. 17, 1987, 101 Stat. 122, 126.)

EDITORIAL NOTES

AMENDMENTS

1987—Subsec. (a). Pub. L. 100–12, §8, added par. (3) and inserted at end "The courts shall advance on the docket, and expedite the disposition of, all causes filed therein pursuant to paragraph (3) of this subsection. If the court finds that the Secretary has failed to comply with a deadline established in section 6295 of this title, the court shall have jurisdiction to order appropriate relief, including relief that will ensure the Secretary's compliance with future deadlines for the same covered product."

Subsecs. (b) to (f). Pub. L. 100–12, §11(b)(7), inserted headings for subsecs. (b) to (f).

1978—Subsec. (a). Pub. L. 95–619, §425(f), struck out provision in par. (1) which excluded sections 6295 and 6302(a)(5) of this title and rules thereunder, struck out provision in par. (2) which excluded any act or duty under section 6295 or 6302(a)(5) of this title, and inserted provision giving district courts jurisdiction to order Federal agencies to perform particular acts or duties under this part.

Subsecs. (b), (c), (e). Pub. L. 95–619, §691(b)(2), substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration, wherever appearing.

§6306. Administrative procedure and judicial review

(a) Procedure for prescription of rules

(1) In addition to the requirements of section 553 of title 5, rules prescribed under section 6293, 6294, 6295, 6297, or 6298 of this title shall afford interested persons an opportunity to present written and oral data, views, and arguments with respect to any proposed rule.

(2) In the case of a rule prescribed under section 6295 of this title, the Secretary shall, by means of conferences or other informal procedures, afford any interested person an opportunity to question—

(A) other interested persons who have made oral presentations; and

(B) employees of the United States who have made written or oral presentations with respect to disputed issues of material fact.

Such opportunity shall be afforded to the extent the Secretary determines that questioning pursuant to such procedures is likely to result in a more timely and effective resolution of such issues.

(3) A transcript shall be kept of any oral presentations made under this subsection.

(b) Petition by persons adversely affected by rules; effect on other laws

(1) Any person who will be adversely affected by a rule prescribed under section 6293, 6294, or 6295 of this title may, at any time within 60 days after the date on which such rule is prescribed, file a petition with the United States court of appeals for the circuit in which such person resides or has his principal place of business, for judicial review of such rule. A copy of the petition shall be transmitted by the clerk of the court to the agency which prescribed the rule. Such agency shall file in the court the written submissions to, and transcript of, the proceedings on which the rule was based, as provided in section 2112 of title 28.

(2) Upon the filing of the petition referred to in paragraph (1), the court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5 and to grant appropriate relief as provided in such chapter. No rule under section 6293, 6294, or 6295 of this title may be affirmed unless supported by substantial evidence.

(3) The judgment of the court affirming or setting aside, in whole or in part, any such rule shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(4) The remedies provided for in this subsection shall be in addition to, and not in substitution for, any other remedies provided by law.

(5) The procedures applicable under this part shall not—

(A) be considered to be modified or affected by any other provision of law unless such other provision specifically amends this part (or provisions of law cited herein); or

(B) be considered to be superseded by any other provision of law unless such other provision does so in specific terms by referring to this part and declaring that such provision supersedes, in whole or in part, the procedures of this part.

(c) Jurisdiction

Jurisdiction is vested in the Federal district courts of the United States over actions brought by—

(1) any adversely affected person to determine whether a State or local government is complying with the requirements of this part; and

(2) any person who files a petition under section 6295(n) of this title which is denied by the Secretary.

(Pub. L. 94–163, title III, §336, Dec. 22, 1975, 89 Stat. 930; Pub. L. 95–619, title IV, §§425(g), 427, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3266, 3267, 3288; Pub. L. 100–12, §9, Mar. 17, 1987, 101 Stat. 123; Pub. L. 105–388, §5(a)(6), Nov. 13, 1998, 112 Stat. 3478.)

EDITORIAL NOTES

AMENDMENTS

1998—Subsec. (c)(2). Pub. L. 105–388 substituted "section 6295(n)" for "section 6295(k)".

1987—Subsec. (a). Pub. L. 100–12 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "Rules under sections 6293, 6294, 6295(a), 6297(b), or 6298 of this title shall be prescribed in accordance with section 553 of title 5, except that—

"(1) interested persons shall be afforded an opportunity to present written and oral data, views, and arguments with respect to any proposed rule, and

"(2) in the case of a rule under section 6295(a) of this title, the Secretary shall, by means of conferences or other informal procedures, afford any interested person an opportunity to question—

"(A) other interested persons who have made oral presentations under paragraph (1), and

"(B) employees of the United States who have made written or oral presentations,

with respect to disputed issues of material fact. Such opportunity shall be afforded to the extent the Secretary determines that questioning pursuant to such procedures is likely to result in a more timely and effective resolution of such issues.

A transcript shall be kept of any oral presentations made under this subsection."

Subsec. (b). Pub. L. 100–12 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

"(1) Any person who will be adversely affected by a rule prescribed under section 6293, 6294, or 6295 of this title when it is effective may, at any time prior to the sixtieth day after the date such rule is prescribed, file a petition with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for a judicial review thereof. A copy of the petition shall be forthwith transmitted by the clerk of the court to the agency which prescribed the rule. Such agency thereupon shall file in the court the written submissions to, and transcript of, the proceedings on which the rule was based as provided in section 2112 of title 28.

"(2) Upon the filing of the petition referred to in paragraph (1), the court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5 and to grant appropriate relief as provided in such chapter. No rule under section 6293, 6294, or 6295 of this title may be affirmed unless supported by substantial evidence.

"(3) The judgment of the court affirming or setting aside, in whole or in part, any such rule shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

"(4) The remedies provided for in this subsection shall be in addition to, and not in substitution for, any other remedies provided by law."

Subsec. (c). Pub. L. 100–12 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows:

"(1) Titles IV and V of the Department of Energy Organization Act shall not apply with respect to the procedures under this part.

"(2) The procedures applicable under this part shall not—

"(A) be considered to be modified or affected by any other provision of law unless such other provision specifically amends this part (or provisions of law cited herein), or

"(B) be considered to be superseded by any other provision of law unless such other provision does so in specific terms, referring to this part, and declaring that such provision supersedes, in whole or in part, the procedures of this part."

1978—Subsec. (a). Pub. L. 95–619, §§425(g)(1)–(3), 691(b)(2), struck out par. designation "(1)" before "Rules" and substituted reference to section "6295(a)" for "6295(a)(1), (2), or (3)" in first sentence; redesignated subpars. (A) and (B) and cls. (i) and (ii) of subpar. (B) as pars. (1) and (2) and subpars. (A) and (B) of par. (2), respectively; struck out "paragraph (1), (2), or (3) of" before "section 6295(a)" in par. (2) as so redesignated; directed the substitution of "paragraph (1)" for "subparagraph (A)" in par. (2)(B) as so redesignated, which was executed to par. (2)(A) as so redesignated to reflect the probable intent of Congress; substituted "subsection" for "paragraph" in last sentence; and substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration, wherever appearing.

Par. (2), which provided that subsecs. (c) and (d) of section 57a of title 15 shall apply to rules under section 6295 of this title (other than subsecs. (a)(1), (2), and (3)) to the same extent that such subsecs. apply to rules under section 57a(a)(1)(B) of title 15, was struck out to reflect the probable intent of Congress in view of the amendment by Pub. L. 95–619, §425(g)(1), which struck out designation "(1)" after subsection (a) designation, and in view of the amendment by Pub. L. 95–619, §422, to section 6295(a) of this title, which struck out pars. (3) to (5) therefrom.

Subsec. (b). Pub. L. 95–619, §425(g)(4), (5), substituted "section 6293, 6294, or 6295" for "section 6293 or 6294" in pars. (1) and (2) and struck out former par. (5) which related to the application of section 57a(e) of title 15 to rules under section 6295 of this title.

Subsec. (c). Pub. L. 95–619, §427, added subsec. (c).

§6307. Consumer education

(a) In general

The Secretary shall, in close cooperation and coordination with the Commission and appropriate industry trade associations and industry members, including retailers, and interested consumer and environmental organizations, carry out a program to educate consumers and other persons with respect to—

(1) the significance of estimated annual operating costs;

(2) the way in which comparative shopping, including comparisons of estimated annual operating costs, can save energy for the Nation and money for consumers; and

(3) such other matters as the Secretary determines may encourage the conservation of energy in the use of consumer products.

Such steps to educate consumers may include publications, audiovisual presentations, demonstrations, and the sponsorship of national and regional conferences involving manufacturers, distributors, retailers, and consumers, and State, local, and Federal Government representatives. Nothing in this section may be construed to require the compilation of lists which compare the estimated annual operating costs of consumer products by model or manufacturer's name.

(b) State and local incentive programs

(1) The Secretary shall, not later than one year after October 24, 1992, issue recommendations to the States for establishing State and local incentive programs designed to encourage the acceleration of voluntary replacement, by consumers, of existing showerheads, faucets, water closets, and urinals with those products that meet the standards established for such products pursuant to subsections (j) and (k) of section 6295 of this title.

(2) In developing such recommendations, the Secretary shall consult with the heads of other federal [1] agencies, including the Administrator of the Environmental Protection Agency; State

officials; manufacturers, suppliers, and installers of plumbing products; and other interested parties.

(c) HVAC maintenance

(1) To ensure that installed air conditioning and heating systems operate at maximum rated efficiency levels, the Secretary shall, not later than 180 days after August 8, 2005, carry out a program to educate homeowners and small business owners concerning the energy savings from properly conducted maintenance of air conditioning, heating, and ventilating systems.

(2) The Secretary shall carry out the program under paragraph (1), on a cost-shared basis, in cooperation with the Administrator of the Environmental Protection Agency and any other entities that the Secretary determines to be appropriate, including industry trade associations, industry members, and energy efficiency organizations.

(d) Small business education and assistance

(1) The Administrator of the Small Business Administration, in consultation with the Secretary and the Administrator of the Environmental Protection Agency, shall develop and coordinate a Government-wide program, building on the Energy Star for Small Business Program, to assist small businesses in—

(A) becoming more energy efficient;

(B) understanding the cost savings from improved energy efficiency;

(C) understanding and accessing Federal procurement opportunities with regard to Energy Star technologies and products; and

(D) identifying financing options for energy efficiency upgrades.

(2) The Secretary, the Administrator of the Environmental Protection Agency, and the Administrator of the Small Business Administration shall—

(A) make program information available to small business concerns directly through the district offices and resource partners of the Small Business Administration, including small business development centers, women's business centers, and the Service Corps of Retired Executives (SCORE), and through other Federal agencies, including the Federal Emergency Management Agency and the Department of Agriculture; and

(B) coordinate assistance with the Secretary of Commerce for manufacturing-related efforts, including the Manufacturing Extension Partnership Program.

(3) The Secretary, on a cost shared basis in cooperation with the Administrator of the Environmental Protection Agency, shall provide to the Small Business Administration all advertising, marketing, and other written materials necessary for the dissemination of information under paragraph (2).

(4) The Secretary, the Administrator of the Environmental Protection Agency, and the Administrator of the Small Business Administration, as part of the outreach to small business concerns under the Energy Star Program for Small Business Program, may enter into cooperative agreements with qualified resources partners (including the National Center for Appropriate Technology) to establish, maintain, and promote a Small Business Energy Clearinghouse (in this subsection referred to as the "Clearinghouse").

(5) The Secretary, the Administrator of the Environmental Protection Agency, and the Administrator of the Small Business Administration shall ensure that the Clearinghouse provides a centralized resource where small business concerns may access, telephonically and electronically, technical information and advice to help increase energy efficiency and reduce energy costs.

(6) There are authorized to be appropriated such sums as are necessary to carry out this subsection, to remain available until expended.

(Pub. L. 94–163, title III, §337, Dec. 22, 1975, 89 Stat. 931; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 102–486, title I, §123(i), Oct. 24, 1992, 106 Stat. 2831; Pub. L. 109–58, title I, §132, Aug. 8, 2005, 119 Stat. 621.)

EDITORIAL NOTES

AMENDMENTS

2005—Subsecs. (c), (d). Pub. L. 109–58 added subsecs. (c) and (d).

1992—Pub. L. 102–486 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1978—Pub. L. 95–619 substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration, wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

[1] *So in original. Probably should be capitalized.*

§6308. Annual report

The Secretary shall report to the Congress and the President either (1) as part of his annual report, or (2) in a separate report submitted annually, on the progress of the program undertaken pursuant to this part and on the energy savings impact of this part. Each such report shall specify the actions undertaken by the Secretary in carrying out this part during the period covered by such report, and those actions which the Secretary was required to take under this part during such period but which were not taken, together with the reasons therefor. Nothing in this section provides a defense or justification for a failure by the Secretary to comply with a nondiscretionary duty as provided for in this part.

(Pub. L. 94–163, title III, §338, Dec. 22, 1975, 89 Stat. 932; Pub. L. 95–619, title IV, §425(h), title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3266, 3288; Pub. L. 100–12, §10, Mar. 17, 1987, 101 Stat. 124.)

EDITORIAL NOTES

AMENDMENTS

1987—Pub. L. 100–12 inserted at end "Nothing in this section provides a defense or justification for a failure by the Secretary to comply with a nondiscretionary duty as provided for in this part."

1978—Pub. L. 95–619 inserted requirement that each report under this section should account for actions taken by the Secretary, as well as actions not taken, during the covered period in carrying out this part and substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration.

§6309. Authorization of appropriations

(a) Authorizations for Secretary

There are authorized to be appropriated to the Secretary not more than the following amounts to carry out his responsibilities under this part—

(1) $1,700,000 for fiscal year 1976;
(2) $1,500,000 for fiscal year 1977;
(3) $3,300,000 for fiscal year 1978; and
(4) $10,000,000 for fiscal year 1979.

Amounts authorized for such purposes under paragraph (3) shall be in addition to amounts otherwise authorized and appropriated for such purposes.

(b) Authorizations for Commission

There are authorized to be appropriated to the Commission not more than the following amounts to carry out its responsibilities under this part—

(1) $650,000 for fiscal year 1976;
(2) $700,000 for fiscal year 1977;
(3) $700,000 for fiscal year 1978; and
(3) [1] $2,000,000 for fiscal year 1979.

(c) Other authorizations

There are authorized to be appropriated to the Secretary to be allocated not more than the following amounts—

(1) $1,100,000 for fiscal year 1976;
(2) $2,500,000 for fiscal year 1977; and
(3) $1,800,000 for fiscal year 1978.

Such amounts shall, and any amounts authorized to be appropriated under subsection (a), may be allocated by the Secretary to the National Institute of Standards and Technology.

(Pub. L. 94–163, title III, §339, Dec. 22, 1975, 89 Stat. 932; Pub. L. 95–70, §3, July 21, 1977, 91 Stat. 276; Pub. L. 95–619, title IV, §426, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3267, 3288; Pub. L. 100–12, §11(b)(8), Mar. 17, 1987, 101 Stat. 126; Pub. L. 100–418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433.)

EDITORIAL NOTES

AMENDMENTS

1988—Subsec. (c). Pub. L. 100–418 substituted "National Institute of Standards and Technology" for "National Bureau of Standards" in closing provisions.

1987—Pub. L. 100–12 inserted headings for subsecs. (a) to (c).

1978—Subsec. (a). Pub. L. 95–619, §§426(a), 691(b)(2), substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration, in text preceding par. (1), "$3,300,000" for "$1,500,000" in par. (3), added par. (4), and provided that amounts authorized under par. (3) would be in addition to amounts otherwise authorized and appropriated.

Subsec. (b)(3). Pub. L. 95–619, §426(b), added second par. (3) relating to fiscal year 1979.

Subsec. (c). Pub. L. 95–619, §691(b)(2), substituted "Secretary" for "Administrator".

1977—Subsec. (c)(2). Pub. L. 95–70, §3(a), substituted "$2,500,000" for "$700,000".

Subsec. (c)(3). Pub. L. 95–70, §3(b), substituted "$1,800,000" for "$700,000".

[1] So in original. Probably should be designated "(4)".

PART A–1—CERTAIN INDUSTRIAL EQUIPMENT

EDITORIAL NOTES

CODIFICATION

This part was, in the original, designated part C and has been changed to part A–1 for purposes of codification.

§6311. Definitions

For purposes of this part—

(1) The term "covered equipment" means one of the following types of industrial equipment:

(A) Electric motors and pumps.

(B) Small commercial package air conditioning and heating equipment.

(C) Large commercial package air conditioning and heating equipment.

(D) Very large commercial package air conditioning and heating equipment.

(E) Commercial refrigerators, freezers, and refrigerator-freezers.

(F) Automatic commercial ice makers.

(G) Walk-in coolers and walk-in freezers.

(H) Commercial clothes washers.

(I) Packaged terminal air-conditioners and packaged terminal heat pumps.

(J) Warm air furnaces and packaged boilers.

(K) Storage water heaters, instantaneous water heaters, and unfired hot water storage tanks.

(L) Any other type of industrial equipment which the Secretary classifies as covered equipment under section 6312(b) of this title.

(2)(A) The term "industrial equipment" means any article of equipment referred to in subparagraph (B) of a type—

(i) which in operation consumes, or is designed to consume, energy;

(ii) which, to any significant extent, is distributed in commerce for industrial or commercial use; and

(iii) which is not a "covered product" as defined in section 6291(a)(2) of this title, other than a component of a covered product with respect to which there is in effect a determination under section 6312(c) of this title;

without regard to whether such article is in fact distributed in commerce for industrial or commercial use.

(B) The types of equipment referred to in this subparagraph (in addition to electric motors and pumps, commercial package air conditioning and heating equipment, commercial refrigerators, freezers, and refrigerator-freezers, automatic commercial ice makers, commercial clothes washers, packaged terminal air-conditioners, packaged terminal heat pumps, warm air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks) are as follows:

(i) compressors;

(ii) fans;

(iii) blowers;

(iv) refrigeration equipment;

(v) electric lights and lighting power supply circuits;

(vi) electrolytic equipment;

(vii) electric arc equipment;

(viii) steam boilers;

(ix) ovens;

(x) kilns;

(xi) evaporators;

(xii) dryers; and

(xiii) other motors.

(3) The term "energy efficiency" means the ratio of the useful output of services from an article of industrial equipment to the energy use by such article, determined in accordance with test procedures under section 6314 of this title.

(4) The term "energy use" means the quantity of energy directly consumed by an article of industrial equipment at the point of use, determined in accordance with test procedures established under section 6314 of this title.

(5) The term "manufacturer" means any person who manufactures industrial equipment.

(6) The term "label" may include any printed matter determined appropriate by the Secretary.

(7) The terms "energy", "manufacture", "import", "importation", "consumer product", "distribute in commerce", "distribution in commerce", and "commerce" have the same meaning as is given such terms in section 6291 of this title.

(8)(A) The term "commercial package air conditioning and heating equipment" means air-cooled, water-cooled, evaporatively-cooled, or water source (not including ground water source) electrically operated, unitary central air conditioners and central air conditioning heat pumps for commercial application.

(B) The term "small commercial package air conditioning and heating equipment" means commercial package air conditioning and heating equipment that is rated below 135,000 Btu per hour (cooling capacity).

(C) The term "large commercial package air conditioning and heating equipment" means commercial package air conditioning and heating equipment that is rated—

(i) at or above 135,000 Btu per hour; and

(ii) below 240,000 Btu per hour (cooling capacity).

(D) The term "very large commercial package air conditioning and heating equipment" means commercial package air conditioning and heating equipment that is rated—

(i) at or above 240,000 Btu per hour; and

(ii) below 760,000 Btu per hour (cooling capacity).

(9)(A) The term "commercial refrigerator, freezer, and refrigerator-freezer" means refrigeration equipment that—

(i) is not a consumer product (as defined in section 6291 of this title);

(ii) is not designed and marketed exclusively for medical, scientific, or research purposes;

(iii) operates at a chilled, frozen, combination chilled and frozen, or variable temperature;

(iv) displays or stores merchandise and other perishable materials horizontally, semivertically, or vertically;

(v) has transparent or solid doors, sliding or hinged doors, a combination of hinged, sliding, transparent, or solid doors, or no doors;

(vi) is designed for pull-down temperature applications or holding temperature applications; and

(vii) is connected to a self-contained condensing unit or to a remote condensing unit.

(B) The term "holding temperature application" means a use of commercial refrigeration equipment other than a pull-down temperature application, except a blast chiller or freezer.

(C) The term "integrated average temperature" means the average temperature of all test package measurements taken during the test.

(D) The term "pull-down temperature application" means a commercial refrigerator with doors that, when fully loaded with 12 ounce beverage cans at 90 degrees F, can cool those beverages to an average stable temperature of 38 degrees F in 12 hours or less.

(E) The term "remote condensing unit" means a factory-made assembly of refrigerating components designed to compress and liquefy a specific refrigerant that is remotely located from the refrigerated equipment and consists of one or more refrigerant compressors, refrigerant condensers, condenser fans and motors, and factory supplied accessories.

(F) The term "self-contained condensing unit" means a factory-made assembly of refrigerating components designed to compress and liquefy a specific refrigerant that is an integral part of the refrigerated equipment and consists of one or more refrigerant compressors, refrigerant condensers, condenser fans and motors, and factory supplied accessories.

(10)(A) The term "packaged terminal air conditioner" means a wall sleeve and a separate unencased combination of heating and cooling assemblies specified by the builder and intended for mounting through the wall. It includes a prime source of refrigeration, separable outdoor

louvers, forced ventilation, and heating availability by builder's choice of hot water, steam, or electricity.

(B) The term "packaged terminal heat pump" means a packaged terminal air conditioner that utilizes reverse cycle refrigeration as its prime heat source and should have supplementary heat source available to builders with the choice of hot water, steam, or electric resistant heat.

(11)(A) The term "warm air furnace" means a self-contained oil- or gas-fired furnace designed to supply heated air through ducts to spaces that require it and includes combination warm air furnace/electric air conditioning units but does not include unit heaters and duct furnaces.

(B) The term "packaged boiler" means a boiler that is shipped complete with heating equipment, mechanical draft equipment, and automatic controls; usually shipped in one or more sections.

(12)(A) The term "storage water heater" means a water heater that heats and stores water within the appliance at a thermostatically controlled temperature for delivery on demand. Such term does not include units with an input rating of 4000 Btu per hour or more per gallon of stored water.

(B) The term "instantaneous water heater" means a water heater that has an input rating of at least 4000 Btu per hour per gallon of stored water.

(C) The term "unfired hot water storage tank" means a tank used to store water that is heated externally.

(13) ELECTRIC MOTOR.—

(A) GENERAL PURPOSE ELECTRIC MOTOR (SUBTYPE I).—The term "general purpose electric motor (subtype I)" means any motor that meets the definition of "General Purpose" as established in the final rule issued by the Department of Energy entitled "Energy Efficiency Program for Certain Commercial and Industrial Equipment: Test Procedures, Labeling, and Certification Requirements for Electric Motors" (10 CFR 431), as in effect on December 19, 2007.

(B) GENERAL PURPOSE ELECTRIC MOTOR (SUBTYPE II).—The term "general purpose electric motor (subtype II)" means motors incorporating the design elements of a general purpose electric motor (subtype I) that are configured as 1 of the following:

(i) A U-Frame Motor.

(ii) A Design C Motor.

(iii) A close-coupled pump motor.

(iv) A Footless motor.

(v) A vertical solid shaft normal thrust motor (as tested in a horizontal configuration).

(vi) An 8-pole motor (900 rpm).

(vii) A poly-phase motor with voltage of not more than 600 volts (other than 230 or 460 volts.[1]

(C) The term "definite purpose motor" means any motor designed in standard ratings with standard operating characteristics or standard mechanical construction for use under service conditions other than usual or for use on a particular type of application and which cannot be used in most general purpose applications.

(D) The term "special purpose motor" means any motor, other than a general purpose motor or definite purpose motor, which has special operating characteristics or special mechanical construction, or both, designed for a particular application.

(E) The term "open motor" means a motor having ventilating openings which permit passage of external cooling air over and around the windings of the machine.

(F) The term "enclosed motor" means a motor so enclosed as to prevent the free exchange of air between the inside and outside of the case but not sufficiently enclosed to be termed airtight.

(G) The term "small electric motor" means a NEMA general purpose alternating current single-speed induction motor, built in a two-digit frame number series in accordance with NEMA Standards Publication MG1–1987.

(H) The term "efficiency" when used with respect to an electric motor means the ratio of an electric motor's useful power output to its total power input, expressed in percentage.

(I) The term "nominal full load efficiency" means the average efficiency of a population of motors of duplicate design as determined in accordance with NEMA Standards Publication MG1–1987.

(14) The term "ASHRAE" means the American Society of Heating, Refrigerating, and Air Conditioning Engineers.

(15) The term "IES" means the Illuminating Engineering Society of North America.

(16) The term "NEMA" means the National Electrical Manufacturers Association.

(17) The term "IEEE" means the Institute of Electrical and Electronics Engineers.

(18) The term "energy conservation standard" means—

(A) a performance standard that prescribes a minimum level of energy efficiency or a maximum quantity of energy use for a product; or

(B) a design requirement for a product.

(19) The term "automatic commercial ice maker" means a factory-made assembly (not necessarily shipped in one package) that—

(A) consists of a condensing unit and ice-making section operating as an integrated unit, with means for making and harvesting ice; and

(B) may include means for storing ice, dispensing ice, or storing and dispensing ice.

(20) WALK-IN COOLER; WALK-IN FREEZER.—

(A) IN GENERAL.—The terms "walk-in cooler" and "walk-in freezer" mean an enclosed storage space refrigerated to temperatures, respectively, above, and at or below 32 degrees Fahrenheit that can be walked into, and has a total chilled storage area of less than 3,000 square feet.

(B) EXCLUSION.—The terms "walk-in cooler" and "walk-in freezer" do not include products designed and marketed exclusively for medical, scientific, or research purposes.

(21) The term "commercial clothes washer" means a soft-mount front-loading or soft-mount top-loading clothes washer that—

(A) has a clothes container compartment that—

(i) for horizontal-axis clothes washers, is not more than 3.5 cubic feet; and

(ii) for vertical-axis clothes washers, is not more than 4.0 cubic feet; and

(B) is designed for use in—

(i) applications in which the occupants of more than one household will be using the clothes washer, such as multi-family housing common areas and coin laundries; or

(ii) other commercial applications.

(22) [2] The term "harvest rate" means the amount of ice (at 32 degrees F) in pounds produced per 24 hours.

(22) [2] SINGLE PACKAGE VERTICAL AIR CONDITIONER.—The term "single package vertical air conditioner" means air-cooled commercial package air conditioning and heating equipment that—

(A) is factory-assembled as a single package that—

(i) has major components that are arranged vertically;

(ii) is an encased combination of cooling and optional heating components; and

(iii) is intended for exterior mounting on, adjacent interior to, or through an outside wall;

(B) is powered by a single- or 3-phase current;

(C) may contain 1 or more separate indoor grilles, outdoor louvers, various ventilation options, indoor free air discharges, ductwork, well plenum, or sleeves; and

(D) has heating components that may include electrical resistance, steam, hot water, or gas, but may not include reverse cycle refrigeration as a heating means.

(23) SINGLE PACKAGE VERTICAL HEAT PUMP.—The term "single package vertical heat pump" means a single package vertical air conditioner that—

(A) uses reverse cycle refrigeration as its primary heat source; and

(B) may include secondary supplemental heating by means of electrical resistance, steam, hot water, or gas.

(Pub. L. 94–163, title III, §340, as added Pub. L. 95–619, title IV, §441(a), Nov. 9, 1978, 92 Stat. 3267; amended Pub. L. 102–486, title I, §122(a), (f)(1), Oct. 24, 1992, 106 Stat. 2806, 2817; Pub. L. 109–58, title I, §136(a), Aug. 8, 2005, 119 Stat. 634; Pub. L. 110–140, title III, §§312(a), 313(a), 314(a), Dec. 19, 2007, 121 Stat. 1564, 1568, 1569; Pub. L. 112–210, §10(c)(1), Dec. 18, 2012, 126 Stat. 1525; Pub. L. 115–115, §2(b)(1), Jan. 12, 2018, 131 Stat. 2280.)

EDITORIAL NOTES

AMENDMENTS

2018—Par. (2)(B)(v). Pub. L. 115–115 added cl. (v) and struck out former cl. (v) which read as follows: " electric lights;".

2012—Par. (2)(B)(xiii). Pub. L. 112–210 added cl. (xiii).

2007—Par. (1)(G) to (L). Pub. L. 110–140, §312(a)(1), added subpar. (G) and redesignated former subpars. (G) to (K) as (H) to (L), respectively.

Par. (13). Pub. L. 110–140, §313(a), inserted par. heading, added subpars. (A) and (B), redesignated former subpars. (B) to (H) as (C) to (I), respectively, and struck out former subpar. (A) which read as follows: "The term 'electric motor' means any motor which is a general purpose T-frame, single-speed, foot-mounting, polyphase squirrel-cage induction motor of the National Electrical Manufacturers Association, Design A and B, continuous rated, operating on 230/460 volts and constant 60 Hertz line power as defined in NEMA Standards Publication MG1–1987."

Pars. (20), (21). Pub. L. 110–140, §312(a)(2), (3), added par. (20) and redesignated former par. (20) as (21). Former par. (21) redesignated (22) relating to harvest rate.

Par. (22). Pub. L. 110–140, §314(a), added par. (22) relating to single package vertical air conditioner.

Pub. L. 110–140, §312(a)(2), redesignated par. (21) as (22) relating to harvest rate.

Par. (23). Pub. L. 110–140, §314(a), added par. (23).

2005—Par. (1)(D) to (K). Pub. L. 109–58, §136(a)(1), added subpars. (D) to (G) and redesignated former subpars. (D) to (G) as (H) to (K), respectively.

Par. (2)(B). Pub. L. 109–58, §136(a)(2), substituted "commercial package air conditioning and heating equipment, commercial refrigerators, freezers, and refrigerator-freezers, automatic commercial ice makers, commercial clothes washers" for "small and large commercial package air conditioning and heating equipment" in introductory provisions.

Pars. (8), (9). Pub. L. 109–58, §136(a)(3), added pars. (8) and (9) and struck out former pars. (8) and (9) which read as follows:

"(8) The term 'small commercial package air conditioning and heating equipment' means air-cooled, water-cooled, evaporatively-cooled, or water source (not including ground water source) electrically operated, unitary central air conditioners and central air conditioning heat pumps for commercial application which are rated below 135,000 Btu per hour (cooling capacity).

"(9) The term 'large commercial package air conditioning and heating equipment' means air-cooled, water-cooled, evaporatively-cooled, or water source (not including ground water source) electrically operated, unitary central air conditioners and central air conditioning heat pumps for commercial application which are rated at or above 135,000 Btu per hour and below 240,000 Btu per hour (cooling capacity)."

Pars. (19) to (21). Pub. L. 109–58, §136(a)(4), added pars. (19) to (21).

1992—Par. (1)(B) to (G). Pub. L. 102–486, §122(a)(1), added subpars. (B) to (F) and redesignated former subpar. (B) as (G).

Par. (2)(B). Pub. L. 102–486, §122(a)(2), in introductory provisions, substituted "pumps, small and large commercial package air conditioning and heating equipment, packaged terminal air-conditioners, packaged terminal heat pumps, warm air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks)" for "pumps)", redesignated cls. (vi) to (x) and (xii) to (xiv) as cls. (v) to (ix) and (x) to (xii), respectively, and struck out former cls. (v) and (xi) which read "air conditioning equipment;" and "furnaces;", respectively.

Par. (3). Pub. L. 102–486, §122(f)(1), substituted "(3) The" for "(3) the".
Pars. (8) to (18). Pub. L. 102–486, §122(a)(3), added pars. (8) to (18).

STATUTORY NOTES AND RELATED SUBSIDIARIES

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.

EXTENDED PRODUCT SYSTEM REBATE PROGRAM

Pub. L. 116–260, div. Z, title I, §1005, Dec. 27, 2020, 134 Stat. 2430, provided that:
"(a) DEFINITIONS.—In this section:
"(1) ELECTRIC MOTOR.—The term 'electric motor' has the meaning given the term in section 431.12 of title 10, Code of Federal Regulations (as in effect on the date of enactment of this Act [Dec. 27, 2020]).
"(2) ELECTRONIC CONTROL.—The term 'electronic control' means—
"(A) a power converter; or
"(B) a combination of a power circuit and control circuit included on 1 chassis.
"(3) EXTENDED PRODUCT SYSTEM.—The term 'extended product system' means an electric motor and any required associated electronic control and driven load that—
"(A) offers variable speed or multispeed operation;
"(B) offers partial load control that reduces input energy requirements (as measured in kilowatt-hours) as compared to identified base levels set by the Secretary of Energy (in this section referred to as the 'Secretary'); and
"(C)(i) has greater than 1 horsepower; and
"(ii) uses an extended product system technology, as determined by the Secretary.
"(4) QUALIFIED EXTENDED PRODUCT SYSTEM.—
"(A) IN GENERAL.—The term 'qualified extended product system' means an extended product system that—
"(i) includes an electric motor and an electronic control; and
"(ii) reduces the input energy (as measured in kilowatt-hours) required to operate the extended product system by not less than 5 percent, as compared to identified base levels set by the Secretary.
"(B) INCLUSIONS.—The term 'qualified extended product system' includes commercial or industrial machinery or equipment that—
"(i)(I) did not previously make use of the extended product system prior to the redesign described in subclause (II); and
"(II) incorporates an extended product system that has greater than 1 horsepower into redesigned machinery or equipment; and
"(ii) was previously used prior to, and was placed back into service during, calendar year 2021 or 2022.
"(b) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish a program to provide rebates for expenditures made by qualified entities for the purchase or installation of a qualified extended product system.
"(c) QUALIFIED ENTITIES.—
"(1) ELIGIBILITY REQUIREMENTS.—A qualified entity under this section shall be—
"(A) in the case of a qualified extended product system described in subsection (a)(4)(A), the purchaser of the qualified extended product that is installed; and
"(B) in the case of a qualified extended product system described in subsection (a)(4)(B), the manufacturer of the commercial or industrial machinery or equipment that incorporated the extended product system into that machinery or equipment.
"(2) APPLICATION.—To be eligible to receive a rebate under this section, a qualified entity shall submit to the Secretary—
"(A) an application in such form, at such time, and containing such information as the Secretary may require; and
"(B) a certification that includes demonstrated evidence—
"(i) that the entity is a qualified entity; and
"(ii)(I) in the case of a qualified entity described in paragraph (1)(A)—

"(aa) that the qualified entity installed the qualified extended product system during the 2 fiscal years following the date of enactment of this Act;

"(bb) that the qualified extended product system meets the requirements of subsection (a)(4)(A); and

"(cc) showing the serial number, manufacturer, and model number from the nameplate of the installed motor of the qualified entity on which the qualified extended product system was installed; or

"(II) in the case of a qualified entity described in paragraph (1)(B), demonstrated evidence—

"(aa) that the qualified extended product system meets the requirements of subsection (a)(4)(B); and

"(bb) showing the serial number, manufacturer, and model number from the nameplate of the installed motor of the qualified entity with which the extended product system is integrated.

"(d) AUTHORIZED AMOUNT OF REBATE.—

"(1) IN GENERAL.—The Secretary may provide to a qualified entity a rebate in an amount equal to the product obtained by multiplying—

"(A) an amount equal to the sum of the nameplate rated horsepower of—

"(i) the electric motor to which the qualified extended product system is attached; and

"(ii) the electronic control; and

"(B) $25.

"(2) MAXIMUM AGGREGATE AMOUNT.—A qualified entity shall not be entitled to aggregate rebates under this section in excess of $25,000 per calendar year.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2022 and 2023."

[1] So in original. A closing parenthesis probably should follow "volts".

[2] So in original. Two pars. (22) have been enacted.

§6312. Purposes and coverage

(a) Congressional statement of purpose

It is the purpose of this part to improve the efficiency of electric motors and pumps and certain other industrial equipment in order to conserve the energy resources of the Nation.

(b) Inclusion of industrial equipment as covered equipment

The Secretary may, by rule, include a type of industrial equipment as covered equipment if he determines that to do so is necessary to carry out the purposes of this part.

(c) Inclusion of component parts of consumer products as industrial equipment

The Secretary may, by rule, include as industrial equipment articles which are component parts of consumer products, if he determines that—

(1) such articles are, to a significant extent, distributed in commerce other than as component parts for consumer products; and

(2) such articles meet the requirements of section 6311(2)(A) of this title (other than clauses (ii) and (iii)).

(Pub. L. 94–163, title III, §341, as added Pub. L. 95–619, title IV, §441(a), Nov. 9, 1978, 92 Stat. 3268.)

§6313. Standards

(a) Small, large, and very large commercial package air conditioning and heating equipment, packaged terminal air conditioners and heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks

(1) Each small commercial package air conditioning and heating equipment (including single package vertical air conditioners and single package vertical heat pumps) manufactured on or after January 1, 1994, shall meet the following standard levels:

(A) The minimum seasonal energy efficiency ratio of air-cooled three-phase electric central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), split systems, shall be 10.0.

(B) The minimum seasonal energy efficiency ratio of air-cooled three-phase electric central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), single package, shall be 9.7.

(C) The minimum energy efficiency ratio of air-cooled central air conditioners and central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 8.9 (at a standard rating of 95 degrees F db).

(D) The minimum heating seasonal performance factor of air-cooled three-phase electric central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), split systems, shall be 6.8.

(E) The minimum heating seasonal performance factor of air-cooled three-phase electric central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), single package, shall be 6.6.

(F) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 3.0 (at a high temperature rating of 47 degrees F db).

(G) The minimum energy efficiency ratio of water-cooled, evaporatively-cooled and water-source central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity) shall be 9.3 (at a standard rating of 95 degrees F db, outdoor temperature for evaporatively cooled equipment, and 85 degrees Fahrenheit entering water temperature for water-source and water-cooled equipment).

(H) The minimum energy efficiency ratio of water-cooled, evaporatively-cooled and water-source central air conditioners and central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 10.5 (at a standard rating of 95 degrees F db, outdoor temperature for evaporatively cooled equipment, and 85 degrees Fahrenheit entering water temperature for water source and water-cooled equipment).

(I) The minimum coefficient of performance in the heating mode of water-source heat pumps less than 135,000 Btu per hour (cooling capacity) shall be 3.8 (at a standard rating of 70 degrees Fahrenheit entering water).

(2) Each large commercial package air conditioning and heating equipment (including single package vertical air conditioners and single package vertical heat pumps) manufactured on or after January 1, 1995, but before January 1, 2010, shall meet the following standard levels:

(A) The minimum energy efficiency ratio of air-cooled central air conditioners and central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 8.5 (at a standard rating of 95 degrees F db).

(B) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 2.9.

(C) The minimum energy efficiency ratio of water- and evaporatively-cooled central air conditioners and central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 9.6 (according to ARI Standard 360–86).

(3) Each packaged terminal air conditioner and packaged terminal heat pump manufactured on or after January 1, 1994, shall meet the following standard levels:

(A) The minimum energy efficiency ratio (EER) of packaged terminal air conditioners and packaged terminal heat pumps in the cooling mode shall be 10.0 — (0.16 x Capacity [in thousands of Btu per hour at a standard rating of 95 degrees F db, outdoor temperature]). If a unit has a capacity of less than 7,000 Btu per hour, then 7,000 Btu per hour shall be used in the calculation.

If a unit has a capacity of greater than 15,000 Btu per hour, then 15,000 Btu per hour shall be used in the calculation.

(B) The minimum coefficient of performance (COP) of packaged terminal heat pumps in the heating mode shall be 1.3 + (0.16 x the minimum cooling EER as specified in subparagraph (A)) (at a standard rating of 47 degrees F db).

(4) Each warm air furnace and packaged boiler manufactured on or after January 1, 1994, shall meet the following standard levels:

(A) The minimum thermal efficiency at the maximum rated capacity of gas-fired warm-air furnaces with capacity of 225,000 Btu per hour or more shall be 80 percent.

(B) The minimum thermal efficiency at the maximum rated capacity of oil-fired warm-air furnaces with capacity of 225,000 Btu per hour or more shall be 81 percent.

(C) The minimum combustion efficiency at the maximum rated capacity of gas-fired packaged boilers with capacity of 300,000 Btu per hour or more shall be 80 percent.

(D) The minimum combustion efficiency at the maximum rated capacity of oil-fired packaged boilers with capacity of 300,000 Btu per hour or more shall be 83 percent.

(5) Each storage water heater, instantaneous water heater, and unfired water storage tank manufactured on or after January 1, 1994, shall meet the following standard levels:

(A) Except as provided in subparagraph (G), the maximum standby loss, in percent per hour, of electric storage water heaters shall be 0.30 + (27/Measured Storage Volume [in gallons]).

(B) Except as provided in subparagraph (G), the maximum standby loss, in percent per hour, of gas- and oil-fired storage water heaters with input ratings of 155,000 Btu per hour or less shall be 1.30 + (114/Measured Storage Volume [in gallons]). The minimum thermal efficiency of such units shall be 78 percent.

(C) Except as provided in subparagraph (G), the maximum standby loss, in percent per hour, of gas- and oil-fired storage water heaters with input ratings of more than 155,000 Btu per hour shall be 1.30 + (95/Measured Storage Volume [in gallons]). The minimum thermal efficiency of such units shall be 78 percent.

(D) The minimum thermal efficiency of instantaneous water heaters with a storage volume of less than 10 gallons shall be 80 percent.

(E) Except as provided in subparagraph (G), the minimum thermal efficiency of instantaneous water heaters with a storage volume of 10 gallons or more shall be 77 percent. The maximum standby loss, in percent/hour, of such units shall be 2.30 + (67/Measured Storage Volume [in gallons]).

(F) Except as provided in subparagraph (G), the maximum heat loss of unfired hot water storage tanks shall be 6.5 Btu per hour per square foot of tank surface area.

(G) Storage water heaters and hot water storage tanks having more than 140 gallons of storage capacity need not meet the standby loss or heat loss requirements specified in subparagraphs (A) through (C) and subparagraphs (E) and (F) if the tank surface area is thermally insulated to R–12.5 and if a standing pilot light is not used.

(6) AMENDED ENERGY EFFICIENCY STANDARDS.—

(A) IN GENERAL.—

(i) ANALYSIS OF POTENTIAL ENERGY SAVINGS.—If ASHRAE/IES Standard 90.1 is amended with respect to the standard levels or design requirements applicable under that standard to any small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, very large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, or unfired hot water storage tanks, not later than 180 days after the amendment of the standard, the Secretary shall publish in the Federal Register for public comment an analysis of the energy savings potential of amended energy efficiency standards.

(ii) AMENDED UNIFORM NATIONAL STANDARD FOR PRODUCTS.—

(I) IN GENERAL.—Except as provided in subclause (II), not later than 18 months after the date of publication of the amendment to the ASHRAE/IES Standard 90.1 for a product described in clause (i), the Secretary shall establish an amended uniform national standard for the product at the minimum level specified in the amended ASHRAE/IES Standard 90.1.

(II) MORE STRINGENT STANDARD.—Subclause (I) shall not apply if the Secretary determines, by rule published in the Federal Register, and supported by clear and convincing evidence, that adoption of a uniform national standard more stringent than the amended ASHRAE/IES Standard 90.1 for the product would result in significant additional conservation of energy and is technologically feasible and economically justified.

(B) RULE.—

(i) IN GENERAL.—If the Secretary makes a determination described in subparagraph (A)(ii)(II) for a product described in subparagraph (A)(i), not later than 30 months after the date of publication of the amendment to the ASHRAE/IES Standard 90.1 for the product, the Secretary shall issue the rule establishing the amended standard.

(ii) FACTORS.—In determining whether a standard is economically justified for the purposes of subparagraph (A)(ii)(II), the Secretary shall, after receiving views and comments furnished with respect to the proposed standard, determine whether the benefits of the standard exceed the burden of the proposed standard by, to the maximum extent practicable, considering—

(I) the economic impact of the standard on the manufacturers and on the consumers of the products subject to the standard;

(II) the savings in operating costs throughout the estimated average life of the product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the products that are likely to result from the imposition of the standard;

(III) the total projected quantity of energy savings likely to result directly from the imposition of the standard;

(IV) any lessening of the utility or the performance of the products likely to result from the imposition of the standard;

(V) the impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;

(VI) the need for national energy conservation; and

(VII) other factors the Secretary considers relevant.

(iii) ADMINISTRATION.—

(I) ENERGY USE AND EFFICIENCY.—The Secretary may not prescribe any amended standard under this paragraph that increases the maximum allowable energy use, or decreases the minimum required energy efficiency, of a covered product.

(II) UNAVAILABILITY.—

(aa) IN GENERAL.—The Secretary may not prescribe an amended standard under this subparagraph if the Secretary finds (and publishes the finding) that interested persons have established by a preponderance of the evidence that a standard is likely to result in the unavailability in the United States in any product type (or class) of performance characteristics (including reliability, features, sizes, capacities, and volumes) that are substantially the same as those generally available in the United States at the time of the finding of the Secretary.

(bb) OTHER TYPES OR CLASSES.—The failure of some types (or classes) to meet the criterion established under this subclause shall not affect the determination of the Secretary on whether to prescribe a standard for the other types or classes.

(C) AMENDMENT OF STANDARD.—

(i) IN GENERAL.—Every 6 years, the Secretary shall conduct an evaluation of each class of covered equipment and shall publish—

(I) a notice of the determination of the Secretary that standards for the product do not need to be amended, based on the criteria established under subparagraph (A); or

(II) a notice of proposed rulemaking including new proposed standards based on the criteria and procedures established under subparagraph (B).

(ii) NOTICE.—If the Secretary publishes a notice under clause (i), the Secretary shall—

(I) publish a notice stating that the analysis of the Department is publicly available; and

(II) provide an opportunity for written comment.

(iii) AMENDMENT OF STANDARD; NEW DETERMINATION.—

(I) AMENDMENT OF STANDARD.—Not later than 2 years after a notice is issued under clause (i)(II), the Secretary shall publish a final rule amending the standard for the product.

(II) NEW DETERMINATION.—Not later than 3 years after a determination under clause (i)(I), the Secretary shall make a new determination and publication under subclause (I) or (II) of clause (i).

(iv) APPLICATION TO PRODUCTS.—Notwithstanding subparagraph (D), an amendment prescribed under this subparagraph shall apply to products manufactured after a date that is the later of—

(I) the date that is 3 years after publication of the final rule establishing a new standard; or

(II) the date that is 6 years after the effective date of the current standard for a covered product.

(v) CONSIDERATION OF PRICES AND OPERATING PATTERNS.—If the Secretary is considering revised standards for air-cooled 3-phase central air conditioners and central air conditioning heat pumps with less [1] 65,000 Btu per hour (cooling capacity), the Secretary shall use commercial energy prices and operating patterns in all analyses conducted by the Secretary.

(vi) For any covered equipment as to which more than 6 years has elapsed since the issuance of the most recent final rule establishing or amending a standard for the product as of December 18, 2012, the first notice required under clause (i) shall be published by December 31, 2013.

(D) A standard amended by the Secretary under this paragraph shall become effective for products manufactured—

(i) with respect to small commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks, on or after a date which is two years after the effective date of the applicable minimum energy efficiency requirement in the amended ASHRAE/IES standard referred to in subparagraph (A); and

(ii) with respect to large commercial package air conditioning and heating equipment and very large commercial package air conditioning and heating equipment, on or after a date which is three years after the effective date of the applicable minimum energy efficiency requirement in the amended ASHRAE/IES standard referred to in subparagraph (A);

except that an energy conservation standard amended by the Secretary pursuant to a rule under subparagraph (B) shall become effective for products manufactured on or after a date which is four years after the date such rule is published in the Federal Register.

(7) Small commercial package air conditioning and heating equipment (other than single package vertical air conditioners and single package vertical heat pumps) shall meet the following standards:

(A) For equipment manufactured on or after January 1, 2010, the minimum energy efficiency

ratio of air-cooled central air conditioners at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be—

(i) 11.2 for equipment with no heating or electric resistance heating; and

(ii) 11.0 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

(B) For equipment manufactured on or after January 1, 2010, the minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be—

(i) 11.0 for equipment with no heating or electric resistance heating; and

(ii) 10.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

(C) For equipment manufactured on or after January 1, 2010, the minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 3.3 (at a high temperature rating of 47 degrees F db).

(D) For equipment manufactured on or after the later of January 1, 2008, or the date that is 180 days after December 19, 2007—

(i) the minimum seasonal energy efficiency ratio of air-cooled 3-phase electric central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), split systems, shall be 13.0;

(ii) the minimum seasonal energy efficiency ratio of air-cooled 3-phase electric central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), single package, shall be 13.0;

(iii) the minimum heating seasonal performance factor of air-cooled 3-phase electric central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), split systems, shall be 7.7; and

(iv) the minimum heating seasonal performance factor of air-cooled 3-phase electric central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), single package, shall be 7.7.

(8) Large commercial package air conditioning and heating equipment (other than single package vertical air conditioners and single package vertical heat pumps) manufactured on or after January 1, 2010, shall meet the following standards:

(A) The minimum energy efficiency ratio of air-cooled central air conditioners at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be—

(i) 11.0 for equipment with no heating or electric resistance heating; and

(ii) 10.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

(B) The minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be—

(i) 10.6 for equipment with no heating or electric resistance heating; and

(ii) 10.4 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

(C) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 3.2 (at a high temperature rating of 47 degrees F db).

(9) Very large commercial package air conditioning and heating equipment (other than single package vertical air conditioners and single package vertical heat pumps) manufactured on or after January 1, 2010, shall meet the following standards:

(A) The minimum energy efficiency ratio of air-cooled central air conditioners at or above 240,000 Btu per hour (cooling capacity) and less than 760,000 Btu per hour (cooling capacity) shall be—

(i) 10.0 for equipment with no heating or electric resistance heating; and

(ii) 9.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

(B) The minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 240,000 Btu per hour (cooling capacity) and less than 760,000 Btu per hour (cooling capacity) shall be—

(i) 9.5 for equipment with no heating or electric resistance heating; and

(ii) 9.3 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

(C) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 240,000 Btu per hour (cooling capacity) and less than 760,000 Btu per hour (cooling capacity) shall be 3.2 (at a high temperature rating of 47 degrees F db).

(10) SINGLE PACKAGE VERTICAL AIR CONDITIONERS AND SINGLE PACKAGE VERTICAL HEAT PUMPS.—

(A) IN GENERAL.—Single package vertical air conditioners and single package vertical heat pumps manufactured on or after January 1, 2010, shall meet the following standards:

(i) The minimum energy efficiency ratio of single package vertical air conditioners less than 65,000 Btu per hour (cooling capacity), single-phase, shall be 9.0.

(ii) The minimum energy efficiency ratio of single package vertical air conditioners less than 65,000 Btu per hour (cooling capacity), 3-phase, shall be 9.0.

(iii) The minimum energy efficiency ratio of single package vertical air conditioners at or above 65,000 Btu per hour (cooling capacity) but less than 135,000 Btu per hour (cooling capacity), shall be 8.9.

(iv) The minimum energy efficiency ratio of single package vertical air conditioners at or above 135,000 Btu per hour (cooling capacity) but less than 240,000 Btu per hour (cooling capacity), shall be 8.6.

(v) The minimum energy efficiency ratio of single package vertical heat pumps less than 65,000 Btu per hour (cooling capacity), single-phase, shall be 9.0 and the minimum coefficient of performance in the heating mode shall be 3.0.

(vi) The minimum energy efficiency ratio of single package vertical heat pumps less than 65,000 Btu per hour (cooling capacity), 3-phase, shall be 9.0 and the minimum coefficient of performance in the heating mode shall be 3.0.

(vii) The minimum energy efficiency ratio of single package vertical heat pumps at or above 65,000 Btu per hour (cooling capacity) but less than 135,000 Btu per hour (cooling capacity), shall be 8.9 and the minimum coefficient of performance in the heating mode shall be 3.0.

(viii) The minimum energy efficiency ratio of single package vertical heat pumps at or above 135,000 Btu per hour (cooling capacity) but less than 240,000 Btu per hour (cooling capacity), shall be 8.6 and the minimum coefficient of performance in the heating mode shall be 2.9.

(B) REVIEW.—Not later than 3 years after December 19, 2007, the Secretary shall review the most recently published ASHRAE/IES Standard 90.1 with respect to single package vertical air conditioners and single package vertical heat pumps in accordance with the procedures established

under paragraph (6).

(b) Electric motors

(1) Except for definite purpose motors, special purpose motors, and those motors exempted by the Secretary under paragraph (2),[2] each electric motor manufactured (alone or as a component of another piece of equipment) after the 60-month period beginning on October 24, 1992, or in the case of an electric motor which requires listing or certification by a nationally recognized safety testing laboratory, after the 84-month period beginning on October 24, 1992, shall have a nominal full load efficiency of not less than the following:

Number of poles	Nominal Full-Load Efficiency					
	Open Motors			Closed Motors		
	6	4	2	6	4	2
Motor Horsepower						
1	80.0	82.5		80.0	82.5	75.5
1.5	84.0	84.0	82.5	85.5	84.0	82.5
2	85.5	84.0	84.0	86.5	84.0	84.0
3	86.5	86.5	84.0	87.5	87.5	85.5
5	87.5	87.5	85.5	87.5	87.5	87.5
7.5	88.5	88.5	87.5	89.5	89.5	88.5
10	90.2	89.5	88.5	89.5	89.5	89.5
15	90.2	91.0	89.5	90.2	91.0	90.2
20	91.0	91.0	90.2	90.2	91.0	90.2
25	91.7	91.7	91.0	91.7	92.4	91.0
30	92.4	92.4	91.0	91.7	92.4	91.0
40	93.0	93.0	91.7	93.0	93.0	91.7
50	93.0	93.0	92.4	93.0	93.0	92.4
60	93.6	93.6	93.0	93.6	93.6	93.0
75	93.6	94.1	93.0	93.6	94.1	93.0
100	94.1	94.1	93.0	94.1	94.5	93.6
125	94.1	94.5	93.6	94.1	94.5	94.5
150	94.5	95.0	93.6	95.0	95.0	94.5
200	94.5	95.0	94.5	95.0	95.0	95.0

(2) ELECTRIC MOTORS.—

(A) GENERAL PURPOSE ELECTRIC MOTORS (SUBTYPE I).—Except as provided in subparagraph (B), each general purpose electric motor (subtype I) with a power rating of 1 horsepower or greater, but not greater than 200 horsepower, manufactured (alone or as a component of another piece of equipment) after the 3-year period beginning on December 19, 2007, shall have a nominal full load efficiency that is not less than as defined in NEMA MG–1 (2006) Table 12–12.

(B) FIRE PUMP MOTORS.—Each fire pump motor manufactured (alone or as a component of another piece of equipment) after the 3-year period beginning on December 19, 2007, shall have nominal full load efficiency that is not less than as defined in NEMA MG–1 (2006) Table 12–11.

(C) GENERAL PURPOSE ELECTRIC MOTORS (SUBTYPE II).—Each general purpose electric motor (subtype II) with a power rating of 1 horsepower or greater, but not greater than 200 horsepower, manufactured (alone or as a component of another piece of equipment) after the 3-year period beginning on December 19, 2007, shall have a nominal full load efficiency that is not less than as defined in NEMA MG–1 (2006) Table 12–11.

(D) NEMA DESIGN B, GENERAL PURPOSE ELECTRIC MOTORS.—Each NEMA Design B, general purpose electric motor with a power rating of more than 200 horsepower, but not greater than 500 horsepower, manufactured (alone or as a component of another piece of equipment) after the 3-year period beginning on December 19, 2007, shall have a nominal full load efficiency that is not less than as defined in NEMA MG–1 (2006) Table 12–11.

(3)(A) The Secretary may, by rule, provide that the standards specified in paragraph (1) shall not apply to certain types or classes of electric motors if—

(i) compliance with such standards would not result in significant energy savings because such motors cannot be used in most general purpose applications or are very unlikely to be used in most general purpose applications; and

(ii) standards for such motors would not be technologically feasible or economically justified.

(B) Not later than one year after October 24, 1992, a manufacturer seeking an exemption under this paragraph with respect to a type or class of electric motor developed on or before October 24, 1992, shall submit a petition to the Secretary requesting such exemption. Such petition shall include evidence that the type or class of motor meets the criteria for exemption specified in subparagraph (A).

(C) Not later than two years after October 24, 1992, the Secretary shall rule on each petition for exemption submitted pursuant to subparagraph (B). In making such ruling, the Secretary shall afford an opportunity for public comment.

(D) Manufacturers of types or classes of motors developed after October 24, 1992, to which standards under paragraph (1) would be applicable may petition the Secretary for exemptions from compliance with such standards based on the criteria specified in subparagraph (A).

(4)(A) The Secretary shall publish a final rule no later than the end of the 24-month period beginning on the effective date of the standards established under paragraph (1) to determine if such standards should be amended. Such rule shall provide that any amendment shall apply to electric motors manufactured on or after a date which is five years after the effective date of the standards established under paragraph (1).

(B) The Secretary shall publish a final rule no later than 24 months after the effective date of the previous final rule to determine whether to amend the standards in effect for such product. Any such amendment shall apply to electric motors manufactured after a date which is five years after—

(i) the effective date of the previous amendment; or

(ii) if the previous final rule did not amend the standards, the earliest date by which a previous amendment could have been effective.

(c) Commercial refrigerators, freezers, and refrigerator-freezers

(1) In this subsection:

(A) The term "AV" means the adjusted volume (ft^3) (defined as 1.63 x frozen temperature compartment volume (ft^3) + chilled temperature compartment volume (ft^3)) with compartment volumes measured in accordance with the Association of Home Appliance Manufacturers Standard HRF1–1979.

(B) The term "V" means the chilled or frozen compartment volume (ft^3) (as defined in the Association of Home Appliance Manufacturers Standard HRF1–1979).

(C) The term "service over the counter, self-contained, medium temperature commercial refrigerator" or "(SOC–SC–M)" means a medium temperature commercial refrigerator—

(i) with a self-contained condensing unit and equipped with sliding or hinged doors in the back intended for use by sales personnel, and with glass or other transparent material in the front for displaying merchandise; and

(ii) that has a height not greater than 66 inches and is intended to serve as a counter for transactions between sales personnel and customers.

(D) The term "TDA" means the total display area (ft^2) of the refrigerated case, as defined in

AHRI Standard 1200.

(E) Other terms have such meanings as may be established by the Secretary, based on industry-accepted definitions and practice.

(2) Each commercial refrigerator, freezer, and refrigerator-freezer with a self-contained condensing unit designed for holding temperature applications manufactured on or after January 1, 2010, shall have a daily energy consumption (in kilowatt hours per day) that does not exceed the following:

Refrigerators with solid doors	0.10 V + 2.04
Refrigerators with transparent doors	0.12 V + 3.34
Freezers with solid doors	0.40 V + 1.38
Freezers with transparent doors	0.75 V + 4.10
Refrigerators/freezers with solid doors the greater of	0.27 AV – 0.71 or 0.70.

(3) Each commercial refrigerator with a self-contained condensing unit designed for pull-down temperature applications and transparent doors manufactured on or after January 1, 2010, shall have a daily energy consumption (in kilowatt hours per day) of not more than 0.126 V + 3.51.

(4)(A) Each SOC–SC–M manufactured on or after January 1, 2012, shall have a total daily energy consumption (in kilowatt hours per day) of not more than 0.6 × TDA + 1.0.

(B) Not later than 3 years after December 18, 2012, the Secretary shall—

(i) determine whether the standard established under subparagraph (A) should be amended; and

(ii) if the Secretary determines that such standard should be amended, issue a final rule establishing an amended standard.

(C) If the Secretary issues a final rule pursuant to subparagraph (B) establishing an amended standard, the final rule shall provide that the amended standard shall apply to products manufactured on or after the date that is—

(i) 3 years after the date on which the final amended standard is published; or

(ii) if the Secretary determines, by rule, that 3 years is inadequate, not later than 5 years after the date on which the final rule is published.

(5)(A) Not later than January 1, 2009, the Secretary shall issue, by rule, standard levels for ice-cream freezers, self-contained commercial refrigerators, freezers, and refrigerator-freezers without doors, and remote condensing commercial refrigerators, freezers, and refrigerator-freezers, with the standard levels effective for equipment manufactured on or after January 1, 2012.

(B) The Secretary may issue, by rule, standard levels for other types of commercial refrigerators, freezers, and refrigerator-freezers not covered by paragraph (2)(A) with the standard levels effective for equipment manufactured 3 or more years after the date on which the final rule is published.

(6)(A) Not later than January 1, 2013, the Secretary shall issue a final rule to determine whether the standards established under this subsection should be amended.

(B) Not later than 3 years after the effective date of any amended standards under subparagraph (A) or the publication of a final rule determining that the standards should not be amended, the Secretary shall issue a final rule to determine whether the standards established under this subsection or the amended standards, as applicable, should be amended.

(C) If the Secretary issues a final rule under subparagraph (A) or (B) establishing amended standards, the final rule shall provide that the amended standards apply to products manufactured on or after the date that is—

(i) 3 years after the date on which the final amended standard is published; or

(ii) if the Secretary determines, by rule, that 3 years is inadequate, not later than 5 years after the

date on which the final rule is published.

(d) Automatic commercial ice makers

(1) Each automatic commercial ice maker that produces cube type ice with capacities between 50 and 2500 pounds per 24-hour period when tested according to the test standard established in section 6314(a)(7) of this title and is manufactured on or after January 1, 2010, shall meet the following standard levels:

Equipment Type	Type of Cooling	Harvest Rate (lbs ice/24 hours)	Maximum Energy Use (kWh/100 lbs Ice)	Maximum Condenser Water Use (gal/100 lbs Ice)
Ice Making Head	Water	<500	7.80–0.0055H	200–0.022H
		500 and <1436	5.58–0.0011H	200–0.022H
		1436	4.0	200–0.022H
Ice Making Head	Air	<450	10.26–0.0086H	Not Applicable
		450	6.89–0.0011H	Not Applicable
Remote Condensing (but not remote compressor)	Air	<1000	8.85–0.0038H	Not Applicable
		1000	5.10	Not Applicable
Remote Condensing and Remote Compressor	Air	<934	8.85–0.0038H	Not Applicable
		934	5.3	Not Applicable
Self Contained	Water	<200	11.40–0.019H	191–0.0315H
		200	7.60	191–0.0315H
Self Contained	Air	<175	18.0–0.0469H	Not Applicable
		175	9.80	Not Applicable

H = Harvest rate in pounds per 24 hours.

Water use is for the condenser only and does not include potable water used to make ice.

(2)(A) The Secretary may issue, by rule, standard levels for types of automatic commercial ice makers that are not covered by paragraph (1).

(B) The standards established under subparagraph (A) shall apply to products manufactured on or after the date that is—

(i) 3 years after the date on which the rule is published under subparagraph (A); or

(ii) if the Secretary determines, by rule, that 3 years is inadequate, not later than 5 years after the date on which the final rule is published.

(3)(A) Not later than January 1, 2015, with respect to the standards established under paragraph (1), and, with respect to the standards established under paragraph (2), not later than 5 years after the date on which the standards take effect, the Secretary shall issue a final rule to determine whether amending the applicable standards is technologically feasible and economically justified.

(B) Not later than 5 years after the effective date of any amended standards under subparagraph (A) or the publication of a final rule determining that amending the standards is not technologically feasible or economically justified, the Secretary shall issue a final rule to determine whether amending the standards established under paragraph (1) or the amended standards, as applicable, is technologically feasible or economically justified.

(C) If the Secretary issues a final rule under subparagraph (A) or (B) establishing amended

standards, the final rule shall provide that the amended standards apply to products manufactured on or after the date that is—

(i) 3 years after the date on which the final amended standard is published; or

(ii) if the Secretary determines, by rule, that 3 years is inadequate, not later than 5 years after the date on which the final amended standard is published.

(4) A final rule issued under paragraph (2) or (3) shall establish standards at the maximum level that is technically feasible and economically justified, as provided in subsections (o) and (p) of section 6295 of this title.

(e) Commercial clothes washers

(1) Each commercial clothes washer manufactured on or after January 1, 2007, shall have—

(A) a Modified Energy Factor of at least 1.26; and

(B) a Water Factor of not more than 9.5.

(2)(A)(i) Not later than January 1, 2010, the Secretary shall publish a final rule to determine whether the standards established under paragraph (1) should be amended.

(ii) The rule published under clause (i) shall provide that any amended standard shall apply to products manufactured 3 years after the date on which the final amended standard is published.

(B)(i) Not later than January 1, 2015, the Secretary shall publish a final rule to determine whether the standards established under paragraph (1) should be amended.

(ii) The rule published under clause (i) shall provide that any amended standard shall apply to products manufactured 3 years after the date on which the final amended standard is published.

(f) Walk-in coolers and walk-in freezers

(1) In general

Subject to paragraphs (2) through (6), each walk-in cooler or walk-in freezer manufactured on or after January 1, 2009, shall—

(A) have automatic door closers that firmly close all walk-in doors that have been closed to within 1 inch of full closure, except that this subparagraph shall not apply to doors wider than 3 feet 9 inches or taller than 7 feet;

(B) have strip doors, spring hinged doors, or other method of minimizing infiltration when doors are open;

(C) contain wall, ceiling, and door insulation of at least R–25 for coolers and R–32 for freezers, except that this subparagraph shall not apply to glazed portions of doors nor to structural members;

(D) contain floor insulation of at least R–28 for freezers;

(E) for evaporator fan motors of under 1 horsepower and less than 460 volts, use—

(i) electronically commutated motors (brushless direct current motors); or

(ii) 3-phase motors;

(F) for condenser fan motors of under 1 horsepower, use—

(i) electronically commutated motors;

(ii) permanent split capacitor-type motors; or

(iii) 3-phase motors; and

(G) for all interior lights, use light sources with an efficacy of 40 lumens per watt or more, including ballast losses (if any), except that light sources with an efficacy of 40 lumens per watt or less, including ballast losses (if any), may be used in conjunction with a timer or device that turns off the lights within 15 minutes of when the walk-in cooler or walk-in freezer is not occupied by people.

(2) Electronically commutated motors

(A) In general

The requirements of paragraph (1)(E)(i) for electronically commutated motors shall take effect January 1, 2009, unless, prior to that date, the Secretary determines that such motors are only available from 1 manufacturer.

(B) Other types of motors

In carrying out paragraph (1)(E)(i) and subparagraph (A), the Secretary may allow other types of motors if the Secretary determines that, on average, those other motors use no more energy in evaporator fan applications than electronically commutated motors.

(C) Maximum energy consumption level

The Secretary shall establish the maximum energy consumption level under subparagraph (B) not later than January 1, 2010.

(3) Additional specifications

Each walk-in cooler or walk-in freezer with transparent reach-in doors manufactured on or after January 1, 2009, shall also meet the following specifications:

(A) Transparent reach-in doors for walk-in freezers and windows in walk-in freezer doors shall be of triple-pane glass with either heat-reflective treated glass or gas fill.

(B) Transparent reach-in doors for walk-in coolers and windows in walk-in cooler doors shall be—

(i) double-pane glass with heat-reflective treated glass and gas fill; or

(ii) triple-pane glass with either heat-reflective treated glass or gas fill.

(C) If the appliance has an antisweat heater without antisweat heat controls, the appliance shall have a total door rail, glass, and frame heater power draw of not more than 7.1 watts per square foot of door opening (for freezers) and 3.0 watts per square foot of door opening (for coolers).

(D) If the appliance has an antisweat heater with antisweat heat controls, and the total door rail, glass, and frame heater power draw is more than 7.1 watts per square foot of door opening (for freezers) and 3.0 watts per square foot of door opening (for coolers), the antisweat heat controls shall reduce the energy use of the antisweat heater in a quantity corresponding to the relative humidity in the air outside the door or to the condensation on the inner glass pane.

(4) Performance-based standards

(A) In general

Not later than January 1, 2012, the Secretary shall publish performance-based standards for walk-in coolers and walk-in freezers that achieve the maximum improvement in energy that the Secretary determines is technologically feasible and economically justified.

(B) Application

(i) In general

Except as provided in clause (ii), the standards shall apply to products described in subparagraph (A) that are manufactured beginning on the date that is 3 years after the final rule is published.

(ii) Delayed effective date

If the Secretary determines, by rule, that a 3-year period is inadequate, the Secretary may establish an effective date for products manufactured beginning on the date that is not more than 5 years after the date of publication of a final rule for the products.

(5) Amendment of standards

(A) In general

Not later than January 1, 2020, the Secretary shall publish a final rule to determine if the standards established under paragraph (4) should be amended.

(B) Application

(i) In general

Except as provided in clause (ii), the rule shall provide that the standards shall apply to products manufactured beginning on the date that is 3 years after the final rule is published.

(ii) Delayed effective date

If the Secretary determines, by rule, that a 3-year period is inadequate, the Secretary may establish an effective date for products manufactured beginning on the date that is not more than 5 years after the date of publication of a final rule for the products.

(6) Innovative component technologies

Subparagraph (C) of paragraph (1) shall not apply to a walk-in cooler or walk-in freezer component if the component manufacturer has demonstrated to the satisfaction of the Secretary that the component reduces energy consumption at least as much as if such subparagraph were to apply. In support of any demonstration under this paragraph, a manufacturer shall provide to the Secretary all data and technical information necessary to fully evaluate its application.

(g) Lighting power supply circuits

If the Secretary, acting pursuant to section 6312(b) of this title, includes as covered equipment solid state lighting power supply circuits, drivers, or devices described in section 6291(36)(A)(ii) of this title, the Secretary may prescribe under this part, not earlier than 1 year after the date on which a test procedure has been prescribed, an energy conservation standard for such equipment.

(Pub. L. 94–163, title III, §342, as added Pub. L. 95–619, title IV, §441(a), Nov. 9, 1978, 92 Stat. 3269; amended Pub. L. 102–486, title I, §122(d), Oct. 24, 1992, 106 Stat. 2810; Pub. L. 109–58, title I, §136(b)–(e), Aug. 8, 2005, 119 Stat. 636–641; Pub. L. 110–140, title III, §§305(b), 306(c), 312(b), 313(b)(1), 314(b), Dec. 19, 2007, 121 Stat. 1554, 1559, 1564, 1568, 1570; Pub. L. 112–210, §§2, 4, 5(b), 10(a)(3), (4), Dec. 18, 2012, 126 Stat. 1514, 1516, 1518, 1522, 1524; Pub. L. 113–188, title VI, §601(c), Nov. 26, 2014, 128 Stat. 2019; Pub. L. 115–115, §2(b)(2), Jan. 12, 2018, 131 Stat. 2280.)

EDITORIAL NOTES

REFERENCES IN TEXT

Paragraph (2), referred to in subsec. (b)(1), probably means par. (3), formerly par. (2), of subsec. (b) of this section, which was redesignated by Pub. L. 110–140, §313(b)(1)(A).

AMENDMENTS

2018—Subsec. (g). Pub. L. 115–115 added subsec. (g).

2014—Subsec. (a)(6)(C)(v), (vi). Pub. L. 113–188, which directed amendment of subsec. (a)(6)(C) by striking cl. (v) and redesignating the cl. (vi) "as added by section 310(a)(4) of Public Law 112–110" as (v), was executed by striking cl. (v) and redesignating as (v) the cl. (vi) (relating to consideration of prices and operating patterns) which had been redesignated by section 10(a)(4) of Pub. L. 112–210, to reflect the probable intent of Congress. Prior to amendment, text of par. (v) read as follows: "The Secretary shall promptly submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a progress report every 180 days on compliance with this subparagraph, including a specific plan to remedy any failures to comply with deadlines for action established under this subparagraph."

2012—Subsec. (a)(6)(A)(i). Pub. L. 112–210, §5(b)(1), inserted "the standard levels or design requirements applicable under that standard to" before "any small commercial".

Subsec. (a)(6)(B). Pub. L. 112–210, §10(a)(3)(A)(i)–(iii), designated existing provisions as cl. (i), inserted cl. (i) heading, and substituted "subparagraph (A)(ii)(II)" for "clause (ii)(II)" and "subparagraph (A)(i)" for "clause (i)".

Subsec. (a)(6)(B)(ii). Pub. L. 112–210, §10(a)(3)(A)(iv), added cl. (ii).

Subsec. (a)(6)(B)(iii). Pub. L. 112–210, §10(a)(4), redesignated cl. (iii), relating to consideration of prices and operating patterns, as cl. (vi) of subsec. (a)(6)(C).

Pub. L. 112–210, §10(a)(3)(A)(iv), added cl. (iii). Former cl. (iii) redesignated cl. (vi) of subsec. (a)(6)(C).

Subsec. (a)(6)(C)(i). Pub. L. 112–210, §5(b)(2)(A), in introductory provisions, substituted "Every 6 years," for "Not later than 6 years after issuance of any final rule establishing or amending a standard, as required for a product under this part," and inserted "conduct an evaluation of each class of covered equipment and shall" after "the Secretary shall".

Subsec. (a)(6)(C)(iv). Pub. L. 112–210, §10(a)(3)(B), substituted "Notwithstanding subparagraph (D), an amendment prescribed under this subparagraph" for "An amendment prescribed under this subsection" in introductory provisions.

Subsec. (a)(6)(C)(vi). Pub. L. 112–210, §10(a)(4), redesignated cl. (iii) of subsec. (a)(6)(B), relating to consideration of prices and operating patterns, as cl. (vi) of subsec. (a)(6)(C).

Pub. L. 112–210, §5(b)(2)(B), added cl. (vi) relating to notices for covered equipment for which more than 6 years has elapsed since the issuance of the most recent final rule establishing or amending a standard for the product.

Subsec. (c)(1)(C) to (E). Pub. L. 112–210, §4(1), added subpars. (C) and (D) and redesignated former subpar. (C) as (E).

Subsec. (c)(4) to (6). Pub. L. 112–210, §4(2), (3), added par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

Subsec. (f)(1). Pub. L. 112–210, §2(1), substituted "paragraphs (2) through (6)" for "paragraphs (2) through (5)" in introductory provisions.

Subsec. (f)(6). Pub. L. 112–210, §2(2), added par. (6).

2007—Subsec. (a)(1). Pub. L. 110–140, §314(b)(1), (2), in introductory provisions, inserted "(including single package vertical air conditioners and single package vertical heat pumps)" after "heating equipment" and struck out "but before January 1, 2010," after "January 1, 1994,".

Subsec. (a)(2). Pub. L. 110–140, §314(b)(1), inserted "(including single package vertical air conditioners and single package vertical heat pumps)" after "heating equipment" in introductory provisions.

Subsec. (a)(6). Pub. L. 110–140, §305(b), inserted heading, added subpars. (A) to (C), redesignated former subpar. (C) as (D), and struck out former subpars. (A) and (B) which related to, in subpar. (A), establishment of amended uniform national standards for certain air conditioning and heating equipment and products if ASHRAE/IES Standard 90.1 had been amended and, if such standard had not been amended, initiation of a rulemaking to determine whether a more stringent standard would result in additional energy conservation and be technologically feasible and economically justified, and, in subpar. (B), establishment of an amended standard, including factors to be considered, if a rule had been issued pursuant to a subpar. (A) determination and prohibition of an amended standard which would decrease energy efficiency or would likely result in the unavailability of a product type.

Subsec. (a)(6)(B)(iii). Pub. L. 110–140, §306(c), added cl. (iii) at end.

Subsec. (a)(7). Pub. L. 110–140, §314(b)(3), (4)(A), in introductory provisions, inserted "(other than single package vertical air conditioners and single package vertical heat pumps)" after "heating equipment" and struck out "manufactured on or after January 1, 2010," before "shall meet".

Subsec. (a)(7)(A) to (C). Pub. L. 110–140, §314(b)(4)(B), substituted "For equipment manufactured on or after January 1, 2010, the" for "The".

Subsec. (a)(7)(D). Pub. L. 110–140, §314(b)(4)(C), added subpar. (D).

Subsec. (a)(8), (9). Pub. L. 110–140, §314(b)(3), inserted "(other than single package vertical air conditioners and single package vertical heat pumps)" after "heating equipment" in introductory provisions.

Subsec. (a)(10). Pub. L. 110–140, §314(b)(5), added par. (10).

Subsec. (b)(2) to (4). Pub. L. 110–140, §313(b)(1), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (f). Pub. L. 110–140, §312(b), added subsec. (f).

2005—Subsec. (a). Pub. L. 109–58, §136(b)(1), substituted "Small, large, and very large" for "Small and large" in heading.

Subsec. (a)(1). Pub. L. 109–58, §136(b)(2), inserted "but before January 1, 2010," after "January 1, 1994," in introductory provisions.

Subsec. (a)(2). Pub. L. 109–58, §136(b)(3), inserted "but before January 1, 2010," after "January 1, 1995," in introductory provisions.

Subsec. (a)(6)(A). Pub. L. 109–58, §136(b)(4)(A), designated existing provisions as cl. (i), substituted "January 1, 2010" for "October 24, 1992", inserted "and very large commercial package air conditioning and heating equipment, or if ASHRAE/IES Standard 90.1, as in effect on October 24, 1992, is amended with respect to any" after "large commercial package air conditioning and heating equipment,", and added cl. (ii).

Subsec. (a)(6)(C)(ii). Pub. L. 109–58, §136(b)(4)(B), inserted "and very large commercial package air conditioning and heating equipment" after "large commercial package air conditioning and heating

equipment".

Subsec. (a)(7) to (9). Pub. L. 109–58, §136(b)(5), added pars. (7) to (9).

Subsecs. (c) to (e). Pub. L. 109–58, §136(c)–(e), added subsecs. (c) to (e).

1992—Pub. L. 102–486 amended section generally, substituting present provisions for former provisions requiring Secretary to conduct evaluations of electric motors and pumps and other industrial equipment for purposes of determining standards.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by section 10(a)(3), (4) of Pub. L. 112–210 effective as if included in the Energy Independence and Security Act of 2007, Pub. L. 110–140, see section 10(a)(13) of Pub. L. 112–210, set out as a note under section 6291 of this title.

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110–140, title III, §313(b)(2), Dec. 19, 2007, 121 Stat. 1569, provided that: "The amendments made by paragraph (1) [amending this section] take effect on the date that is 3 years after the date of enactment of this Act [Dec. 19, 2007]."

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.

[1] So in original. Probably should be followed by "than".

[2] See References in Text note below.

§6314. Test procedures

(a) Prescription by Secretary; requirements

(1) TEST PROCEDURES.—

(A) [1] AMENDMENT.—At least once every 7 years, the Secretary shall conduct an evaluation of each class of covered equipment and—

(i) if the Secretary determines that amended test procedures would more accurately or fully comply with the requirements of paragraphs (2) and (3), shall prescribe test procedures for the class in accordance with this section; or

(ii) shall publish notice in the Federal Register of any determination not to amend a test procedure.

(2) Test procedures prescribed in accordance with this section shall be reasonably designed to produce test results which reflect energy efficiency, energy use, and estimated operating costs of a type of industrial equipment (or class thereof) during a representative average use cycle (as determined by the Secretary), and shall not be unduly burdensome to conduct.

(3) If the test procedure is a procedure for determining estimated annual operating costs, such procedure shall provide that such costs shall be calculated from measurements of energy use in a representative average-use cycle (as determined by the Secretary), and from representative average unit costs of the energy needed to operate such equipment during such cycle. The Secretary shall provide information to manufacturers of covered equipment respecting representative average unit costs of energy.

(4)(A) With respect to small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, very large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks to which standards are applicable under section 6313 of this title, the test procedures shall be those generally accepted industry testing procedures or rating procedures

developed or recognized by the Air-Conditioning, Heating, and Refrigeration Institute or by the American Society of Heating, Refrigerating and Air Conditioning Engineers, as referenced in ASHRAE/IES Standard 90.1 and in effect on June 30, 1992.

(B) If such an industry test procedure or rating procedure for small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, very large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, or unfired hot water storage tanks is amended, the Secretary shall amend the test procedure for the product as necessary to be consistent with the amended industry test procedure or rating procedure unless the Secretary determines, by rule, published in the Federal Register and supported by clear and convincing evidence, that to do so would not meet the requirements for test procedures described in paragraphs (2) and (3) of this subsection.

(C) If the Secretary prescribes a rule containing such a determination, the rule may establish an amended test procedure for such product that meets the requirements of paragraphs (2) and (3) of this subsection. In establishing any amended test procedure under this subparagraph or subparagraph (B), the Secretary shall follow the procedures and meet the requirements specified in section 6293(e) of this title.

(5)(A) With respect to electric motors to which standards are applicable under section 6313 of this title, the test procedures shall be the test procedures specified in NEMA Standards Publication MG1–1987 and IEEE Standard 112 Test Method B for motor efficiency, as in effect on October 24, 1992.

(B) If the test procedure requirements of NEMA Standards Publication MG–1987 and IEEE Standard 112 Test Method B for motor efficiency are amended, the Secretary shall amend the test procedures established by subparagraph (A) to conform to such amended test procedure requirements unless the Secretary determines, by rule, published in the Federal Register and supported by clear and convincing evidence, that to do so would not meet the requirements for test procedures described in paragraphs (2) and (3) of this subsection.

(C) If the Secretary prescribes a rule containing such a determination, the rule may establish amended test procedures for such electric motors that meets the requirements of paragraphs (2) and (3) of this subsection. In establishing any amended test procedure under this subparagraph or subparagraph (B), the Secretary shall follow the procedures and meet the requirements specified in section 6293(e) of this title.

(6)(A)(i) In the case of commercial refrigerators, freezers, and refrigerator-freezers, the test procedures shall be—

(I) the test procedures determined by the Secretary to be generally accepted industry testing procedures; or

(II) rating procedures developed or recognized by the ASHRAE or by the American National Standards Institute.

(ii) In the case of self-contained refrigerators, freezers, and refrigerator-freezers to which standards are applicable under paragraphs (2) and (3) of section 6313(c) of this title, the initial test procedures shall be the ASHRAE 117 test procedure that is in effect on January 1, 2005.

(B)(i) [2] In the case of commercial refrigerators, freezers, and refrigerator-freezers with doors covered by the standards adopted in February 2002, by the California Energy Commission, the rating temperatures shall be the integrated average temperature of 38 degrees F (± 2 degrees F) for refrigerator compartments and 0 degrees F (± 2 degrees F) for freezer compartments.

(C) The Secretary shall issue a rule in accordance with paragraphs (2) and (3) to establish the appropriate rating temperatures for the other products for which standards will be established under section 6313(c)(4) [3] of this title.

(D) In establishing the appropriate test temperatures under this subparagraph, the Secretary shall follow the procedures and meet the requirements under section 6293(e) of this title.

(E)(i) Not later than 180 days after the publication of the new ASHRAE 117 test procedure, if the

ASHRAE 117 test procedure for commercial refrigerators, freezers, and refrigerator-freezers is amended, the Secretary shall, by rule, amend the test procedure for the product as necessary to ensure that the test procedure is consistent with the amended ASHRAE 117 test procedure, unless the Secretary makes a determination, by rule, and supported by clear and convincing evidence, that to do so would not meet the requirements for test procedures under paragraphs (2) and (3).

(ii) If the Secretary determines that 180 days is an insufficient period during which to review and adopt the amended test procedure or rating procedure under clause (i), the Secretary shall publish a notice in the Federal Register stating the intent of the Secretary to wait not longer than 1 additional year before putting into effect an amended test procedure or rating procedure.

(F)(i) If a test procedure other than the ASHRAE 117 test procedure is approved by the American National Standards Institute, the Secretary shall, by rule—

(I) review the relative strengths and weaknesses of the new test procedure relative to the ASHRAE 117 test procedure; and

(II) based on that review, adopt one new test procedure for use in the standards program.

(ii) If a new test procedure is adopted under clause (i)—

(I) section 6293(e) of this title shall apply; and

(II) subparagraph (B) shall apply to the adopted test procedure.

(7)(A) In the case of automatic commercial ice makers, the test procedures shall be the test procedures specified in Air-Conditioning, Heating, and Refrigeration Institute Standard 810–2003, as in effect on January 1, 2005.

(B)(i) If Air-Conditioning, Heating, and Refrigeration Institute Standard 810–2003 is amended, the Secretary shall amend the test procedures established in subparagraph (A) as necessary to be consistent with the amended Air-Conditioning, Heating, and Refrigeration Institute Standard, unless the Secretary determines, by rule, published in the Federal Register and supported by clear and convincing evidence, that to do so would not meet the requirements for test procedures under paragraphs (2) and (3).

(ii) If the Secretary issues a rule under clause (i) containing a determination described in clause (ii), the rule may establish an amended test procedure for the product that meets the requirements of paragraphs (2) and (3).

(C) The Secretary shall comply with section 6293(e) of this title in establishing any amended test procedure under this paragraph.

(8) With respect to commercial clothes washers, the test procedures shall be the same as the test procedures established by the Secretary for residential clothes washers under section 6295(g) of this title.

(9) WALK-IN COOLERS AND WALK-IN FREEZERS.—

(A) IN GENERAL.—For the purpose of test procedures for walk-in coolers and walk-in freezers:

(i) The R value shall be the 1/K factor multiplied by the thickness of the panel.

(ii) The K factor shall be based on ASTM test procedure C518–2004.

(iii) For calculating the R value for freezers, the K factor of the foam at 20°F (average foam temperature) shall be used.

(iv) For calculating the R value for coolers, the K factor of the foam at 55°F (average foam temperature) shall be used.

(B) TEST PROCEDURE.—

(i) IN GENERAL.—Not later than January 1, 2010, the Secretary shall establish a test procedure to measure the energy-use of walk-in coolers and walk-in freezers.

(ii) COMPUTER MODELING.—The test procedure may be based on computer modeling, if the computer model or models have been verified using the results of laboratory tests on a significant sample of walk-in coolers and walk-in freezers.

(b) Publication in Federal Register; presentment of oral and written data, views, and

arguments by interested persons

Before prescribing any final test procedures under this section, the Secretary shall—

(1) publish proposed test procedures in the Federal Register; and

(2) afford interested persons an opportunity (of not less than 45 days' duration) to present oral and written data, views, and arguments on the proposed test procedures.

(c) Reevaluations

(1) The Secretary shall, not later than 3 years after the date of prescribing a test procedure under this section (and from time to time thereafter), conduct a reevaluation of such procedure and, on the basis of such reevaluation, shall determine if such test procedure should be amended. In conducting such reevaluation, the Secretary shall take into account such information as he deems relevant, including technological developments relating to the energy efficiency of the type (or class) of covered equipment involved.

(2) If the Secretary determines under paragraph (1) that a test procedure should be amended, he shall promptly publish in the Federal Register proposed test procedures incorporating such amendments and afford interested persons an opportunity to present oral and written data, views, and arguments. Such comment period shall not be less than 45 days' duration.

(d) Prohibited representations

(1) Effective 180 days (or, in the case of small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, very large commercial package air conditioning and heating equipment, commercial refrigerators, freezers, and refrigerator-freezers, automatic commercial ice makers, commercial clothes washers, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks, 360 days) after a test procedure rule applicable to any covered equipment is prescribed under this section, no manufacturer, distributor, retailer, or private labeler may make any representation—

(A) in writing (including any representation on a label), or

(B) in any broadcast advertisement,

respecting the energy consumption of such equipment or cost of energy consumed by such equipment, unless such equipment has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

(2) On the petition of any manufacturer, distributor, retailer, or private labeler, filed not later than the 60th day before the expiration of the period involved, the 180-day period referred to in paragraph (1) may be extended by the Secretary with respect to the petitioner (but in no event for more than an additional 180 days) if he finds that the requirements of paragraph (1) would impose on such petitioner an undue hardship (as determined by the Secretary).

(e) Assistance by National Institute of Standards and Technology

The Secretary may direct the National Institute of Standards and Technology to provide such assistance as the Secretary deems necessary to carry out his responsibilities under this part, including the development of test procedures.

(Pub. L. 94–163, title III, §343, as added Pub. L. 95–619, title IV, §441(a), Nov. 9, 1978, 92 Stat. 3270; amended Pub. L. 100–418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433; Pub. L. 102–486, title I, §122(b), (f)(2), Oct. 24, 1992, 106 Stat. 2808, 2817; Pub. L. 109–58, title I, §136(f), Aug. 8, 2005, 119 Stat. 641; Pub. L. 110–140, title III, §§302(b), 312(c), Dec. 19, 2007, 121 Stat. 1552, 1566; Pub. L. 112–210, §10(a)(2), (c)(2), Dec. 18, 2012, 126 Stat. 1522, 1525.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 6313(c)(4) of this title, referred to in subsec. (a)(6)(C), was redesignated section 6313(c)(5) of this title by Pub. L. 112–210, §4(2), Dec. 18, 2012, 126 Stat. 1517.

AMENDMENTS

2012—Subsec. (a). Pub. L. 112–210, §10(a)(2), made technical amendment to directory language of Pub. L. 110–140, §302(b). See 2007 Amendment note below.

Subsec. (a)(4)(A), (7). Pub. L. 112–210, §10(c)(2), substituted "Air-Conditioning, Heating, and Refrigeration Institute" for "Air-Conditioning and Refrigeration Institute" wherever appearing.

2007—Subsec. (a). Pub. L. 110–140, §302(b), as amended by Pub. L. 112–210, §10(a)(2), inserted subsec. heading, added par. (1), and struck out former par. (1) which read as follows: "The Secretary may conduct an evaluation of a class of covered equipment and may prescribe test procedures for such class in accordance with the provisions of this section."

Subsec. (a)(9). Pub. L. 110–140, §312(c), added par. (9).

2005—Subsec. (a)(4)(A), (B). Pub. L. 109–58, §136(f)(1)(A), inserted "very large commercial package air conditioning and heating equipment," after "large commercial package air conditioning and heating equipment,".

Subsec. (a)(6) to (8). Pub. L. 109–58, §136(f)(1)(B), added pars. (6) to (8).

Subsec. (d)(1). Pub. L. 109–58, §136(f)(2), inserted "very large commercial package air conditioning and heating equipment, commercial refrigerators, freezers, and refrigerator-freezers, automatic commercial ice makers, commercial clothes washers," after "large commercial package air conditioning and heating equipment," in introductory provisions.

1992—Subsec. (a)(1). Pub. L. 102–486, §122(b)(1)(A), added par. (1) and struck out former par. (1) which read as follows: "If the Secretary has conducted an evaluation of a class of covered equipment under section 6313 of this title, he may prescribe test procedures for such class in accordance with the following provisions of this section."

Subsec. (a)(4), (5). Pub. L. 102–486, §122(b)(1)(B), added pars. (4) and (5).

Subsecs. (c), (d). Pub. L. 102–486, §122(f)(2), redesignated subsec. (d), relating to reevaluations, as (c).

Subsec. (d)(1). Pub. L. 102–486, §122(b)(2), inserted "(or, in the case of small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks, 360 days)" after "180 days".

1988—Subsec. (e). Pub. L. 100–418 substituted "National Institute of Standards and Technology" for "National Bureau of Standards".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by section 10(a)(2) of Pub. L. 112–210 effective as if included in the Energy Independence and Security Act of 2007, Pub. L. 110–140, see section 10(a)(13) of Pub. L. 112–210, set out as a note under section 6291 of this title.

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.

[1] So in original. No subpar. (B) has been enacted.

[2] So in original. No cl. (ii) has been enacted.

[3] See References in Text note below.

§6315. Labeling

(a) Prescription by Secretary

If the Secretary has prescribed test procedures under section 6314 of this title for any class of covered equipment, he shall prescribe a labeling rule applicable to such class of covered equipment in accordance with the following provisions of this section.

(b) Disclosure of energy efficiency of articles of covered equipment

A labeling rule prescribed in accordance with this section shall require that each article of covered equipment which is in the type (or class) of industrial equipment to which such rule applies, discloses by label, the energy efficiency of such article, determined in accordance with test procedures under section 6314 of this title. Such rule may also require that such disclosure include the estimated operating costs and energy use, determined in accordance with test procedures under section 6314 of this title.

(c) Inclusion of requirements

A rule prescribed in accordance with this section shall include such requirements as the Secretary determines are likely to assist purchasers in making purchasing decisions, including—

(1) requirements and directions for display of any label,

(2) requirements for including on any label, or separately attaching to, or shipping with, the covered equipment, such additional information relating to energy efficiency, energy use, and other measures of energy consumption, including instructions for the maintenance, use, or repair of the covered equipment, as the Secretary determines necessary to provide adequate information to purchasers, and

(3) requirements that printed matter which is displayed or distributed at the point of sale of such equipment shall disclose such information as may be required under this section to be disclosed on the label of such equipment.

(d) Labeling rules applicable to electric motors

Subject to subsection (h), not later than 12 months after the Secretary establishes test procedures for electric motors under section 6314 of this title, the Secretary shall prescribe labeling rules under this section applicable to electric motors taking into consideration NEMA Standards Publication MG1–1987. Such rules shall provide that the labeling of any electric motor manufactured after the 12-month period beginning on the date the Secretary prescribes such labeling rules, shall—

(1) indicate the energy efficiency of the motor on the permanent nameplate attached to such motor;

(2) prominently display the energy efficiency of the motor in equipment catalogs and other material used to market the equipment; and

(3) include such other markings as the Secretary determines necessary solely to facilitate enforcement of the standards established for electric motors under section 6313 of this title.

(e) Labeling rules for air conditioning and heating equipment

Subject to subsection (h), not later than 12 months after the Secretary establishes test procedures for small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, very large commercial package air conditioning and heating equipment, commercial refrigerators, freezers, and refrigerator-freezers, automatic commercial ice makers, commercial clothes washers, walk-in coolers and walk-in freezers, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks under section 6314 of this title, the Secretary shall prescribe labeling rules under this section for such equipment. Such rules shall provide that the labeling of any small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, very large commercial package air conditioning and heating equipment, commercial refrigerators, freezers, and refrigerator-freezers, automatic commercial ice makers, commercial clothes washers, walk-in coolers and walk-in freezers, packaged terminal air conditioner, packaged terminal heat pump, warm-air furnace, packaged boiler, storage water heater, instantaneous water heater, and unfired hot water storage tank manufactured after the 12-month period beginning on the date the Secretary prescribes such rules shall—

(1) indicate the energy efficiency of the equipment on the permanent nameplate attached to such equipment or other nearby permanent marking;

(2) prominently display the energy efficiency of the equipment in new equipment catalogs used

by the manufacturer to advertise the equipment; and

(3) include such other markings as the Secretary determines necessary solely to facilitate enforcement of the standards established for such equipment under section 6313 of this title.

(f) Consultation with Federal Trade Commission

Before prescribing any labeling rules for a type (or class) of covered equipment, the Secretary shall consult with, and obtain the written views of, the Federal Trade Commission with respect to such rules. The Federal Trade Commission shall promptly provide such written views upon the request of the Secretary.

(g) Publication in Federal Register; presentment of oral and written data, views, and arguments of interested persons

(1) Before prescribing any labeling rules under this section, the Secretary shall—

(A) publish proposed labeling rules in the Federal Register, and

(B) afford interested persons an opportunity (of not less than 45 days' duration) to pre- sent oral and written data, views, and arguments on the proposed rules.

(2) A labeling rule prescribed under this section shall take effect not later than 3 months after the date of prescription of such rule, except that such rules may take effect not later than 6 months after such date of prescription if the Secretary determines that such extension is necessary to allow persons subject to such rules adequate time to come into compliance with such rules.

(h) Restrictions on Secretary's authority to promulgate rules

The Secretary shall not promulgate labeling rules for any class of industrial equipment unless he has determined that—

(1) labeling in accordance with this section is technologically and economically feasible with respect to such class;

(2) significant energy savings will likely result from such labeling; and

(3) labeling in accordance with this section is likely to assist consumers in making purchasing decisions.

(i) Tests for accuracy of information contained on labels

When requested by the Secretary, any manufacturer of industrial equipment to which a rule under this section applies shall supply at the manufacturer's expense a reasonable number of articles of such covered equipment to any laboratory or testing facility designated by the Secretary, or permit representatives of such laboratory or facility to test such equipment at the site where it is located, for purposes of ascertaining whether the information set out on the label, or otherwise required to be disclosed, as required under this section, is accurate. Any reasonable charge levied by the laboratory or facility for such testing shall be borne by the United States, if and to the extent provided in appropriations Acts.

(j) Products completed prior to effective date of rules

A labeling rule under this section shall not apply to any article of covered equipment the manufacture of which was completed before the effective date of such rule.

(k) Labeling authority under Federal Trade Commission Act

Until such time as labeling rules under this section take effect with respect to a type (or class) of covered equipment, this section shall not affect any authority of the Commission under the Federal Trade Commission Act [15 U.S.C. 41 et seq.] to require labeling with respect to energy consumption of such type (or class) of covered equipment.

(Pub. L. 94–163, title III, §344, as added Pub. L. 95–619, title IV, §441(a), Nov. 9, 1978, 92 Stat. 3271; amended Pub. L. 102–486, title I, §122(c), Oct. 24, 1992, 106 Stat. 2809; Pub. L. 109–58, title I, §136(g), Aug. 8, 2005, 119 Stat. 643; Pub. L. 110–140, title III, §312(d), Dec. 19, 2007, 121 Stat. 1567.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Trade Commission Act, referred to in subsec. (k), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

AMENDMENTS

2007—Subsec. (e). Pub. L. 110–140 inserted "walk-in coolers and walk-in freezers," after "commercial clothes washers," in two places in introductory provisions.

2005—Subsec. (e). Pub. L. 109–58 inserted "very large commercial package air conditioning and heating equipment, commercial refrigerators, freezers, and refrigerator-freezers, automatic commercial ice makers, commercial clothes washers," after "large commercial package air conditioning and heating equipment," in two places in introductory provisions.

1992—Subsec. (a). Pub. L. 102–486, §122(c)(1), substituted "shall prescribe" for "may prescribe".

Subsec. (c). Pub. L. 102–486, §122(c)(2), substituted "shall include" for "may include".

Subsecs. (d) to (k). Pub. L. 102–486, §122(c)(3), (4), added subsecs. (d) and (e) and redesignated former subsecs. (d) to (i) as (f) to (k), respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

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.

§6316. Administration, penalties, enforcement, and preemption

(a) The provisions of section 6296(a), (b), and (d) of this title, the provisions of subsections (l) through (s) of section 6295 of this title, and section [1] 6297 through 6306 of this title shall apply with respect to this part (other than the equipment specified in subparagraphs (B), (C), (D), (I), (J), and (K) of section 6311(1) of this title) to the same extent and in the same manner as they apply in part A. In applying such provisions for the purposes of this part—

(1) references to sections 6293, 6294, and 6295 of this title shall be considered as references to sections 6314, 6315, and 6313 of this title, respectively;

(2) references to "this part" shall be treated as referring to part A–1;

(3) the term "equipment" shall be substituted for the term "product";

(4) the term "Secretary" shall be substituted for "Commission" each place it appears (other than in section 6303(c) of title);

(5) section 6297(a) of this title shall be applied, in the case of electric motors, as if the National Appliance Energy Conservation Act of 1987 was the Energy Policy Act of 1992;

(6) section 6297(b)(1) of this title shall be applied as if electric motors were fluorescent lamp ballasts and as if the National Appliance Energy Conservation Amendments of 1988 were the Energy Policy Act of 1992;

(7) section 6297(b)(4) of this title shall be applied as if electric motors were fluorescent lamp ballasts and as if paragraph (5) of section 6295(g) of this title were section 6313 of this title;

(8) notwithstanding any other provision of law, a regulation or other requirement adopted by a State or subdivision of a State contained in a State or local building code for new construction concerning the energy efficiency or energy use of an electric motor covered under this part is not superseded by the standards for such electric motor established or prescribed under section 6313(b) of this title if such regulation or requirement is identical to the standards established or prescribed under such section;

(9) in the case of commercial clothes washers, section 6297(b)(1) of this title shall be applied as if the National Appliance Energy Conservation Act of 1987 was the Energy Policy Act of 2005; and

(10) section 6297 of this title shall apply with respect to the equipment described in section 6311(1)(L) of this title beginning on the date on which a final rule establishing an energy conservation standard is issued by the Secretary, except that any State or local standard prescribed or enacted for the equipment before the date on which the final rule is issued shall not be preempted until the energy conservation standard established by the Secretary for the equipment takes effect.

(b)(1) The provisions of section 6295(p)(4) of this title, section 6296(a), (b), and (d) of this title, section 6297(a) of this title, and sections 6298 through 6306 of this title shall apply with respect to the equipment specified in subparagraphs (B), (C), (D), (I), (J), and (K) of section 6311(1) of this title to the same extent and in the same manner as they apply in part A. In applying such provisions for the purposes of such equipment, paragraphs (1), (2), (3), and (4) of subsection (a) shall apply.

(2)(A) A standard prescribed or established under section 6313(a) of this title shall, beginning on the effective date of such standard, supersede any State or local regulation concerning the energy efficiency or energy use of a product for which a standard is prescribed or established pursuant to such section.

(B) Notwithstanding subparagraph (A), a standard prescribed or established under section 6313(a) of this title shall not supersede a standard for such a product contained in a State or local building code for new construction if—

(i) the standard in the building code does not require that the energy efficiency of such product exceed the applicable minimum energy efficiency requirement in amended ASHRAE/IES Standard 90.1; and

(ii) the standard in the building code does not take effect prior to the effective date of the applicable minimum energy efficiency requirement in amended ASHRAE/IES Standard 90.1.

(C) Notwithstanding subparagraph (A), a standard prescribed or established under section 6313(a) of this title shall not supersede the standards established by the State of California set forth in Table C–6, California Code of Regulations, Title 24, Part 2, Chapter 2–53, for water-source heat pumps below 135,000 Btu per hour (cooling capacity) that become effective on January 1, 1993.

(D) Notwithstanding subparagraph (A), a standard prescribed or established under section 6313(a) of this title shall not supersede a State regulation which has been granted a waiver by the Secretary. The Secretary may grant a waiver pursuant to the terms, conditions, criteria, procedures, and other requirements specified in section 6297(d) of this title.

(c) With respect to any electric motor to which standards are applicable under section 6313(b) of this title, the Secretary shall require manufacturers to certify, through an independent testing or certification program nationally recognized in the United States, that such motor meets the applicable standard.

(d)(1) Except as provided in paragraphs (2) and (3), section 6297 of this title shall apply with respect to very large commercial package air conditioning and heating equipment to the same extent and in the same manner as section 6297 of this title applies under part A on August 8, 2005.

(2) Any State or local standard issued before August 8, 2005, shall not be preempted until the standards established under section 6313(a)(9) of this title take effect on January 1, 2010.

(e)(1)(A) Subsections (a), (b), and (d) of section 6296 of this title, subsections (m) through (s) of section 6295 of this title, and sections 6298 through 6306 of this title shall apply with respect to commercial refrigerators, freezers, and refrigerator-freezers to the same extent and in the same manner as those provisions apply under part A.

(B) In applying those provisions to commercial refrigerators, freezers, and refrigerator-freezers, paragraphs (1), (2), (3), and (4) of subsection (a) shall apply.

(2)(A) Section 6297 of this title shall apply to commercial refrigerators, freezers, and refrigerator-freezers for which standards are established under paragraphs (2) and (3) of section 6313(c) of this title to the same extent and in the same manner as those provisions apply under part A

on August 8, 2005, except that any State or local standard issued before August 8, 2005, shall not be preempted until the standards established under paragraphs (2) and (3) of section 6313(c) of this title take effect.

(B) In applying section 6297 of this title in accordance with subparagraph (A), paragraphs (1), (2), and (3) of subsection (a) shall apply.

(3)(A) Section 6297 of this title shall apply to commercial refrigerators, freezers, and refrigerator-freezers for which standards are established under section 6313(c)(4) [2] of this title to the same extent and in the same manner as the provisions apply under part A on the date of publication of the final rule by the Secretary, except that any State or local standard issued before the date of publication of the final rule by the Secretary shall not be preempted until the standards take effect.

(B) In applying section 6297 of this title in accordance with subparagraph (A), paragraphs (1), (2), and (3) of subsection (a) shall apply.

(4)(A) If the Secretary does not issue a final rule for a specific type of commercial refrigerator, freezer, or refrigerator-freezer within the time frame specified in section 6313(c)(5) [2] of this title, subsections (b) and (c) of section 6297 of this title shall not apply to that specific type of refrigerator, freezer, or refrigerator-freezer for the period beginning on the date that is 2 years after the scheduled date for a final rule and ending on the date on which the Secretary publishes a final rule covering the specific type of refrigerator, freezer, or refrigerator-freezer.

(B) Any State or local standard issued before the date of publication of the final rule shall not be preempted until the final rule takes effect.

(5)(A) In the case of any commercial refrigerator, freezer, or refrigerator-freezer to which standards are applicable under paragraphs (2) and (3) of section 6313(c) of this title, the Secretary shall require manufacturers to certify, through an independent, nationally recognized testing or certification program, that the commercial refrigerator, freezer, or refrigerator-freezer meets the applicable standard.

(B) The Secretary shall, to the maximum extent practicable, encourage the establishment of at least 2 independent testing and certification programs.

(C) As part of certification, information on equipment energy use and interior volume shall be made available to the Secretary.

(f)(1)(A)(i) Except as provided in clause (ii), section 6297 of this title shall apply to automatic commercial ice makers for which standards have been established under section 6313(d)(1) of this title to the same extent and in the same manner as the section applies under part A on August 8, 2005.

(ii) Any State standard issued before August 8, 2005, shall not be preempted until the standards established under section 6313(d)(1) of this title take effect.

(B) In applying section 6297 of this title to the equipment under subparagraph (A), paragraphs (1), (2), and (3) of subsection (a) shall apply.

(2)(A)(i) Except as provided in clause (ii), section 6297 of this title shall apply to automatic commercial ice makers for which standards have been established under section 6313(d)(2) of this title to the same extent and in the same manner as the section applies under part A on the date of publication of the final rule by the Secretary.

(ii) Any State standard issued before the date of publication of the final rule by the Secretary shall not be preempted until the standards established under section 6313(d)(2) of this title take effect.

(B) In applying section 6297 of this title in accordance with subparagraph (A), paragraphs (1), (2), and (3) of subsection (a) shall apply.

(3)(A) If the Secretary does not issue a final rule for a specific type of automatic commercial ice maker within the time frame specified in section 6313(d) of this title, subsections (b) and (c) of section 6297 of this title shall no longer apply to the specific type of automatic commercial ice maker for the period beginning on the day after the scheduled date for a final rule and ending on the date on which the Secretary publishes a final rule covering the specific type of automatic commercial ice maker.

(B) Any State standard issued before the publication of the final rule shall not be preempted until the standards established in the final rule take effect.

(4)(A) The Secretary shall monitor whether manufacturers are reducing harvest rates below tested values for the purpose of bringing non-complying equipment into compliance.

(B) If the Secretary finds that there has been a substantial amount of manipulation with respect to harvest rates under subparagraph (A), the Secretary shall take steps to minimize the manipulation, such as requiring harvest rates to be within 5 percent of tested values.

(g)(1)(A) If the Secretary does not issue a final rule for commercial clothes washers within the timeframe specified in section 6313(e)(2) of this title, subsections (b) and (c) of section 6297 of this title shall not apply to commercial clothes washers for the period beginning on the day after the scheduled date for a final rule and ending on the date on which the Secretary publishes a final rule covering commercial clothes washers.

(B) Any State or local standard issued before the date on which the Secretary publishes a final rule shall not be preempted until the standards established under section 6313(e)(2) of this title take effect.

(2) The Secretary shall undertake an educational program to inform owners of laundromats, multifamily housing, and other sites where commercial clothes washers are located about the new standard, including impacts on washer purchase costs and options for recovering those costs through coin collection.

(h) WALK-IN COOLERS AND WALK-IN FREEZERS.—

(1) COVERED TYPES.—

(A) RELATIONSHIP TO OTHER LAW.—

(i) IN GENERAL.—Except as otherwise provided in this subsection, section 6297 of this title shall apply to walk-in coolers and walk-in freezers for which standards have been established under paragraphs (1), (2), and (3) of section 6313(f) of this title to the same extent and in the same manner as the section applies under part A on December 19, 2007.

(ii) STATE STANDARDS.—Any State standard prescribed before December 19, 2007, shall not be preempted until the standards established under paragraphs (1) and (2) of section 6313(f) of this title take effect.

(B) ADMINISTRATION.—In applying section 6297 of this title to equipment under subparagraph (A), paragraphs (1), (2), and (3) of subsection (a) shall apply.

(2) FINAL RULE NOT TIMELY.—

(A) IN GENERAL.—If the Secretary does not issue a final rule for a specific type of walk-in cooler or walk-in freezer within the timeframe established under paragraph (4) or (5) of section 6313(f) of this title, subsections (b) and (c) of section 6297 of this title shall no longer apply to the specific type of walk-in cooler or walk-in freezer during the period—

(i) beginning on the day after the scheduled date for a final rule; and

(ii) ending on the date on which the Secretary publishes a final rule covering the specific type of walk-in cooler or walk-in freezer.

(B) STATE STANDARDS.—Any State standard issued before the publication of the final rule shall not be preempted until the standards established in the final rule take effect.

(3) CALIFORNIA.—Any standard issued in the State of California before January 1, 2011, under title 20 of the California Code of Regulations, that refers to walk-in coolers and walk-in freezers, for which standards have been established under paragraphs (1), (2), and (3) of section 6313(f) of this title, shall not be preempted until the standards established under section 6313(f)(4) of this title take effect.

(Pub. L. 94–163, title III, §345, as added Pub. L. 95–619, title IV, §441(a), Nov. 9, 1978, 92 Stat. 3272; amended Pub. L. 102–486, title I, §122(e), Oct. 24, 1992, 106 Stat. 2815; Pub. L. 105–388, §5(a)(7), Nov. 13, 1998, 112 Stat. 3478; Pub. L. 109–58, title I, §136(h), Aug. 8, 2005, 119 Stat. 643; Pub. L. 110–140, title III, §§308(b), 312(e), Dec. 19, 2007, 121 Stat. 1561, 1567; Pub. L. 112–210, §10(a)(5), Dec. 18, 2012, 126 Stat. 1524.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Appliance Energy Conservation Act of 1987, referred to in subsec. (a)(5), (9), is Pub. L. 100–12, Mar. 17, 1987, 101 Stat. 103. For complete classification of this Act to the Code, see Short Title of 1987 Amendment note set out under section 6201 of this title and Tables.

The Energy Policy Act of 1992, referred to in subsec. (a)(5), (6), is Pub. L. 102–486, Oct. 24, 1992, 106 Stat. 2776. For complete classification of this Act to the Code, see Short Title note set out under section 13201 of this title and Tables.

The Energy Policy Act of 2005, referred to in subsec. (a)(9), is Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 594. For complete classification of this Act to the Code, see Short Title note set out under section 15801 of this title and Tables.

The National Appliance Energy Conservation Amendments of 1988, referred to in subsec. (a)(6), is Pub. L. 100–357, June 28, 1988, 102 Stat. 671. For complete classification of this Act to the Code, see Short Title of 1988 Amendments note set out under section 6201 of this title and Tables.

Section 6313(c)(4) and (c)(5) of this title, referred to in subsec. (e)(3)(A), (4)(A), were redesignated section 6313(c)(5) and (c)(6) of this title, respectively, by Pub. L. 112–210, §4(2), Dec. 18, 2012, 126 Stat. 1517.

AMENDMENTS

2012—Pub. L. 112–210, §10(a)(5)(B), made technical amendment to references in original act which appear in subsecs. (b)(1), (d)(1), (e)(1)(A), (2)(A), (3)(A), (f)(1)(A)(i), (2)(A)(i), and (h)(1)(A)(i) as references to part A.

Subsec. (a). Pub. L. 112–210, §10(a)(5)(A), substituted "subparagraphs (B), (C), (D), (I), (J), and (K)" for "subparagraphs (B) through (G)" in introductory provisions.

Subsec. (a)(10). Pub. L. 112–210, §10(a)(5)(C), added par. (10).

Subsec. (b)(1). Pub. L. 112–210, §10(a)(5)(A), (D), substituted "section 6295(p)(4)" for "section 6295(p)(5)" and "subparagraphs (B), (C), (D), (I), (J), and (K)" for "subparagraphs (B) through (G)".

Subsec. (h)(3). Pub. L. 112–210, §10(a)(5)(E), substituted "section 6313(f)(4)" for "section 6313(f)(3)".

2007—Subsec. (a). Pub. L. 110–140, §312(e)(1), substituted "subparagraphs (B) through (G)" for "subparagraphs (B), (C), (D), (E), and (F)" in introductory provisions.

Subsec. (b)(1). Pub. L. 110–140, §§308(b), 312(e)(1), inserted "section 6295(p)(5) of this title," after "The provisions of" and substituted "subparagraphs (B) through (G)" for "subparagraphs (B), (C), (D), (E), and (F)".

Subsec. (h). Pub. L. 110–140, §312(e)(2), added subsec. (h).

2005—Subsec. (a)(9). Pub. L. 109–58, §136(h)(1), added par. (9).

Subsec. (b)(1). Pub. L. 109–58, §136(h)(2), substituted "part A" for "part B", which for purposes of codification had been translated as "part A" thus requiring no change in text.

Subsecs. (d) to (g). Pub. L. 109–58, §136(h)(3), added subsecs. (d) to (g).

1998—Subsec. (c). Pub. L. 105–388 inserted "standard" after "meets the applicable".

1992—Pub. L. 102–486, §122(e)(3), substituted "enforcement, and preemption" for "and enforcement" in section catchline.

Subsec. (a). Pub. L. 102–486, §122(e)(1)(A), inserted "(other than the equipment specified in subparagraphs (B), (C), (D), (E), and (F) of section 6311(l) of this title)" after "to this part" and substituted ", the provisions of subsections (l) through (s) of section 6295 of this title, and section 6297" for "and sections 6298".

Subsec. (a)(1). Pub. L. 102–486, §122(e)(1)(B), substituted ", 6294, and 6295 of this title" for "and 6294 of this title" and "6314, 6315, and 6313 of this title, respectively" for "6314 and 6315 of this title, respectively".

Subsec. (a)(5) to (8). Pub. L. 102–486, §122(e)(1)(C)–(E), added pars. (5) to (8).

Subsecs. (b), (c). Pub. L. 102–486, §122(e)(2), added subsecs. (b) and (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–210 effective as if included in the Energy Independence and Security Act of 2007, Pub. L. 110–140, see section 10(a)(13) of Pub. L. 112–210, set out as a note under section 6291 of this title.

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.

[1] *So in original. Probably should be "sections".*

[2] *See References in Text note below.*

§6317. Energy conservation standards for high-intensity discharge lamps, distribution transformers, and small electric motors

(a) High-intensity discharge lamps and distribution transformers

(1) The Secretary shall, within 30 months after October 24, 1992, prescribe testing requirements for those high-intensity discharge lamps and distribution transformers for which the Secretary makes a determination that energy conservation standards would be technologically feasible and economically justified, and would result in significant energy savings.

(2) The Secretary shall, within 18 months after the date on which testing requirements are prescribed by the Secretary pursuant to paragraph (1), prescribe, by rule, energy conservation standards for those high-intensity discharge lamps and distribution transformers for which the Secretary prescribed testing requirements under paragraph (1).

(3) Any standard prescribed under paragraph (2) with respect to high-intensity discharge lamps shall apply to such lamps manufactured 36 months after the date such rule is published.

(b) Small electric motors

(1) The Secretary shall, within 30 months after October 24, 1992, prescribe testing requirements for those small electric motors for which the Secretary makes a determination that energy conservation standards would be technologically feasible and economically justified, and would result in significant energy savings.

(2) The Secretary shall, within 18 months after the date on which testing requirements are prescribed by the Secretary pursuant to paragraph (1), prescribe, by rule, energy conservation standards for those small electric motors for which the Secretary prescribed testing requirements under paragraph (1).

(3) Any standard prescribed under paragraph (2) shall apply to small electric motors manufactured 60 months after the date such rule is published or, in the case of small electric motors which require listing or certification by a nationally recognized testing laboratory, 84 months after such date. Such standards shall not apply to any small electric motor which is a component of a covered product under section 6292(a) of this title or a covered equipment under section 6311 of this title.

(c) Consideration of criteria under other law

In establishing any standard under this section, the Secretary shall take into consideration the criteria contained in section 6295(n) of this title.

(d) Prescription of labeling requirements by Secretary

The Secretary shall, within six months after the date on which energy conservation standards are prescribed by the Secretary for high-intensity discharge lamps and distribution transformers pursuant to subsection (a)(2) and small electric motors pursuant to subsection (b)(2), prescribe labeling requirements for such lamps, transformers, and small electric motors.

(e) Compliance by manufacturers with labeling requirements

Beginning on the date which occurs six months after the date on which a labeling rule is prescribed for a product under subsection (d), each manufacturer of a product to which such a rule applies shall provide a label which meets, and is displayed in accordance with, the requirements of such rule.

(f) New covered products; distribution of non-conforming products prohibited; construction with other law

(1) After the date on which a manufacturer must provide a label for a product pursuant to subsection (e)—

(A) each such product shall be considered, for purposes of paragraphs (1) and (2) of section 6302(a) of this title, a new covered product to which a rule under section 6294 of this title applies; and

(B) it shall be unlawful for any manufacturer or private labeler to distribute in commerce any new product for which an energy conservation standard is prescribed under subsection (a)(2) or (b)(2) which is not in conformity with the applicable energy conservation standard.

(2) For purposes of section 6303(a) of this title, paragraph (1) of this subsection shall be considered to be a part of section 6302 of this title.

(Pub. L. 94–163, title III, §346, as added Pub. L. 95–619, title IV, §441(a), Nov. 9, 1978, 92 Stat. 3272; amended Pub. L. 102–486, title I, §124(a), Oct. 24, 1992, 106 Stat. 2832.)

EDITORIAL NOTES

AMENDMENTS

1992—Pub. L. 102–486 amended section generally, substituting provisions requiring energy conservation standards for high-intensity discharge lamps, distribution transformers, and small electric motors, for provisions authorizing appropriations for fiscal years 1978 and 1979.

STATUTORY NOTES AND RELATED SUBSIDIARIES

ENERGY EFFICIENT TRANSFORMER REBATE PROGRAM

Pub. L. 116–260, div. Z, title I, §1006, Dec. 27, 2020, 134 Stat. 2432, provided that:

"(a) DEFINITIONS.—In this section:

"(1) QUALIFIED ENERGY EFFICIENT TRANSFORMER.—The term 'qualified energy efficient transformer' means a transformer that meets or exceeds the applicable energy conservation standards described in the tables in subsection (b)(2) and paragraphs (1) and (2) of subsection (c) of section 431.196 of title 10, Code of Federal Regulations (as in effect on the date of enactment of this Act [Dec. 27, 2020]).

"(2) QUALIFIED ENERGY INEFFICIENT TRANSFORMER.—The term 'qualified energy inefficient transformer' means a transformer with an equal number of phases and capacity to a transformer described in any of the tables in subsection (b)(2) and paragraphs (1) and (2) of subsection (c) of section 431.196 of title 10, Code of Federal Regulations (as in effect on the date of enactment of this Act) that—

"(A) does not meet or exceed the applicable energy conservation standards described in paragraph (1); and

"(B)(i) was manufactured between January 1, 1987, and December 31, 2008, for a transformer with an equal number of phases and capacity as a transformer described in the table in subsection (b)(2) of section 431.196 of title 10, Code of Federal Regulations (as in effect on the date of enactment of this Act); or

"(ii) was manufactured between January 1, 1992, and December 31, 2011, for a transformer with an equal number of phases and capacity as a transformer described in the table in paragraph (1) or (2) of subsection (c) of that section (as in effect on the date of enactment of this Act).

"(3) QUALIFIED ENTITY.—The term 'qualified entity' means an owner of industrial or manufacturing facilities, commercial buildings, or multifamily residential buildings, a utility, or an energy service company that fulfills the requirements of subsection (c).

"(b) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary of Energy (in this section referred to as the 'Secretary') shall establish a program to provide rebates to qualified entities for expenditures made by the qualified entity for the replacement of a qualified energy inefficient transformer with a qualified energy efficient transformer.

"(c) REQUIREMENTS.—To be eligible to receive a rebate under this section, an entity shall submit to the Secretary an application in such form, at such time, and containing such information as the Secretary may require, including demonstrated evidence—

"(1) that the entity purchased a qualified energy efficient transformer;
"(2) of the core loss value of the qualified energy efficient transformer;
"(3) of the age of the qualified energy inefficient transformer being replaced;
"(4) of the core loss value of the qualified energy inefficient transformer being replaced—
"(A) as measured by a qualified professional or verified by the equipment manufacturer, as applicable; or
"(B) for transformers described in subsection (a)(2)(B)(i), as selected from a table of default values as determined by the Secretary in consultation with applicable industry; and
"(5) that the qualified energy inefficient transformer has been permanently decommissioned and scrapped.

"(d) AUTHORIZED AMOUNT OF REBATE.—The amount of a rebate provided under this section shall be—
"(1) for a 3-phase or single-phase transformer with a capacity of not less than 10 and not greater than 2,500 kilovolt-amperes, twice the amount equal to the difference in Watts between the core loss value (as measured in accordance with paragraphs (2) and (4) of subsection (c)) of—
"(A) the qualified energy inefficient transformer; and
"(B) the qualified energy efficient transformer; or
"(2) for a transformer described in subsection (a)(2)(B)(i), the amount determined using a table of default rebate values by rated transformer output, as measured in kilovolt-amperes, as determined by the Secretary in consultation with applicable industry.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2022 and 2023.

"(f) TERMINATION OF EFFECTIVENESS.—The authority provided by this section terminates on December 31, 2023."

STUDY OF UTILITY DISTRIBUTION TRANSFORMERS; REPORT TO CONGRESS

Pub. L. 102–486, title I, §124(c), Oct. 24, 1992, 106 Stat. 2833, directed the Secretary to evaluate the practicability, cost-effectiveness, and potential energy savings of replacing or upgrading utility distribution transformers during routine maintenance and, not later than 18 months after Oct. 24, 1992, report the findings of the evaluation to Congress with recommendations.

PART B—STATE ENERGY CONSERVATION PLANS

EDITORIAL NOTES

CODIFICATION

This part, originally designated part C and subsequently redesignated part D by Pub. L. 95–619, title IV, §441(a), Nov. 9, 1978, 92 Stat. 3267, was changed to part B for purposes of codification.

§6321. Findings; purpose; definitions

(a) Findings

Congress finds that—

(1) the development and implementation by States of laws, policies, programs, and procedures to conserve and to improve efficiency in the use of energy will have an immediate and substantial effect in reducing the rate of growth of energy demand and in minimizing the adverse social, economic, political, and environmental impacts of increasing energy consumption;

(2) the development and implementation of energy conservation programs by States will most efficiently and effectively minimize any adverse economic or employment impacts of changing patterns of energy use and meet local economic, climatic, geographic, and other unique conditions and requirements of each State; and

(3) the Federal Government has a responsibility to foster and promote comprehensive energy conservation programs and practices by establishing guidelines for such programs and providing

overall coordination, technical assistance, and financial support for specific State initiatives in energy conservation.

(b) Purpose

It is the purpose of this part to promote the conservation of energy and reduce the rate of growth of energy demand by authorizing the Secretary to establish procedures and guidelines for the development and implementation of specific State energy conservation programs and to provide Federal financial and technical assistance to States in support of such programs.

(c) Definitions

In this part:

(1) Appliance

The term "appliance" means any article, such as a room air-conditioner, refrigerator-freezer, or dishwasher, which the Secretary classifies as an appliance for purposes of this part.

(2) Building

The term "building" means any structure which includes provision for a heating or cooling system, or both, or for a hot water system.

(3) Energy audit

The term "energy audit" means any process which identifies and specifies the energy and cost savings which are likely to be realized through the purchase and installation of particular energy conservation measures or renewable-resource energy measures and which—

(A) is carried out in accordance with rules of the Secretary; and

(B) imposes—

(i) no direct costs, with respect to individuals who are occupants of dwelling units in any State having a supplemental State energy conservation plan; and

(ii) only reasonable costs, as determined by the Secretary, with respect to any person not described in clause (i).

Rules referred to in subparagraph (A) may include minimum qualifications for, and provisions with respect to conflicts of interest of, persons carrying out such energy audits.

(4) Energy conservation measure

The term "energy conservation measure" means a measure which modifies any building, building system, energy consuming device associated with the building, or industrial plant, the construction of which has been completed prior to May 1, 1989, if such measure has been determined by means of an energy audit or by the Secretary, by rule under section 6325(e)(1) of this title, to be likely to maintain or improve the efficiency of energy use and to reduce energy costs (as calculated on the basis of energy costs reasonably projected over time, as determined by the Secretary) in an amount sufficient to enable a person to recover the total cost of purchasing and installing such measure (without regard to any tax benefit or Federal financial assistance applicable thereto) within the period of—

(A) the useful life of the modification involved, as determined by the Secretary, or

(B) 15 years after the purchase and installation of such measure,

whichever is less. Such term does not include (i) the purchase or installation of any appliance, (ii) any conversion from one fuel or source of energy to another which is of a type which the Secretary, by rule, determines is ineligible on the basis that such type of conversion is inconsistent with national policy with respect to energy conservation or reduction of imports of fuels, or (iii) any measure, or type of measure, which the Secretary determines does not have as its primary purpose an improvement in efficiency of energy use.

(5) Industrial plant

The term "industrial plant" means any fixed equipment or facility which is used in connection

with, or as part of, any process or system for industrial production or output.

(6) Public building

The term "public building" means any building which is open to the public during normal business hours.

(7) Renewable-resource energy measure

The term "renewable-resource energy measure" means a measure which modifies any building or industrial plant, the construction of which has been completed prior to August 14, 1976, if such measure has been determined by means of an energy audit or by the Secretary, by rule under section 6325(e)(1) of this title, to—

(A) involve changing, in whole or in part, the fuel or source of the energy used to meet the requirements of such building or plant from a depletable source of energy to a nondepletable source of energy; and

(B) be likely to reduce energy costs (as calculated on the basis of energy costs reasonably projected over time, as determined by the Secretary) in an amount sufficient to enable a person to recover the total cost of purchasing and installing such measure (without regard to any tax benefit or Federal financial assistance applicable thereto) within the period of—

(i) the useful life of the modification involved, as determined by the Secretary, or

(ii) 25 years after the purchase and installation of such measure,

whichever is less.

Such term does not include the purchase or installation of any appliance.

(8) Transportation controls

The term "transportation controls" means any plan, procedure, method, or arrangement, or any system of incentives, disincentives, restrictions, and requirements, which is designed to reduce the amount of energy consumed in transportation, except that the term does not include rationing of gasoline or diesel fuel.

(Pub. L. 94–163, title III, §361, Dec. 22, 1975, 89 Stat. 932; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 117–58, div. D, title I, §40108(a)(1), (3), Nov. 15, 2021, 135 Stat. 941, 942.)

EDITORIAL NOTES

CODIFICATION

Pars. (1) to (8) of section 6326 of this title, which were transferred to subsec. (c) of this section by Pub. L. 117–58, div. D, title I, §40108(a)(3), Nov. 15, 2021, 135 Stat. 942, were based on Pub. L. 94–163, title III, §366, Dec. 22, 1975, 89 Stat. 935; Pub. L. 94–385, title IV, §431, Aug. 14, 1976, 90 Stat. 1158; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 101–440, §2(b), Oct. 18, 1990, 104 Stat. 1006; Pub. L. 117–58, div. D, title I, §40108(a)(2), Nov. 15, 2021, 135 Stat. 941.

AMENDMENTS

2021—Pub. L. 117–58, §40108(a)(1)(A), substituted "Findings; purpose; definitions" for "Congressional findings and declaration of purpose" in section catchline and, in subsec. (a), inserted heading and substituted "Congress" for "The Congress" in introductory provisions.

Subsec. (b). Pub. L. 117–58, §40108(a)(1)(B), inserted heading.

Subsec. (c). Pub. L. 117–58, §40108(a)(1)(C), added subsec. (c).

Subsec. (c)(1) to (8). Pub. L. 117–58, §40108(a)(3), transferred pars. (1) to (8) of section 6326 of this title to subsec. (c) of this section. See Codification note above.

1978—Subsec. (b). Pub. L. 95–619 substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration.

STATUTORY NOTES AND RELATED SUBSIDIARIES

WAGE RATE REQUIREMENTS

For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction, alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117–58, including authority of Secretary of Labor, see section 18851 of this title.

REPORT ON COORDINATION OF ENERGY CONSERVATION PROGRAMS

Pub. L. 95–619, title VI, §623, Nov. 9, 1978, 92 Stat. 3283, provided that not later than 6 months after Nov. 9, 1978, the Secretary of Energy submit a report on the coordination of Federal energy conservation programs involving State and local government.

§6322. State energy conservation plans

(a) Feasibility reports

The Secretary shall, by rule, within 60 days after December 22, 1975, prescribe guidelines for the preparation of a State energy conservation feasibility report. The Secretary shall invite the Governor of each State to submit, within 3 months after the effective date of such guidelines, such a report. Such report shall include—

(1) an assessment of the feasibility of establishing a State energy conservation goal, which goal shall consist of a reduction, as a result of the implementation of the State energy conservation plan described in this section, of 5 percent or more in the total amount of energy consumed in such State in the year 1980 from the projected energy consumption for such State in the year 1980, and

(2) a proposal by such State for the development of a State energy conservation plan to achieve such goal.

(b) Guidelines

The Secretary shall, by rule, within 6 months after December 22, 1975, prescribe guidelines with respect to measures required to be included in, and guidelines for the development, modification, and funding of, State energy conservation plans. The Secretary shall invite the Governor of each State to submit, within 5 months after the effective date of such guidelines, a report. Such report shall include—

(1) a proposed State energy conservation plan designed to result in scheduled progress toward, and achievement of, the State energy conservation goal of such State; and

(2) a detailed description of the requirements, including the estimated cost of implementation and the estimated energy savings, associated with each functional category of energy conservation included in the State energy conservation plan.

(c) Mandatory features of plans

Each proposed State energy conservation plan to be eligible for Federal assistance under this part shall include—

(1) mandatory lighting efficiency standards for public buildings (except public buildings owned or leased by the United States);

(2) programs to promote the availability and use of carpools, vanpools, and public transportation (except that no Federal funds provided under this part shall be used for subsidizing fares for public transportation);

(3) mandatory standards and policies relating to energy efficiency to govern the procurement practices of such State and its political subdivisions;

(4) mandatory thermal efficiency standards and insulation requirements for new and renovated buildings (except buildings owned or leased by the United States);

(5) a traffic law or regulation which, to the maximum extent practicable consistent with safety, permits the operator of a motor vehicle to turn such vehicle right at a red stop light after stopping and to turn such vehicle left from a one-way street onto a one-way street at a red light after stopping;

(6) procedures for ensuring effective coordination among various local, State, and Federal energy conservation programs within the State, including any program administered within the

Office of Technical and Financial Assistance of the Department of Energy and the Low Income Home Energy Assistance Program administered by the Department of Health and Human Services; and

(7) the mandatory conduct of activities to support transmission and distribution planning, including—

(A) support for local governments and Indian Tribes;

(B) feasibility studies for transmission line routes and alternatives;

(C) preparation of necessary project design and permits; and

(D) outreach to affected stakeholders.

(d) Optional features of plans

Each proposed State energy conservation plan may include—

(1) restrictions governing the hours and conditions of operation of public buildings (except buildings owned or leased by the United States);

(2) restrictions on the use of decorative or nonessential lighting;

(3) programs to increase transportation energy efficiency, including programs to help reduce carbon emissions in the transportation sector by 2050 and accelerate the use of alternative transportation fuels for, and the electrification of, State government vehicles, fleet vehicles, taxis and ridesharing services, mass transit, school buses, ferries, and privately owned passenger and medium- and heavy-duty vehicles;

(4) programs of public education to promote energy conservation;

(5) programs for financing energy efficiency and renewable energy capital investments, projects, and programs—

(A) which may include loan programs and performance contracting programs for leveraging of additional public and private sector funds, and programs which allow rebates, grants, or other incentives for the purchase and installation of energy efficiency and renewable energy measures; or

(B) in addition to or in lieu of programs described in subparagraph (A), which may be used in connection with public or nonprofit buildings owned and operated by a State, a political subdivision of a State or an agency or instrumentality of a State, or an organization exempt from taxation under section 501(c)(3) of title 26;

(6) programs for encouraging and for carrying out energy audits with respect to buildings and industrial facilities (including industrial processes) within the State;

(7) programs to promote the adoption of integrated energy plans which provide for—

(A) periodic evaluation of a State's energy needs, available energy resources (including greater energy efficiency), and energy costs; and

(B) utilization of adequate and reliable energy supplies, including greater energy efficiency, that meet applicable safety, environmental, and policy requirements at the lowest cost;

(8) programs to promote energy efficiency in residential housing, such as—

(A) programs for development and promotion of energy efficiency rating systems for newly constructed housing and existing housing so that consumers can compare the energy efficiency of different housing; and

(B) programs for the adoption of incentives for builders, utilities, and mortgage lenders to build, service, or finance energy efficient housing;

(9) programs to identify unfair or deceptive acts or practices which relate to the implementation of energy efficiency measures and renewable resource energy measures and to educate consumers concerning such acts or practices;

(10) programs to modify patterns of energy consumption so as to reduce peak demands for energy and improve the efficiency of energy supply systems, including electricity supply systems;

(11) programs to promote energy efficiency as an integral component of economic development planning conducted by State, local, or other governmental entities or by energy utilities;

(12) in accordance with subsection (f)(2), programs to implement the Energy Technology Commercialization Services Program;

(13) programs (enlisting appropriate trade and professional organizations in the development and financing of such programs) to provide training and education (including, if appropriate, training workshops, practice manuals, and testing for each area of energy efficiency technology) to building designers and contractors involved in building design and construction or in the sale, installation, and maintenance of energy systems and equipment to promote building energy efficiency improvements;

(14) programs for the development of building retrofit standards and regulations, including retrofit ordinances enforced at the time of the sale of a building;

(15) support for prefeasibility and feasibility studies for projects that utilize renewable energy and energy efficiency resource technologies in order to facilitate access to capital and credit for such projects;

(16) programs to facilitate and encourage the voluntary use of renewable energy technologies for eligible participants in Federal agency programs, including the Rural Electrification Administration and the Farmers Home Administration;

(17) programs that promote the installation and use of demand-response technology and demand-response practices; and

(18) any other appropriate method or programs to conserve and to promote efficiency in the use of energy.

(e) Standby plans

The Governor of any State may submit to the Secretary a State energy conservation plan which is a standby energy conservation plan to significantly reduce energy demand by regulating the public and private consumption of energy during a severe energy supply interruption, which plan may be separately eligible for Federal assistance under this part without regard to subsections (c) and (d) of this section.

(f) Energy Technology Commercialization Services Program

(1) The purposes of this subsection are to—

(A) strengthen State outreach programs to aid small and start-up businesses;

(B) foster a broader application of engineering principles and techniques to energy technology products, manufacturing, and commercial production by small and start-up businesses; and

(C) foster greater assistance to small and start-up businesses in dealing with the Federal Government on energy technology related matters.

(2) The programs to implement the functions of the Energy Technology Commercialization Services Program, as provided for by subsection (d)(12), shall—

(A) aid small and start-up businesses in discovering useful and practical information relating to manufacturing and commercial production techniques and costs associated with new energy technologies;

(B) encourage the application of such information in order to solve energy technology product development and manufacturing problems;

(C) establish an Energy Technology Commercialization Services Program affiliated with an existing entity in each State;

(D) coordinate engineers and manufacturers to aid small and start-up businesses in solving specific technical problems and improving the cost effectiveness of methods for manufacturing new energy technologies;

(E) assist small and start-up businesses in preparing the technical portions of proposals seeking financial assistance for new energy technology commercialization; and

(F) facilitate contract research between university faculty and students and small start-up businesses, in order to improve energy technology product development and independent quality control testing.

(3) Each State energy technology commercialization services program shall develop and maintain a data base of engineering and scientific experts in energy technologies and product commercialization interested in participating in the service. Such data base shall, at a minimum, include faculty of institutions of higher education, retired manufacturing experts, and national laboratory personnel.

(4) The services provided by the energy technology commercialization services programs established under this subsection shall be available to any small or start-up business. Such service programs shall charge fees which are affordable to a party eligible for assistance, which shall be determined by examining factors, including the following: (A) the costs of the services received; (B) the need of the recipient for the services; and (C) the ability of the recipient to pay for the services.

(5) For the purposes of this subsection, the term—

(A) "institution of higher education" has the same meaning as such term is defined in section 1001 of title 20;

(B) "small business" means a private firm that does not exceed the numerical size standard promulgated by the Small Business Administration under section 632(a) of title 15 for the Standard Industrial Classification (SIC) codes designated by the Secretary of Energy; and

(C) "start-up business" means a small business which has been in existence for 5 years or less.

(g) Review of plans

The Secretary shall, at least once every 3 years, invite the Governor of each State to review and, if necessary, revise the energy conservation plan of such State submitted under subsection (b) or (e). Such reviews should consider the energy conservation plans of other States within the region, and identify opportunities and actions carried out in pursuit of common energy conservation goals.

(Pub. L. 94–163, title III, §362, Dec. 22, 1975, 89 Stat. 933; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 101–440, §§3(a), 4(a), (b), Oct. 18, 1990, 104 Stat. 1006–1008; Pub. L. 102–486, title I, §141(b), (c)(1), Oct. 24, 1992, 106 Stat. 2841; Pub. L. 105–244, title I, §102(a)(13)(E), Oct. 7, 1998, 112 Stat. 1620; Pub. L. 105–388, §5(a)(8), Nov. 13, 1998, 112 Stat. 3478; Pub. L. 109–58, title I, §123(a), Aug. 8, 2005, 119 Stat. 616; Pub. L. 117–58, div. D, title I, §§40104(b), 40109(a), (b), Nov. 15, 2021, 135 Stat. 932, 944.)

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (c)(7). Pub. L. 117–58, §40109(a), added par. (7).

Subsec. (d)(3). Pub. L. 117–58, §40109(b), added par. (3) and struck out former par. (3) which read as follows: "programs to increase transportation energy efficiency, including programs to accelerate the use of alternative transportation fuels for State government vehicles, fleet vehicles, taxies, mass transit, and privately owned vehicles;".

Subsec. (d)(17), (18). Pub. L. 117–58, §40104(b), added par. (17) and redesignated former par. (17) as (18).

2005—Subsec. (g). Pub. L. 109–58 added subsec. (g).

1998—Subsec. (a)(1). Pub. L. 105–388, §5(a)(8)(A), inserted "of" after "of the implementation".

Subsec. (d)(12). Pub. L. 105–388, §5(a)(8)(B), substituted "subsection (f)(2)" for "subsection (g)".

Subsec. (f)(5)(A). Pub. L. 105–244 substituted "section 1001" for "section 1141(a)".

1992—Subsec. (c)(5). Pub. L. 102–486, §141(c)(1), substituted "and to turn such vehicle left from a one-way street onto a one-way street at a red light after stopping; and" for "; and".

Subsec. (d)(13) to (17). Pub. L. 102–486, §141(b), added pars. (13) to (16) and redesignated former par. (13) as (17).

1990—Subsec. (c)(6). Pub. L. 101–440, §3(a), added par. (6).

Subsec. (d)(3). Pub. L. 101–440, §4(a)(1), added par. (3) and struck out former par. (3) which read as follows: "transportation controls;".

Subsec. (d)(5) to (13). Pub. L. 101–440, §4(a)(3), added pars. (5) to (13) and struck out former par. (5) which read as follows: "any other appropriate method or programs to conserve and to improve efficiency in the use of energy."

Subsec. (f). Pub. L. 101–440, §4(b), added subsec. (f).

1978—Subsecs. (a), (b), (e). Pub. L. 95–619 substituted "Secretary" for "Administrator", meaning

Administrator of the Federal Energy Administration, wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of Title 20, Education.

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–486, title I, §141(c)(2), Oct. 24, 1992, 106 Stat. 2841, provided that: "The amendment made by paragraph (1) [amending this section] shall take effect January 1, 1995."

WAGE RATE REQUIREMENTS

For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction, alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117–58, including authority of Secretary of Labor, see section 18851 of this title.

STUDY REGARDING IMPACT OF PERMITTING RIGHT AND LEFT TURNS ON RED LIGHTS

Pub. L. 102–486, title I, §141(d), Oct. 24, 1992, 106 Stat. 2841, required the Administrator of the National Highway Traffic Safety Administration, in consultation with State agencies with jurisdiction over traffic safety issues, to conduct a study on the safety impact of the requirement specified in subsec. (c)(5) of this section, particularly with respect to the impact on pedestrian safety, and to report the findings of the study to Congress and the Secretary by not later than 2 years after Oct. 24, 1992.

§6323. Federal assistance to States

(a) Information, technical assistance, and assistance in preparation of reports and development, implementation, or modification of energy conservation plan

Upon request of the Governor of any State, the Secretary shall provide, subject to the availability of personnel and funds, information and technical assistance, including model State laws and proposed regulations relating to energy conservation, and other assistance in—

(1) the preparation of the reports described in section 6322 of this title, and

(2) the development, implementation, or modification of an energy conservation plan of such State submitted under section 6322(b) or (e) of this title.

(b) Financial assistance to assist State in development, implementation, or modification of energy conservation plan; submission of plan to and approval of Secretary; considerations governing approval; amount of assistance

(1) The Secretary may grant Federal financial assistance pursuant to this section for the purpose of assisting such State in the development of any such energy conservation plan or in the implementation or modification of a State energy conservation plan or part thereof which has been submitted to and approved by the Secretary pursuant to this part.

(2) In determining whether to approve a State energy conservation plan submitted under section 6322(b) or (e) of this title, the Secretary—

(A) shall take into account the impact of local economic, climatic, geographic, and other unique conditions and requirements of such State on the opportunity to conserve and to improve efficiency in the use of energy in such State; and

(B) may extend the period of time during which a State energy conservation feasibility report or State energy conservation plan may be submitted if the Secretary determines that participation by the State submitting such report or plan is likely to result in significant progress toward achieving the purposes of this chapter.

No such plan shall be disapproved without notice and an opportunity to present views.

(3) In determining the amount of Federal financial assistance to be provided to any State under this subsection, the Secretary shall consider—

(A) the contribution to energy conservation which can reasonably be expected,

(B) the number of people affected by such plan, and

(C) the consistency of such plan with the purposes of this chapter, and such other factors as the Secretary deems appropriate.

(c) Records

Each recipient of Federal financial assistance under subsection (b) shall keep such records as the Secretary shall require, including records which fully disclose the amount and disposition by each recipient of the proceeds of such assistance, the total cost of the plan, program, projects, measures, or systems for which such assistance was given or used, the source and amount of funds for such plan, program, projects, measures, or systems not supplied by the Secretary, and such other records as the Secretary determines necessary to facilitate an effective audit and performance evaluation. The Secretary and Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination, at reasonable times and under reasonable conditions, to any pertinent books, documents, papers, and records of any recipient of Federal assistance under this part.

(d) Assistance as supplementing and not supplanting State and local funds

Each State receiving Federal financial assistance pursuant to this section shall provide reasonable assurance to the Secretary that it has established policies and procedures designed to assure that Federal financial assistance under this part and under part E of this subchapter will be used to supplement, and not to supplant, State and local funds, and to the extent practicable, to increase the amount of such funds that otherwise would be available, in the absence of such Federal financial assistance, for those programs set forth in the State energy conservation plan approved pursuant to subsection (b).

(e) State buildings energy efficiency improvements incentive fund

If the Secretary determines that a State has demonstrated a commitment to improving the energy efficiency of buildings within such State, the Secretary may, beginning in fiscal year 1994, provide up to $1,000,000 to such State for deposit into a revolving fund established by such State for the purpose of financing energy efficiency improvements in State and local government buildings. In making such determination the Secretary shall consider whether—

(1) such State, or a majority of the units of local government with jurisdiction over building energy codes within such State, has adopted codes for energy efficiency in new buildings that are at least as stringent as American Society of Heating, Refrigerating, and Air-Conditioning Engineers Standard 90.1–1989 (with respect to commercial buildings) and Council of American Building Officials Model Energy Code, 1992 (with respect to residential buildings);

(2) such State has established a program, including a revolving fund, to finance energy efficiency improvement projects in State and local government facilities and buildings; and

(3) such State has obtained funding from non-Federal sources, including but not limited to, oil overcharge funds, State or local government appropriations, or utility contributions (including rebates) equal to or greater than three times the amount provided by the Secretary under this subsection for deposit into such revolving fund.

(Pub. L. 94–163, title III, §363, Dec. 22, 1975, 89 Stat. 934; Pub. L. 94–385, title IV, §432(b), (c), Aug. 14, 1976, 90 Stat. 1162; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 101–440, §3(b), Oct. 18, 1990, 104 Stat. 1007; Pub. L. 102–486, title I, §141(a)(1), Oct. 24, 1992, 106 Stat. 2840; Pub. L. 117–58, div. D, title I, §40108(c)(2), Nov. 15, 2021, 135 Stat. 944.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(2)(B), (3)(C), was in the original "this Act", meaning Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 871, known as the Energy Policy and Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

AMENDMENTS

2021—Subsecs. (e), (f). Pub. L. 117–58 redesignated subsec. (f) as (e) and struck out former subsec. (e) which related to energy emergency planning program as prerequisite to assistance.

1992—Subsec. (f). Pub. L. 102–486 added subsec. (f).

1990—Subsecs. (d), (e). Pub. L. 101–440 added subsecs. (d) and (e).

1978—Pub. L. 95–619 substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration, wherever appearing.

1976—Subsec. (b)(2). Pub. L. 94–385, §432(b), inserted provision requiring notice and opportunity to present views prior to disapproval of plans.

Subsec. (c). Pub. L. 94–385, §432(c), inserted references to plan, measures, or systems wherever appearing and required that examinations be at reasonable times and under reasonable conditions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

WAGE RATE REQUIREMENTS

For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction, alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117–58, including authority of Secretary of Labor, see section 18851 of this title.

§6323a. Matching State contributions

For the base State Energy Conservation Program (part D of the Energy Policy and Conservation Act, sections 361 through 366 [42 U.S.C. 6321–6326]), each State will hereafter match in cash or in kind not less than 20 percent of the Federal contribution.

(Pub. L. 98–473, title I, §101(c) [title II], Oct. 12, 1984, 98 Stat. 1837, 1861.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Energy Policy and Conservation Act, referred to in text, is Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 871. Part D of title III of the Energy Policy and Conservation Act, as amended, is classified generally to this part (§6321 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

CODIFICATION

Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1985, as enacted by Pub. L. 98–473, and not as part of the Energy Policy and Conservation Act which comprises this chapter.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation act:
Pub. L. 98–146, title II, Nov. 4, 1983, 97 Stat. 942.

§6324. State energy efficiency goals

Each State energy conservation plan with respect to which assistance is made available under this part on or after August 8, 2005, shall contain a goal, consisting of an improvement of 25 percent or more in the efficiency of use of energy in the State concerned in calendar year 2012 as compared to calendar year 1990, and may contain interim goals.

(Pub. L. 94–163, title III, §364, Dec. 22, 1975, 89 Stat. 935; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 101–440, §2(a)(1), Oct. 18, 1990, 104 Stat. 1006; Pub. L. 109–58, title I, §123(b), Aug. 8, 2005, 119 Stat. 616.)

EDITORIAL NOTES

AMENDMENTS

2005—Pub. L. 109–58 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: "Each State energy conservation plan with respect to which assistance is made available under this part on or after October 1, 1991, shall contain a goal, consisting of an improvement of 10 percent or more in the efficiency of use of energy in the State concerned in the calendar year 2000 as compared to the calendar year 1990, and may contain interim goals."

1990—Pub. L. 101–440 amended section generally. Prior to amendment, section read as follows: "Upon the basis of the reports submitted pursuant to this part and such other information as is available, the Secretary shall, at the earliest practicable date, set an energy conservation goal for each State for 1980 and may set interim goals. Such goal or goals shall consist of the maximum reduction in the consumption of energy during any year as a result of the implementation of the State energy conservation plan described in section 6322(b) of this title which is consistent with technological feasibility, financial resources, and economic objectives, by comparison with the projected energy consumption for such State in such year. The Secretary shall specify the assumptions used in the determination of the projected energy consumption in each State, taking into account population trends, economic growth, and the effects of national energy conservation programs."

1978—Pub. L. 95–619 substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration, wherever appearing.

§6325. General provisions

(a) Rules

The Secretary may prescribe such rules as may be necessary or appropriate to carry out his authority under this part.

(b) Departmental consultation

In carrying out the provisions of sections 6322 and 6324 of this title and subsection (a) of section 6323 of this title, the Secretary shall consult with appropriate departments and Federal agencies.

(c) Annual report

The Secretary shall, as part of the report required under section 7267 of this title, report to the President and the Congress, and shall furnish copies of such report to the Governor of each State, on the operation of the program under this part. Such report shall include an estimate of the energy conservation achieved, the degree of State participation and achievement, a description of innovative conservation programs undertaken by individual States, and the recommendations of the Secretary, if any, for additional legislation.

(d) Duty of Federal Trade Commission to prevent unfair or deceptive practices or acts relating to implementation of energy measures

The Federal Trade Commission shall (1) cooperate with and assist State agencies which have primary responsibilities for the protection of consumers in activities aimed at preventing unfair and deceptive acts or practices affecting commerce which relate to the implementation of measures likely to conserve, or improve efficiency in the use of, energy, including energy conservation measures and renewable-resource energy measures, and (2) undertake its own program, pursuant to the Federal Trade Commission Act [15 U.S.C. 41 et seq.], to prevent unfair or deceptive acts or practices affecting commerce which relate to the implementation of any such measures.

(e) List of energy measures eligible for financial assistance; designation of types and requirements of energy audits

Within 90 days after August 14, 1976, the Secretary shall—

(1) develop, by rule after consultation with the Secretary of Housing and Urban Development, and publish a list of energy conservation measures and renewable-resource energy measures which are eligible (on a national or regional basis) for financial assistance pursuant to section 1701z–8 of title 12 or section 6881 of this title;

(2) designate, by rule, the types of, and requirements for, energy audits.

(f) Authorization of appropriations

(1) In general

There is authorized to be appropriated to carry out this part $500,000,000 for the period of fiscal years 2022 through 2026.

(2) Distribution

Amounts made available under paragraph (1)—

(A) shall be distributed to the States in accordance with the applicable distribution formula in effect on January 1, 2021; and

(B) shall not be subject to the matching requirement described in section 6323a of this title.

(g) State Energy Advisory Board

(1)(A) There is hereby established within the Department of Energy a State Energy Advisory Board (hereafter in this subsection referred to as the "Board") which shall consist of at least 18 and not more than 21 members appointed by the Secretary as soon as practicable but no later than September 30, 1991. At least eight of the members of the Board shall be persons who serve as directors of the State agency, or a division of such agency, responsible for developing State energy conservation plans pursuant to section 6322 of this title. At least four members shall be directors of State or local low income weatherization assistance programs. Other members shall be appointed from persons who have experience in energy efficiency or renewable energy programs from the private sector, consumer interest groups, utilities, public utility commissions, educational institutions, financial institutions, local government energy programs, or research institutions. A majority of the members of the Board shall be State employees.

(B)(i) Except as provided in clause (ii), the members of the Board shall serve a term of three years.

(ii) Of the members first appointed to the Board, one-third shall serve a term of one year, one-third shall serve a term of two years, and the remainder shall serve a term of three years, as specified by the Secretary.

(2) The Board shall—

(A) make recommendations to the Assistant Secretary for Conservation and Renewable Energy within the Department of Energy with respect to—

(i) the energy efficiency goals and objectives of the programs carried out under this part, part E of this subchapter, and under part A of title IV of the Energy Conservation and Production Act [42 U.S.C. 6861 et seq.]; and

(ii) programmatic and administrative policies designed to strengthen and improve the programs referred to in clause (i), including actions that should be considered to encourage non-Federal resources (including private resources) to supplement Federal financial assistance;

(B) serve as a liaison between the States and such Department on energy efficiency and renewable energy resource programs; and

(C) encourage transfer of the results of research and development activities carried out by the Federal Government with respect to energy efficiency and renewable energy resource technologies.

(3) The Secretary shall designate one of the members of the Board to serve as its chairman and one to serve as its vice-chairman. The chairman and vice-chairman shall serve in those offices no longer than two years.

(4) The Secretary shall provide the Board with such reasonable services and facilities as may be necessary for the performance of its functions.

(5) The Board shall be nonpartisan.

(6) The Board may adopt administrative rules and procedures and may elect one of its members secretary of the Board.

(7) Consistent with Federal regulations, the Secretary shall reimburse members of the Board for expenses (including travel expenses) necessarily incurred by them in the performance of their duties.

(8) The Board shall meet at least twice a year and shall submit an annual report to the Secretary and the Congress on the activities carried out by the Board in the previous fiscal year, including an accounting of the expenses reimbursed under paragraph (7) with respect to the year for which the report is made and any recommendations it may have for administrative or legislative changes concerning the matters referred to in subparagraphs (A), (B), and (C) of paragraph (2).

(9) The Board shall continue until terminated by law.

(Pub. L. 94–163, title III, §365, Dec. 22, 1975, 89 Stat. 935; Pub. L. 94–385, title IV, §432(d), Aug. 14, 1976, 90 Stat. 1162; Pub. L. 95–619, title VI, §§621, 691(b)(2), Nov. 9, 1978, 92 Stat. 3283, 3288; Pub. L. 101–440, §§5, 8(a), Oct. 18, 1990, 104 Stat. 1009, 1015; Pub. L. 102–486, title I, §141(a)(2), Oct. 24, 1992, 106 Stat. 2841; Pub. L. 104–66, title I, §1052(f), Dec. 21, 1995, 109 Stat. 718; Pub. L. 105–388, §2(a), Nov. 13, 1998, 112 Stat. 3477; Pub. L. 109–58, title I, §123(c), Aug. 8, 2005, 119 Stat. 617; Pub. L. 110–140, title V, §531, Dec. 19, 2007, 121 Stat. 1665; Pub. L. 117–58, div. D, title I, §40109(c), Nov. 15, 2021, 135 Stat. 944.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Trade Commission Act, referred to in subsec. (d), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

The Energy Conservation and Production Act, referred to in subsec. (g)(2)(A)(i), is Pub. L. 94–385, Aug. 14, 1976, 90 Stat. 1125. Part A of title IV of the Act is classified generally to part A (§6861 et seq.) of subchapter III of chapter 81 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6801 of this title and Tables.

AMENDMENTS

2021—Subsec. (f). Pub. L. 117–58 added subsec. (f) and struck out former subsec. (f). Prior to amendment, text read as follows: "For the purpose of carrying out this part, there are authorized to be appropriated $125,000,000 for each of fiscal years 2007 through 2012."

2007—Subsec. (f). Pub. L. 110–140 substituted "$125,000,000 for each of fiscal years 2007 through 2012" for "$100,000,000 for each of the fiscal years 2006 and 2007 and $125,000,000 for fiscal year 2008".

2005—Subsec. (f). Pub. L. 109–58 substituted "$100,000,000 for each of the fiscal years 2006 and 2007 and $125,000,000 for fiscal year 2008" for "for fiscal years 1999 through 2003 such sums as may be necessary".

1998—Subsec. (f). Pub. L. 105–388 amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows:

"(f)(1) Except as provided in paragraph (2), for the purpose of carrying out this part, there are authorized to be appropriated not to exceed $25,000,000 for fiscal year 1991, $35,000,000 for fiscal year 1992, and $45,000,000 for fiscal year 1993.

"(2) For the purposes of carrying out section 6323(f) of this title, there is authorized to be appropriated for fiscal year 1994 and each fiscal year thereafter such sums as may be necessary, to remain available until expended."

1995—Subsec. (c). Pub. L. 104–66 substituted ", as part of the report required under section 7267 of this title, report" for "report annually" in first sentence.

1992—Subsec. (f). Pub. L. 102–486 designated existing provisions as par. (1), substituted "Except as provided in paragraph (2), for the purpose" for "For the purpose", and added par. (2).

1990—Subsec. (f). Pub. L. 101–440, §8(a), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: "There are authorized to be appropriated for carrying out the provisions of this part (other than section 6327 of this title) $50,000,000 for fiscal year 1976, $50,000,000 for fiscal year 1977, $50,000,000 for fiscal year 1978, and $50,000,000 for fiscal year 1979."

Subsec. (g). Pub. L. 101–440, §5, added subsec. (g).

1978—Subsecs. (a) to (c), (e). Pub. L. 95–619, §691(b)(2), substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration, wherever appearing.

Subsec. (f). Pub. L. 95–619, §621, authorized to be appropriated $50,000,000 for fiscal year 1979.

1976—Subsec. (d). Pub. L. 94–385, §432(d)(1), (2), added subsec. (d). Former subsec. (d) redesignated (f).

Subsec. (e). Pub. L. 94–385, §432(d)(2), added subsec. (e).

Subsec. (f). Pub. L. 94–385, §432(d)(1), (3), redesignated former subsec. (d) as (f) and inserted "(other than section 6327 of this title)" after "part".

STATUTORY NOTES AND RELATED SUBSIDIARIES

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.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which the 16th item on page 87 identifies a reporting provision which, as subsequently amended, is contained in subsec. (c) of this section and in which the 14th item on page 91 identifies a reporting provision in subsec. (g)(8) of this section), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

WAGE RATE REQUIREMENTS

For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction, alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117–58, including authority of Secretary of Labor, see section 18851 of this title.

§6326. State energy security plans

(a) Definitions

In this section:

(1) Bulk-power system

The term "bulk-power system" has the meaning given the term in section 824o(a) of title 16.

(2) State energy security plan

The term "State energy security plan" means a State energy security plan described in subsection (b).

(b) Financial assistance for State energy security plans

Federal financial assistance made available to a State under this part may be used for the development, implementation, review, and revision of a State energy security plan that—

(1) assesses the existing circumstances in the State; and

(2) proposes methods to strengthen the ability of the State, in consultation with owners and operators of energy infrastructure in the State—

(A) to secure the energy infrastructure of the State against all physical and cybersecurity threats;

(B)(i) to mitigate the risk of energy supply disruptions to the State; and

(ii) to enhance the response to, and recovery from, energy disruptions; and

(C) to ensure that the State has reliable, secure, and resilient energy infrastructure.

(c) Contents of plan

A State energy security plan shall—

(1) address all energy sources and regulated and unregulated energy providers;

(2) provide a State energy profile, including an assessment of energy production, transmission, distribution, and end-use;

(3) address potential hazards to each energy sector or system, including—

(A) physical threats and vulnerabilities; and

(B) cybersecurity threats and vulnerabilities;

(4) provide a risk assessment of energy infrastructure and cross-sector interdependencies;

(5) provide a risk mitigation approach to enhance reliability and end-use resilience; and
(6)(A) address—
(i) multi-State and regional coordination, planning, and response; and
(ii) coordination with Indian Tribes with respect to planning and response; and

(B) to the extent practicable, encourage mutual assistance in cyber and physical response plans.

(d) Coordination

In developing or revising a State energy security plan, the State energy office of the State shall coordinate, to the extent practicable, with—
(1) the public utility or service commission of the State;
(2) energy providers from the private and public sectors; and
(3) other entities responsible for—
(A) maintaining fuel or electric reliability; and
(B) securing energy infrastructure.

(e) Financial assistance

A State is not eligible to receive Federal financial assistance under this part for any purpose for a fiscal year unless the Governor of the State submits to the Secretary, with respect to that fiscal year—
(1) a State energy security plan that meets the requirements of subsection (c); or
(2) after an annual review, carried out by the Governor, of a State energy security plan—
(A) any necessary revisions to the State energy security plan; or
(B) a certification that no revisions to the State energy security plan are necessary.

(f) Technical assistance

On request of the Governor of a State, the Secretary, in consultation with the Secretary of Homeland Security, may provide information, technical assistance, and other assistance in the development, implementation, or revision of a State energy security plan.

(g) Requirement

Each State receiving Federal financial assistance under this part shall provide reasonable assurance to the Secretary that the State has established policies and procedures designed to assure that the financial assistance will be used—
(1) to supplement, and not to supplant, State and local funds; and
(2) to the maximum extent practicable, to increase the amount of State and local funds that otherwise would be available, in the absence of the Federal financial assistance, for the implementation of a State energy security plan.

(h) Protection of information

Information provided to, or collected by, the Federal Government pursuant to this section the disclosure of which the Secretary reasonably foresees could be detrimental to the physical security or cybersecurity of any electric utility or the bulk-power system—
(1) shall be exempt from disclosure under section 552(b)(3) of title 5; and
(2) shall not be made available by any Federal agency, State, political subdivision of a State, or Tribal authority pursuant to any Federal, State, political subdivision of a State, or Tribal law, respectively, requiring public disclosure of information or records.

(i) Sunset

The requirements of this section shall expire on October 31, 2025.

(Pub. L. 94–163, title III, §366, Dec. 22, 1975, 89 Stat. 935; Pub. L. 94–385, title IV, §431, Aug. 14, 1976, 90 Stat. 1158; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 101–440, §2(b), Oct. 18, 1990, 104 Stat. 1006; Pub. L. 117–58, div. D, title I, §40108(a)(2)–(4), Nov. 15, 2021, 135 Stat. 941, 942.)

EDITORIAL NOTES

AMENDMENTS

2021—Pub. L. 117–58, §40108(a)(4), amended section generally. Prior to amendment, section defined terms used in this part.

Pub. L. 117–58, §40108(a)(3), redesignated pars. (1) to (8) as pars. (1) to (8) of section 6321(c) of this title.

Pub. L. 117–58, §40108(a)(2)(B), inserted headings in pars. (1) to (8).

Par. (3)(B)(i). Pub. L. 117–58, §40108(a)(2)(A), substituted "; and" for "approved under section 6327 of this title, and".

Pars. (6), (7). Pub. L. 117–58, §40108(a)(2)(C), redesignated pars. (6) and (7) as (7) and (6), respectively, and rearranged pars. in numerical order.

1990—Par. (4). Pub. L. 101–440 substituted "building, building system, energy consuming device associated with the building, or industrial" for "building or industrial", "May 1, 1989" for "August 14, 1976", and "maintain or improve the efficiency" for "improve the efficiency".

1978—Pars. (1), (3)(A), (B)(ii), (4), (A), (6), (B), (B)(i). Pub. L. 95–619 substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration, wherever appearing.

1976—Pub. L. 94–385 redesignated former pars. (1) and (2) as (7) and (8), respectively, and added pars. (1) to (6).

STATUTORY NOTES AND RELATED SUBSIDIARIES

WAGE RATE REQUIREMENTS

For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction, alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117–58, including authority of Secretary of Labor, see section 18851 of this title.

§6327. Repealed. Pub. L. 101–440, §4(c)(1), Oct. 18, 1990, 104 Stat. 1009

Section, Pub. L. 94–163, title III, §367, as added Pub. L. 94–385, title IV, §432(a), Aug. 14, 1976, 90 Stat. 1160; amended Pub. L. 95–91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607; Pub. L. 95–619, title VI, §§622, 691(b)(2), Nov. 9, 1978, 92 Stat. 3283, 3288, related to supplemental State energy conservation plans.

PART C—INDUSTRIAL ENERGY EFFICIENCY

EDITORIAL NOTES

CODIFICATION

This part was, in the original, designated part E and has been changed to part C for purposes of codification.

PRIOR PROVISIONS

A prior part C, consisting of sections 6341 to 6346, related to voluntary industrial energy conservation, prior to repeal by Pub. L. 99–509, title III, §3101(b), Oct. 21, 1986, 100 Stat. 1888. This prior part C, which in the original Act had been designated part D and subsequently redesignated part E by Pub. L. 95–619, title IV, §441(a), Nov. 9, 1978, 92 Stat. 3267, was designated part C of this subchapter for purposes of codification.

§6341. Definitions

In this part:

(1) Administrator

The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) Combined heat and power

The term "combined heat and power system" means a facility that—

(A) simultaneously and efficiently produces useful thermal energy and electricity; and

(B) recovers not less than 60 percent of the energy value in the fuel (on a higher-heating-value basis) in the form of useful thermal energy and electricity.

(3) Net excess power

The term "net excess power" means, for any facility, recoverable waste energy recovered in the form of electricity in quantities exceeding the total consumption of electricity at the specific time of generation on the site at which the facility is located.

(4) Project

The term "project" means a recoverable waste energy project or a combined heat and power system project.

(5) Recoverable waste energy

The term "recoverable waste energy" means waste energy from which electricity or useful thermal energy may be recovered through modification of an existing facility or addition of a new facility.

(6) Registry

The term "Registry" means the Registry of Recoverable Waste Energy Sources established under section 6342(d) of this title.

(7) Useful thermal energy

The term "useful thermal energy" means energy—

(A) in the form of direct heat, steam, hot water, or other thermal form that is used in production and beneficial measures for heating, cooling, humidity control, process use, or other valid thermal end-use energy requirements; and

(B) for which fuel or electricity would otherwise be consumed.

(8) Waste energy

The term "waste energy" means—

(A) exhaust heat or flared gas from any industrial process;

(B) waste gas or industrial tail gas that would otherwise be flared, incinerated, or vented;

(C) a pressure drop in any gas, excluding any pressure drop to a condenser that subsequently vents the resulting heat; and

(D) such other forms of waste energy as the Administrator may determine.

(9) Other terms

The terms "electric utility", "nonregulated electric utility", "State regulated electric utility", and other terms have the meanings given those terms in title I of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2611 et seq.).

(Pub. L. 94–163, title III, §371, as added Pub. L. 110–140, title IV, §451(a), Dec. 19, 2007, 121 Stat. 1623.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Public Utility Regulatory Policies Act of 1978, referred to in par. (9), is Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3117. Title I (§101 et seq.) of the Act enacted subchapters I to IV of chapter 46 (§2611 et seq.) of Title 16, Conservation, and section 6808 of this title, and amended sections 6802 to 6807 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 16 and Tables.

PRIOR PROVISIONS

A prior section 6341, Pub. L. 94–163, title III, §371, Dec. 22, 1975, 89 Stat. 936; Pub. L. 95–619, title VI,

§§601(c), 691(b)(2), Nov. 9, 1978, 92 Stat. 3283, 3288, defined terms used in former part C, prior to repeal by Pub. L. 99–509, title III, §3101(b), Oct. 21, 1986, 100 Stat. 1888.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

EXECUTIVE DOCUMENTS

EX. ORD. NO. 13624. ACCELERATING INVESTMENT IN INDUSTRIAL ENERGY EFFICIENCY

Ex. Ord. No. 13624, Aug. 30, 2012, 77 Stat. 54779, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to promote American manufacturing by helping to facilitate investments in energy efficiency at industrial facilities, it is hereby ordered as follows:

SECTION 1. *Policy*. The industrial sector accounts for over 30 percent of all energy consumed in the United States, and, for many manufacturers, energy costs affect overall competitiveness. While our manufacturing facilities have made progress in becoming more energy efficient over the past several decades, there is an opportunity to accelerate and expand these efforts with investments to reduce energy use through more efficient manufacturing processes and facilities and the expanded use of combined heat and power (CHP). Instead of burning fuel in an on-site boiler to produce thermal energy and also purchasing electricity from the grid, a manufacturing facility can use a CHP system to provide both types of energy in one energy-efficient step. Accelerating these investments in our Nation's factories can improve the competitiveness of United States manufacturing, lower energy costs, free up future capital for businesses to invest, reduce air pollution, and create jobs.

Despite these benefits, independent studies have pointed to under-investment in industrial energy efficiency and CHP as a result of numerous barriers. The Federal Government has limited but important authorities to overcome these barriers, and our efforts to support investment in industrial energy efficiency and CHP should involve coordinated engagement with a broad set of stakeholders, including States, manufacturers, utilities, and others. By working with all stakeholders to address these barriers, we have an opportunity to save industrial users tens of billions of dollars in energy costs over the next decade.

There is no one-size-fits-all solution for our manufacturers, so it is imperative that we support these investments through a variety of approaches, including encouraging private sector investment by setting goals and highlighting the benefits of investment, improving coordination at the Federal level, partnering with and supporting States, and identifying investment models beneficial to the multiple stakeholders involved.

To formalize and support the close interagency coordination that is required to accelerate greater investment in industrial energy efficiency and CHP, this order directs certain executive departments and agencies to convene national and regional stakeholders to identify, develop, and encourage the adoption of investment models and State best practice policies for industrial energy efficiency and CHP; provide technical assistance to States and manufacturers to encourage investment in industrial energy efficiency and CHP; provide public information on the benefits of investment in industrial energy efficiency and CHP; and use existing Federal authorities, programs, and policies to support investment in industrial energy efficiency and CHP.

SEC. 2. *Encouraging Investment in Industrial Efficiency*. The Departments of Energy, Commerce, and Agriculture, and the Environmental Protection Agency, in coordination with the National Economic Council, the Domestic Policy Council, the Council on Environmental Quality, and the Office of Science and Technology Policy, shall coordinate policies to encourage investment in industrial efficiency in order to reduce costs for industrial users, improve U.S. competitiveness, create jobs, and reduce harmful air pollution. In doing so, they shall engage States, industrial companies, utility companies, and other stakeholders to accelerate this investment. Specifically, these agencies shall, as appropriate and consistent with applicable law:

(a) coordinate and strongly encourage efforts to achieve a national goal of deploying 40 gigawatts of new, cost-effective industrial CHP in the United States by the end of 2020;

(b) convene stakeholders, through a series of public workshops, to develop and encourage the use of best practice State policies and investment models that address the multiple barriers to investment in industrial energy efficiency and CHP;

(c) utilize their respective relevant authorities and resources to encourage investment in industrial energy

efficiency and CHP, such as by:

(i) providing assistance to States on accounting for the potential emission reduction benefits of CHP and other energy efficiency policies when developing State Implementation Plans (SIPs) to achieve national ambient air quality standards;

(ii) providing incentives for the deployment of CHP and other types of clean energy, such as set-asides under emissions allowance trading program state implementation plans, grants, and loans;

(iii) employing output-based approaches as compliance options in power and industrial sector regulations, as appropriate, to recognize the emissions benefits of highly efficient energy generation technologies like CHP; and

(iv) seeking to expand participation in and create additional tools to support the Better Buildings, Better Plants program at the Department of Energy, which is working with companies to help them achieve a goal of reducing energy intensity by 25 percent over 10 years, as well as utilizing existing partnership programs to support energy efficiency and CHP;

(d) support and encourage efforts to accelerate investment in industrial energy efficiency and CHP by:

(i) providing general guidance, technical analysis and information, and financial analysis on the value of investment in industrial energy efficiency and CHP to States, utilities, and owners and operators of industrial facilities;

(ii) improving the usefulness of Federal data collection and analysis; and

(iii) assisting States in developing and implementing State-specific best practice policies that can accelerate investment in industrial energy efficiency and CHP.

In implementing this section, these agencies should consult with the Federal Energy Regulatory Commission, as appropriate.

SEC. 3. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

§6342. Survey and Registry

(a) Recoverable waste energy inventory program

(1) In general

The Administrator, in cooperation with the Secretary and State energy offices, shall establish a recoverable waste energy inventory program.

(2) Survey

The program shall include—

(A) an ongoing survey of all major industrial and large commercial combustion sources in the United States (as defined by the Administrator) and the sites at which the sources are located; and

(B) a review of each source for the quantity and quality of waste energy produced at the source.

(b) Criteria

(1) In general

Not later than 270 days after December 19, 2007, the Administrator shall publish a rule for establishing criteria for including sites in the Registry.

(2) Inclusions

The criteria shall include—

(A) a requirement that, to be included in the Registry, a project at the site shall be determined to be economically feasible by virtue of offering a payback of invested costs not later than 5 years after the date of first full project operation (including incentives offered under this part);

(B) standards to ensure that projects proposed for inclusion in the Registry are not developed or used for the primary purpose of making sales of excess electric power under the regulatory provisions of this part; and

(C) procedures for contesting the listing of any source or site on the Registry by any State, utility, or other interested person.

(c) Technical support

On the request of the owner or operator of a source or site included in the Registry, the Secretary shall—

(1) provide to owners or operators of combustion sources technical support; and

(2) offer partial funding (in an amount equal to not more than one-half of total costs) for feasibility studies to confirm whether or not investment in recovery of waste energy or combined heat and power at a source would offer a payback period of 5 years or less.

(d) Registry

(1) Establishment

(A) In general

Not later than 1 year after December 19, 2007, the Administrator shall establish a Registry of Recoverable Waste Energy Sources, and sites on which the sources are located, that meet the criteria established under subsection (b).

(B) Updates; availability

The Administrator shall—

(i) update the Registry on a regular basis; and

(ii) make the Registry available to the public on the website of the Environmental Protection Agency.

(C) Contesting listing

Any State, electric utility, or other interested person may contest the listing of any source or site by submitting a petition to the Administrator.

(2) Contents

(A) In general

The Administrator shall register and include on the Registry all sites meeting the criteria established under subsection (b).

(B) Quantity of recoverable waste energy

The Administrator shall—

(i) calculate the total quantities of potentially recoverable waste energy from sources at the sites, nationally and by State; and

(ii) make public—

(I) the total quantities described in clause (i); and

(II) information on the criteria pollutant and greenhouse gas emissions savings that might be achieved with recovery of the waste energy from all sources and sites listed on the Registry.

(3) Availability of information

(A) In general

The Administrator shall notify owners or operators of recoverable waste energy sources and sites listed on the Registry prior to publishing the listing.

(B) Detailed quantitative information

(i) In general

Except as provided in clause (ii), the owner or operator of a source at a site may elect to have detailed quantitative information concerning the site not made public by notifying the Administrator of the election.

(ii) Limited availability

The information shall be made available to—

(I) the applicable State energy office; and

(II) any utility requested to support recovery of waste energy from the source pursuant to the incentives provided under section 6344 of this title.

(iii) State totals

Information concerning the site shall be included in the total quantity of recoverable waste energy for a State unless there are fewer than 3 sites in the State.

(4) Removal of projects from registry

(A) In general

Subject to subparagraph (B), as a project achieves successful recovery of waste energy, the Administrator shall—

(i) remove the related sites or sources from the Registry; and

(ii) designate the removed projects as eligible for incentives under section 6344 of this title.

(B) Limitation

No project shall be removed from the Registry without the consent of the owner or operator of the project if—

(i) the owner or operator has submitted a petition under section 6344 of this title; and

(ii) the petition has not been acted on or denied.

(5) Ineligibility of certain sources

The Administrator shall not list any source constructed after December 19, 2007, on the Registry if the Administrator determines that the source—

(A) was developed for the primary purpose of making sales of excess electric power under the regulatory provisions of this part; or

(B) does not capture at least 60 percent of the total energy value of the fuels used (on a higher-heating-value basis) in the form of useful thermal energy, electricity, mechanical energy, chemical output, or any combination thereof.

(e) Self-certification

(1) In general

Subject to any procedures that are established by the Administrator, an owner, operator, or third-party developer of a recoverable waste energy project that qualifies under standards established by the Administrator may self-certify the sites or sources of the owner, operator, or developer to the Administrator for inclusion in the Registry.

(2) Review and approval

To prevent a fraudulent listing, a site or source shall be included on the Registry only if the Administrator reviews and approves the self-certification.

(f) New facilities

As a new energy-consuming industrial facility is developed after December 19, 2007, to the extent the facility may constitute a site with recoverable waste energy that may qualify for inclusion on the Registry, the Administrator may elect to include the facility on the Registry, at the request of the owner, operator, or developer of the facility, on a conditional basis with the site to be removed from the Registry if the development ceases or the site fails to qualify for listing under this part.

(g) Optimum means of recovery

For each site listed in the Registry, at the request of the owner or operator of the site, the Administrator shall offer, in cooperation with Clean Energy Application Centers operated by the Secretary of Energy, suggestions for optimum means of recovery of value from waste energy stream in the form of electricity, useful thermal energy, or other energy-related products.

(h) Revision

Each annual report of a State under section 8258(a) of title 42 shall include the results of the survey for the State under this section.

(i) Authorization of appropriations

There are authorized to be appropriated to—

(1) the Administrator to create and maintain the Registry and services authorized by this section, $1,000,000 for each of fiscal years 2008 through 2012; and

(2) the Secretary—

(A) to assist site or source owners and operators in determining the feasibility of projects authorized by this section, $2,000,000 for each of fiscal years 2008 through 2012; and

(B) to provide funding for State energy office functions under this section, $5,000,000.

(Pub. L. 94–163, title III, §372, as added Pub. L. 110–140, title IV, §451(a), Dec. 19, 2007, 121 Stat. 1624.)

EDITORIAL NOTES

REFERENCES IN TEXT

Clean Energy Application Centers, referred to in subsec. (g), were redesignated as the CHP Technical Assistance Partnership Program. See section 6345 of this title.

PRIOR PROVISIONS

A prior section 6342, Pub. L. 94–163, title III, §372, Dec. 22, 1975, 89 Stat. 936; Pub. L. 95–91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288, related to establishment and maintenance of an energy efficiency program, prior to repeal by Pub. L. 99–509, title III, §3101(b), Oct. 21, 1986, 100 Stat. 1888.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§6343. Waste energy recovery incentive grant program

(a) Establishment

The Secretary shall establish in the Department of Energy a waste energy recovery incentive grant program to provide incentive grants to—

(1) owners and operators of projects that successfully produce electricity or incremental useful thermal energy from waste energy recovery;

(2) utilities purchasing or distributing the electricity; and

(3) States that have achieved 80 percent or more of recoverable waste heat recovery opportunities.

(b) Grants to projects and utilities

(1) In general

The Secretary shall make grants under this section—

(A) to the owners or operators of waste energy recovery projects; and

(B) in the case of excess power purchased or transmitted by a electric utility, to the utility.

(2) Proof

Grants may only be made under this section on receipt of proof of waste energy recovery or excess electricity generation, or both, from the project in a form prescribed by the Secretary.

(3) Excess electric energy

(A) In general

In the case of waste energy recovery, a grant under this section shall be made at the rate of $10 per megawatt hour of documented electricity produced from recoverable waste energy (or by prevention of waste energy in the case of a new facility) by the project during the first 3 calendar years of production, beginning on or after December 19, 2007.

(B) Utilities

If the project produces net excess power and an electric utility purchases or transmits the excess power, 50 percent of so much of the grant as is attributable to the net excess power shall be paid to the electric utility purchasing or transporting the net excess power.

(4) Useful thermal energy

In the case of waste energy recovery that produces useful thermal energy that is used for a purpose different from that for which the project is principally designed, a grant under this section shall be made to the owner or operator of the waste energy recovery project at the rate of $10 for each 3,412,000 Btus of the excess thermal energy used for the different purpose.

(c) Grants to States

In the case of any State that has achieved 80 percent or more of waste heat recovery opportunities identified by the Secretary under this part, the Administrator shall make a 1-time grant to the State in an amount of not more than $1,000 per megawatt of waste-heat capacity recovered (or a thermal equivalent) to support State-level programs to identify and achieve additional energy efficiency.

(d) Eligibility

The Secretary shall—

(1) establish rules and guidelines to establish eligibility for grants under subsection (b);

(2) publicize the availability of the grant program known to owners or operators of recoverable waste energy sources and sites listed on the Registry; and

(3) award grants under the program on the basis of the merits of each project in recovering or preventing waste energy throughout the United States on an impartial, objective, and not unduly discriminatory basis.

(e) Limitation

The Secretary shall not award grants to any person for a combined heat and power project or a waste heat recovery project that qualifies for specific Federal tax incentives for combined heat and power or for waste heat recovery.

(f) Authorization of appropriations

There are authorized to be appropriated to the Secretary—

(1) to make grants to projects and utilities under subsection (b)—

(A) $100,000,000 for fiscal year 2008 and $200,000,000 for each of fiscal years 2009 through 2012; and

(B) such additional amounts for fiscal year 2008 and each fiscal year thereafter as may be necessary for administration of the waste energy recovery incentive grant program; and

(2) to make grants to States under subsection (b), $10,000,000 for each of fiscal years 2008 through 2012, to remain available until expended.

(Pub. L. 94–163, title III, §373, as added Pub. L. 110–140, title IV, §451(a), Dec. 19, 2007, 121 Stat.

1627.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 6343, Pub. L. 94–163, title III, §373, Dec. 22, 1975, 89 Stat. 936; Pub. L. 95–619, title VI, §§601(a), 691(b)(2), Nov. 9, 1978, 92 Stat. 3282, 3288, related to identification of major energy-consuming industries and corporations in the United States, prior to repeal by Pub. L. 99–509, title III, §3101(b), Oct. 21, 1986, 100 Stat. 1888.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§6344. Additional incentives for recovery, use, and prevention of industrial waste energy

(a) Consideration of standard

(1) In general

Not later than 180 days after the receipt by a State regulatory authority (with respect to each electric utility for which the authority has ratemaking authority), or nonregulated electric utility, of a request from a project sponsor or owner or operator, the State regulatory authority or nonregulated electric utility shall—

(A) provide public notice and conduct a hearing respecting the standard established by subsection (b); and

(B) on the basis of the hearing, consider and make a determination whether or not it is appropriate to implement the standard to carry out the purposes of this part.

(2) Relationship to State law

For purposes of any determination under paragraph (1) and any review of the determination in any court, the purposes of this section supplement otherwise applicable State law.

(3) Nonadoption of standard

Nothing in this part prohibits any State regulatory authority or nonregulated electric utility from making any determination that it is not appropriate to adopt any standard described in paragraph (1), pursuant to authority under otherwise applicable State law.

(b) Standard for sales of excess power

For purposes of this section, the standard referred to in subsection (a) shall provide that an owner or operator of a waste energy recovery project identified on the Registry that generates net excess power shall be eligible to benefit from at least 1 of the options described in subsection (c) for disposal of the net excess power in accordance with the rate conditions and limitations described in subsection (d).

(c) Options

The options referred to in subsection (b) are as follows:

(1) Sale of net excess power to utility

The electric utility shall purchase the net excess power from the owner or operator of the eligible waste energy recovery project during the operation of the project under a contract entered into for that purpose.

(2) Transport by utility for direct sale to third party

The electric utility shall transmit the net excess power on behalf of the project owner or operator to up to 3 separate locations on the system of the utility for direct sale by the owner or operator to third parties at those locations.

(3) Transport over private transmission lines

The State and the electric utility shall permit, and shall waive or modify such laws as would otherwise prohibit, the construction and operation of private electric wires constructed, owned, and operated by the project owner or operator, to transport the power to up to 3 purchasers within a 3-mile radius of the project, allowing the wires to use or cross public rights-of-way, without subjecting the project to regulation as a public utility, and according the wires the same treatment for safety, zoning, land use, and other legal privileges as apply or would apply to the wires of the utility, except that—

(A) there shall be no grant of any power of eminent domain to take or cross private property for the wires; and

(B) the wires shall be physically segregated and not interconnected with any portion of the system of the utility, except on the customer side of the revenue meter of the utility and in a manner that precludes any possible export of the electricity onto the utility system, or disruption of the system.

(4) Agreed on alternatives

The utility and the owner or operator of the project may reach agreement on any alternate arrangement and payments or rates associated with the arrangement that is mutually satisfactory and in accord with State law.

(d) Rate conditions and criteria

(1) Definitions

In this subsection:

(A) Per unit distribution costs

The term "per unit distribution costs" means (in kilowatt hours) the quotient obtained by dividing—

(i) the depreciated book-value distribution system costs of a utility; by

(ii) the volume of utility electricity sales or transmission during the previous year at the distribution level.

(B) Per unit distribution margin

The term "per unit distribution margin" means—

(i) in the case of a State-regulated electric utility, a per-unit gross pretax profit equal to the product obtained by multiplying—

(I) the State-approved percentage rate of return for the utility for distribution system assets; by

(II) the per unit distribution costs; and

(ii) in the case of a nonregulated utility, a per unit contribution to net revenues determined multiplying—

(I) the percentage (but not less than 10 percent) obtained by dividing—

(aa) the amount of any net revenue payment or contribution to the owners or subscribers of the nonregulated utility during the prior year; by

(bb) the gross revenues of the utility during the prior year to obtain a percentage; by

(II) the per unit distribution costs.

(C) Per unit transmission costs

The term "per unit transmission costs" means the total cost of those transmission services

purchased or provided by a utility on a per-kilowatt-hour basis as included in the retail rate of the utility.

(2) Options

The options described in paragraphs (1) and (2) in subsection (c) shall be offered under purchase and transport rate conditions that reflect the rate components defined under paragraph (1) as applicable under the circumstances described in paragraph (3).

(3) Applicable rates

(A) Rates applicable to sale of net excess power

(i) In general

Sales made by a project owner or operator of a facility under the option described in subsection (c)(1) shall be paid for on a per kilowatt hour basis that shall equal the full undiscounted retail rate paid to the utility for power purchased by the facility minus per unit distribution costs, that applies to the type of utility purchasing the power.

(ii) Voltages exceeding 25 kilovolts

If the net excess power is made available for purchase at voltages that must be transformed to or from voltages exceeding 25 kilovolts to be available for resale by the utility, the purchase price shall further be reduced by per unit transmission costs.

(B) Rates applicable to transport by utility for direct sale to third parties

(i) In general

Transportation by utilities of power on behalf of the owner or operator of a project under the option described in subsection (c)(2) shall incur a transportation rate that shall equal the per unit distribution costs and per unit distribution margin, that applies to the type of utility transporting the power.

(ii) Voltages exceeding 25 kilovolts

If the net excess power is made available for transportation at voltages that must be transformed to or from voltages exceeding 25 kilovolts to be transported to the designated third-party purchasers, the transport rate shall further be increased by per unit transmission costs.

(iii) States with competitive retail markets for electricity

In a State with a competitive retail market for electricity, the applicable transportation rate for similar transportation shall be applied in lieu of any rate calculated under this paragraph.

(4) Limitations

(A) In general

Any rate established for sale or transportation under this section shall—

(i) be modified over time with changes in the underlying costs or rates of the electric utility; and

(ii) reflect the same time-sensitivity and billing periods as are established in the retail sales or transportation rates offered by the utility.

(B) Limitation

No utility shall be required to purchase or transport a quantity of net excess power under this section that exceeds the available capacity of the wires, meter, or other equipment of the electric utility serving the site unless the owner or operator of the project agrees to pay necessary and reasonable upgrade costs.

(e) Procedural requirements for consideration and determination

(1) Public notice and hearing

(A) In general

The consideration referred to in subsection (a) shall be made after public notice and hearing.

(B) Administration

The determination referred to in subsection (a) shall be—

(i) in writing;

(ii) based on findings included in the determination and on the evidence presented at the hearing; and

(iii) available to the public.

(2) Intervention by Administrator

The Administrator may intervene as a matter of right in a proceeding conducted under this section—

(A) to calculate—

(i) the energy and emissions likely to be saved by electing to adopt 1 or more of the options; and

(ii) the costs and benefits to ratepayers and the utility; and

(B) to advocate for the waste-energy recovery opportunity.

(3) Procedures

(A) In general

Except as otherwise provided in paragraphs (1) and (2), the procedures for the consideration and determination referred to in subsection (a) shall be the procedures established by the State regulatory authority or the nonregulated electric utility.

(B) Multiple projects

If there is more than 1 project seeking consideration simultaneously in connection with the same utility, the proceeding may encompass all such projects, if full attention is paid to individual circumstances and merits and an individual judgment is reached with respect to each project.

(f) Implementation

(1) In general

The State regulatory authority (with respect to each electric utility for which the authority has ratemaking authority) or nonregulated electric utility may, to the extent consistent with otherwise applicable State law—

(A) implement the standard determined under this section; or

(B) decline to implement any such standard.

(2) Nonimplementation of standard

(A) In general

If a State regulatory authority (with respect to each electric utility for which the authority has ratemaking authority) or nonregulated electric utility declines to implement any standard established by this section, the authority or nonregulated electric utility shall state in writing the reasons for declining to implement the standard.

(B) Availability to public

The statement of reasons shall be available to the public.

(C) Annual report

The Administrator shall include in an annual report submitted to Congress a description of the lost opportunities for waste-heat recovery from the project described in subparagraph (A), specifically identifying the utility and stating the quantity of lost energy and emissions savings calculated.

(D) New petition

If a State regulatory authority (with respect to each electric utility for which the authority has ratemaking authority) or nonregulated electric utility declines to implement the standard established by this section, the project sponsor may submit a new petition under this section with respect to the project at any time after the date that is 2 years after the date on which the State regulatory authority or nonregulated utility declined to implement the standard.

(Pub. L. 94–163, title III, §374, as added Pub. L. 110–140, title IV, §451(a), Dec. 19, 2007, 121 Stat. 1628.)

EDITORIAL NOTES

PRIOR PROVISIONS

Prior sections 6344 and 6344a were repealed by Pub. L. 99–509, title III, §3101(b), Oct. 21, 1986, 100 Stat. 1888.

Section 6344, Pub. L. 94–163, title III, §374, Dec. 22, 1975, 89 Stat. 936; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288, related to establishment of individual energy improvement targets for each of the 10 most energy-consumptive industries.

Section 6344a, Pub. L. 94–163, title III, §374A, as added Pub. L. 95–619, title IV, §461(c), Nov. 9, 1978, 92 Stat. 3273, related to targets for increased utilization of energy-saving recovered materials for specified industries.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§6345. CHP Technical Assistance Partnership Program

(a) Renaming

(1) In general

The Clean Energy Application Centers of the Department of Energy are redesignated as the CHP Technical Assistance Partnership Program (referred to in this section as the "Program").

(2) Program description

The Program shall consist of—

(A) the 10 regional CHP Technical Assistance Partnerships in existence on December 27, 2020;

(B) such other regional CHP Technical Assistance Partnerships as the Secretary may establish with consideration given to establishing such partnerships in rural communities; and

(C) any supporting technical activities under the Technical Partnership Program of the Advanced Manufacturing Office.

(3) References

Any reference in any law, rule, regulation, or publication to a Combined Heat and Power Application Center or a Clean Energy Application Center shall be deemed to be a reference to the Program.

(b) CHP Technical Assistance Partnership Program

(1) In general

The Program shall—

(A) operate programs to encourage deployment of combined heat and power, waste heat to power, and efficient district energy (collectively referred to in this subsection as "CHP") technologies by providing education and outreach to—

(i) building, industrial, and electric and natural gas utility professionals;
(ii) State and local policymakers; and
(iii) other individuals and organizations with an interest in efficient energy use, local or opportunity fuel use, resiliency, or energy security, microgrids, and district energy; and

(B) provide project specific support to building and industrial professionals through economic and engineering assessments and advisory activities.

(2) Funding for certain activities

(A) In general

The Program shall make funds available to institutions of higher education, research centers, and other appropriate institutions to ensure the continued operations and effectiveness of the regional CHP Technical Assistance Partnerships.

(B) Use of funds

Funds made available under subparagraph (A) may be used—
(i) to collect and distribute informational materials relevant to manufacturers, commercial buildings, institutional facilities, and Federal sites, including continued support of the mission goals of the Department of Defense, on CHP and microgrid technologies, including continuation and updating of—
(I) the CHP installation database;
(II) CHP technology potential analyses;
(III) State CHP resource pages; and
(IV) CHP Technical Assistance Partnerships websites;

(ii) to produce and conduct workshops, reports, seminars, internet programs, CHP resiliency resources, and other activities to provide education to end users, regulators, and stakeholders in a manner that leads to the deployment of CHP technologies;
(iii) to provide or coordinate onsite assessments for sites and enterprises that may consider deployment of CHP technology, including the potential use of biomass CHP systems;
(iv) to identify candidates for deployment of CHP technologies, hybrid renewable-CHP technologies, biomass CHP, microgrids, and clean energy;
(v) to provide nonbiased engineering support to sites considering deployment of CHP technologies;
(vi) to assist organizations and communities, including rural communities, developing clean energy technologies and policies in overcoming barriers to deployment; and
(vii) to assist companies, communities (including rural communities), and organizations with field validation and performance evaluations of CHP and other clean energy technologies implemented.

(C) Duration

The Program shall make funds available under subparagraph (A) for a period of 5 years.

(c) Authorization of appropriations

There are authorized to be appropriated to carry out this section $12,000,000 for each of fiscal years 2021 through 2025.

(Pub. L. 94–163, title III, §375, as added Pub. L. 110–140, title IV, §451(a), Dec. 19, 2007, 121 Stat. 1632; amended Pub. L. 116–260, div. Z, title I, §1013(a), Dec. 27, 2020, 134 Stat. 2449.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 6345, Pub. L. 94–163, title III, §375, Dec. 22, 1975, 89 Stat. 937; Pub. L. 95–619, title VI, §601(b), Nov. 9, 1978, 92 Stat. 3282, required reports on progress made in improving energy efficiency and

achievement of energy efficiency improvement targets, prior to repeal by Pub. L. 99–509, title III, §3101(b), Oct. 21, 1986, 100 Stat. 1888.

AMENDMENTS

2020—Pub. L. 116–260 amended section generally. Prior to amendment, section related to Clean Energy Application Centers.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§6346. Sustainable manufacturing initiative

(a) In general

As part of the Office of Energy Efficiency and Renewable Energy of the Department of Energy, the Secretary, on the request of a manufacturer, shall carry out onsite technical assessments to identify opportunities for—

(1) maximizing the energy efficiency of industrial processes and cross-cutting systems;
(2) preventing pollution and minimizing waste;
(3) improving efficient use of water in manufacturing processes;
(4) conserving natural resources; and
(5) achieving such other goals as the Secretary determines to be appropriate.

(b) Coordination

To implement any recommendations resulting from an onsite technical assessment carried out under subsection (a) and to accelerate the adoption of new and existing technologies and processes that improve energy efficiency, the Secretary shall coordinate with—

(1) the Advanced Manufacturing Office of the Department of Energy;
(2) the Building Technologies Office of the Department of Energy;
(3) the Federal Energy Management Program of the Department of Energy; and
(4) the private sector and other appropriate agencies, including the National Institute of Standards and Technology.

(c) Research and development program for sustainable manufacturing and industrial technologies and processes

As part of the industrial efficiency programs of the Department of Energy, the Secretary shall carry out a joint industry-government partnership program to research, develop, and demonstrate new sustainable manufacturing and industrial technologies and processes that maximize the energy efficiency of industrial plants, reduce pollution, and conserve natural resources.

(Pub. L. 94–163, title III, §376, as added Pub. L. 117–58, div. D, title V, §40522(a), Nov. 15, 2021, 135 Stat. 1067.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 6346, Pub. L. 94–163, title III, §376, Dec. 22, 1975, 89 Stat. 938; Pub. L. 95–619, title IV, §461(d)(1), title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3275, 3288, set forth general provisions relating to compliance with former part C reporting requirements, use of information, and absence of liability for failure to meet energy efficiency improvement targets, prior to repeal by Pub. L. 99–509, title III, §3101(b), Oct. 21, 1986, 100 Stat. 1888.

STATUTORY NOTES AND RELATED SUBSIDIARIES

WAGE RATE REQUIREMENTS

For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction, alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117–58, including authority of Secretary of Labor, see section 18851 of this title.

§6347. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 96–294, title V, §591, June 30, 1980, 94 Stat. 761, authorized appropriations to Secretary of Energy of $40,000,000 for each of fiscal years ending Sept. 30, 1981 and 1982, for industrial energy conservation demonstration projects designed to substantially increase productivity in industry.

Section was enacted as part of the Energy Security Act, and not as part of the Energy Policy and Conservation Act which comprises this chapter.

§6348. Energy efficiency in industrial facilities

(a) Grant program

(1) In general

The Secretary shall make grants to industry associations to support programs to improve energy efficiency in industry. In order to be eligible for a grant under this subsection, an industry association shall establish a voluntary energy efficiency improvement target program.

(2) Awarding of grants

The Secretary shall request project proposals and provide annual grants on a competitive basis. In evaluating grant proposals under this subsection, the Secretary shall consider—

(A) potential energy savings;
(B) potential environmental benefits;
(C) the degree of cost sharing;
(D) the degree to which new and innovative technologies will be encouraged;
(E) the level of industry involvement;
(F) estimated project cost-effectiveness; and
(G) the degree to which progress toward the energy improvement targets can be monitored.

(3) Eligible projects

Projects eligible for grants under this subsection may include the following:

(A) Workshops.
(B) Training seminars.
(C) Handbooks.
(D) Newsletters.
(E) Data bases.
(F) Other activities approved by the Secretary.

(4) Limitation on cost sharing

Grants provided under this subsection shall not exceed $250,000 and each grant shall not exceed 75 percent of the total cost of the project for which the grant is made.

(5) Authorization

There are authorized to be appropriated such sums as are necessary to carry out this subsection.

(b) Award program

The Secretary shall establish an annual award program to recognize those industry associations or individual industrial companies that have significantly improved their energy efficiency.

(c) Report on industrial reporting and voluntary targets

Not later than one year after October 24, 1992, the Secretary shall, in consultation with affected industries, evaluate and report to the Congress regarding the establishment of Federally mandated energy efficiency reporting requirements and voluntary energy efficiency improvement targets for energy intensive industries. Such report shall include an evaluation of the costs and benefits of such reporting requirements and voluntary energy efficiency improvement targets, and recommendations regarding the role of such activities in improving energy efficiency in energy intensive industries.

(Pub. L. 102–486, title I, §131, Oct. 24, 1992, 106 Stat. 2836.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Energy Policy and Conservation Act which comprises this chapter.

§6349. Process-oriented industrial energy efficiency

(a) Definitions

For the purposes of this section—

(1) the term "covered industry" means the food and food products industry, lumber and wood products industry, petroleum and coal products industry, and all other manufacturing industries specified in Standard Industrial Classification Codes 20 through 39 (or successor classification codes);

(2) the term "process-oriented industrial assessment" means—

(A) the identification of opportunities in the production process (from the introduction of materials to final packaging of the product for shipping) for—

(i) improving energy efficiency;

(ii) reducing environmental impact; and

(iii) designing technological improvements to increase competitiveness and achieve cost-effective product quality enhancement;

(B) the identification of opportunities for improving the energy efficiency of lighting, heating, ventilation, air conditioning, and the associated building envelope; and

(C) the identification of cost-effective opportunities for using renewable energy technology in the production process and in the systems described in subparagraph (B); and

(3) the term "utility" means any person, State agency (including any municipality), or Federal agency, which sells electric or gas energy to retail customers.

(b) Grant program

(1) Use of funds

The Secretary shall, to the extent funds are made available for such purpose, make grants to States which, consistent with State law, shall be used for the following purposes:

(A) To promote, through appropriate institutions such as universities, nonprofit organizations, State and local government entities, technical centers, utilities, and trade organizations, the use of energy-efficient technologies in covered industries.

(B) To establish programs to train individuals (on an industry-by-industry basis) in conducting process-oriented industrial assessments and to encourage the use of such trained

assessors.

(C) To assist utilities in developing, testing, and evaluating energy efficiency programs and technologies for industrial customers in covered industries.

(2) Consultation

States receiving grants under this subsection shall consult with utilities and representatives of affected industries, as appropriate, in determining the most effective use of such funds consistent with the requirements of paragraph (1).

(3) Eligibility criteria

Not later than 1 year after October 24, 1992, the Secretary shall establish eligibility criteria for grants made pursuant to this subsection. Such criteria shall require a State applying for a grant to demonstrate that such State—

(A) pursuant to section 2621(a) of title 16, has considered and made a determination regarding the implementation of the standards specified in paragraphs (7) and (8) of section 2621(d) of title 16 (with respect to integrated resources planning and investments in conservation and demand management); and

(B) by legislation or regulation—

(i) allows utilities to recover the costs prudently incurred in providing process-oriented industrial assessments; and

(ii) encourages utilities to provide to covered industries—

(I) process-oriented industrial assessments; and

(II) financial incentives for implementing energy efficiency improvements.

(4) Allocation of funds

Grants made pursuant to this subsection shall be allocated each fiscal year among States meeting the criteria specified in paragraph (3) who have submitted applications 60 days before the first day of such fiscal year. Such allocation shall be made in accordance with a formula to be prescribed by the Secretary based on each State's share of value added in industry (as determined by the Census of Manufacturers) as a percentage of the value added by all such States.

(5) Renewal of grants

A grant under this subsection may continue to be renewed after 2 consecutive fiscal years during which a State receives a grant under this subsection, subject to the availability of funds, if—

(A) the Secretary determines that the funds made available to the State during the previous 2 years were used in a manner required under paragraph (1); and

(B) such State demonstrates, in a manner prescribed by the Secretary, utility participation in programs established pursuant to this subsection.

(6) Coordination with other Federal programs

In carrying out the functions described in paragraph (1), States shall, to the extent practicable, coordinate such functions with activities and programs conducted by the Energy Analysis and Diagnostic Centers of the Department of Energy and the Manufacturing Technology Centers of the National Institute of Standards and Technology.

(c) Other Federal assistance

(1) Assessment criteria

Not later than 2 years after October 24, 1992, the Secretary shall, by contract with nonprofit organizations with expertise in process-oriented industrial energy efficiency technologies, establish and, as appropriate, update criteria for conducting process-oriented industrial assessments on an industry-by-industry basis. Such criteria shall be made available to State and local government, public utility commissions, utilities, representatives of affected process-oriented industries, and other interested parties.

(2) Directory

The Secretary shall establish a nationwide directory of organizations offering industrial energy efficiency assessments, technologies, and services consistent with the purposes of this section. Such directory shall be made available to State governments, public utility commissions, utilities, industry representatives, and other interested parties.

(3) Award program

The Secretary shall establish an annual award program to recognize utilities operating outstanding or innovative industrial energy efficiency technology assistance programs.

(4) Meetings

In order to further the purposes of this section, the Secretary shall convene annual meetings of parties interested in process-oriented industrial assessments, including representatives of State government, public utility commissions, utilities, and affected process-oriented industries.

(d) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(Pub. L. 102–486, title I, §132, Oct. 24, 1992, 106 Stat. 2837; Pub. L. 104–66, title I, §1052(a)(1), Dec. 21, 1995, 109 Stat. 717; Pub. L. 105–362, title IV, §401(d), Nov. 10, 1998, 112 Stat. 3282.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Energy Policy and Conservation Act which comprises this chapter.

AMENDMENTS

1998—Subsecs. (d), (e). Pub. L. 105–362 redesignated subsec. (e) as (d) and struck out heading and text of former subsec. (d) which related to reports to Congress.

1995—Subsec. (d). Pub. L. 104–66 substituted "Not later than October 24, 1995, and biennially thereafter" for "Not later than 2 years after October 24, 1992, and annually thereafter" in introductory provisions and added par. (6).

§6350. Industrial insulation and audit guidelines

(a) Voluntary guidelines for energy efficiency auditing and insulating

Not later than 18 months after October 24, 1992, the Secretary, after consultation with utilities, major industrial energy consumers, and representatives of the insulation industry, shall establish voluntary guidelines for—

(1) the conduct of energy efficiency audits of industrial facilities to identify cost-effective opportunities to increase energy efficiency; and

(2) the installation of insulation to achieve cost-effective increases in energy efficiency in industrial facilities.

(b) Educational and technical assistance

The Secretary shall conduct a program of educational and technical assistance to promote the use of the voluntary guidelines established under subsection (a).

(Pub. L. 102–486, title I, §133, Oct. 24, 1992, 106 Stat. 2840; Pub. L. 104–66, title I, §1052(a)(2), Dec. 21, 1995, 109 Stat. 717; Pub. L. 105–362, title IV, §401(e), Nov. 10, 1998, 112 Stat. 3282.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Energy Policy and

Conservation Act which comprises this chapter.

AMENDMENTS

1998—Subsec. (c). Pub. L. 105–362 struck out heading and text of subsec. (c). Text read as follows: "Not later than 2 years after October 24, 1995, and biennially thereafter, as part of the report required under section 6349(d) of this title, the Secretary shall report to the Congress on activities conducted pursuant to this section, including—

"(1) a review of the status of industrial energy auditing procedures; and

"(2) an evaluation of the effectiveness of the guidelines established under subsection (a) of this section and the responsiveness of the industrial sector to such guidelines."

1995—Subsec. (c). Pub. L. 104–66 in introductory provisions substituted "1995" for "1992", and inserted "as part of the report required under section 6349(d) of this title," after "and biennially thereafter,".

§6351. Coordination of research and development of energy efficient technologies for industry

(a) In general

As part of the research and development activities of the Advanced Manufacturing Office of the Department of Energy, the Secretary of Energy (referred to in this section as the "Secretary") shall establish, as appropriate, collaborative research and development partnerships with other programs within the Department of Energy that—

(1) leverage the research and development expertise of those programs to promote early stage energy efficiency technology development;

(2) support the use of innovative manufacturing processes and applied research for development, demonstration, and commercialization of new technologies and processes to improve efficiency (including improvements in efficient use of water), reduce emissions, reduce industrial waste, and improve industrial cost-competitiveness; and

(3) apply the knowledge and expertise of the Advanced Manufacturing Office to help achieve the program goals of the other programs.

(b) Reports

Not later than 2 years after December 18, 2012, and biennially thereafter, the Secretary shall submit to Congress a report that describes actions taken to carry out subsection (a) and the results of those actions.

(Pub. L. 112–210, §6, Dec. 18, 2012, 126 Stat. 1519; Pub. L. 116–260, div. Z, title VI, §6002, Dec. 27, 2020, 134 Stat. 2552.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the American Energy Manufacturing Technical Corrections Act, and not as part of the Energy Policy and Conservation Act which comprises this chapter.

AMENDMENTS

2020—Subsec. (a). Pub. L. 116–260, in introductory provisions, substituted "Advanced Manufacturing Office" for "Industrial Technologies Program" and "Department of Energy" for "Office of Energy Efficiency and Renewable Energy (including the Building Technologies Program), the Office of Electricity Delivery and Energy Reliability, and the Office of Science".

Subsec. (a)(3). Pub. L. 116–260, §6002(1), substituted "Advanced Manufacturing Office" for "Industrial Technologies Program".

PART D—OTHER FEDERAL ENERGY CONSERVATION MEASURES

EDITORIAL NOTES

CODIFICATION

This part, originally designated part E and subsequently redesignated part F by Pub. L. 95–619, title IV, §441(a), Nov. 9, 1978, 92 Stat. 3267, was changed to part D for purposes of codification.

§6361. Federal energy conservation programs

(a) Establishment and coordination of Federal agency actions

(1) The President shall, to the extent of his authority under other law, establish or coordinate Federal agency actions to develop mandatory standards with respect to energy conservation and energy efficiency to govern the procurement policies and decisions of the Federal Government and all Federal agencies, and shall take such steps as are necessary to cause such standards to be implemented.

(2) The President shall develop and, to the extent of his authority under other law, implement a 10-year plan for energy conservation with respect to buildings owned or leased by an agency of the United States. Such plan shall include mandatory lighting efficiency standards, mandatory thermal efficiency standards and insulation requirements, restrictions on hours of operation, thermostat controls, and other conditions of operation, and plans for replacing or retrofitting to meet such standards.

(b) Public education programs

(1) The Secretary shall establish and carry out a responsible public education program—

(A) to encourage energy conservation and energy efficiency; or

(B) to promote van pooling and carpooling arrangements.

(2) For purposes of this subsection:

(A) The term "van" means any automobile which the Secretary determines is manufactured primarily for use in the transportation of not less than 8 individuals and not more than 15 individuals.

(B) The term "van pooling arrangement" means an arrangement for the transportation of employees between their residences or other designated locations and their place of employment on a nonprofit basis in which the operating costs of such arrangement are paid for by the employees utilizing such arrangement.

(c) Omitted

(d) Applicability of plan to Executive agencies

The plan developed by the President pursuant to subsection (a)(2) shall be applicable to Executive agencies as defined in section 105 of title 5 and to the United States Postal Service.

(e) Authorization of appropriations

In addition to funds authorized in any other law, there is authorized to be appropriated to the President for fiscal year 1978 not to exceed $25,000,000, and for fiscal year 1979 not to exceed $50,000,000, to carry out the purposes of subsection (a)(2).

(Pub. L. 94–163, title III, §381, Dec. 22, 1975, 89 Stat. 939; Pub. L. 95–619, title V, §501, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3275, 3288; Pub. L. 100–615, §2(b), Nov. 5, 1988, 102 Stat. 3189.)

EDITORIAL NOTES

CODIFICATION

Subsec. (c) of this section, which required the Secretary to include in the report required under section

8258(b) of this title the steps taken under subsecs. (a) and (b) of this section, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, the 13th item on page 19 and the 3rd item on page 138 of House Document No. 103–7.

AMENDMENTS

1988—Subsec. (c). Pub. L. 100–615 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "The President shall submit to the Congress an annual report concerning all steps taken under subsections (a) and (b) of this section."

1978—Subsec. (b). Pub. L. 95–619, §691(b)(2), substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration, wherever appearing.

Subsecs. (d), (e). Pub. L. 95–619, §501, added subsecs. (d) and (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Functions vested in Secretary [formerly Administrator of Federal Energy Administration] under subsec. (b)(1)(B) of this section transferred to Secretary of Transportation by section 7159 of this title.

EXECUTIVE DOCUMENTS

EX. ORD. NO. 12191. FEDERAL FACILITY RIDESHARING PROGRAM

Ex. Ord. No. 12191, Feb. 1, 1980, 45 F.R. 7997, provided:

By the authority vested in me as President by the Constitution and statutes of the United States of America, and in order to increase ridesharing as a means to conserve petroleum, reduce congestion, improve air quality, and provide an economical way for Federal employees to commute to work, it is hereby ordered as follows:

1–1. RESPONSIBILITIES OF EXECUTIVE AGENCIES

1–101. Executive agencies shall promote the use of ridesharing (carpools, vanpools, privately leased buses, public transportation, and other multi-occupancy modes of travel) by personnel working at Federal facilities. Agency actions pursuant to this Order shall be consistent with Circular A–118 issued by the Office of Management and Budget.

1–102. Agencies shall establish an annual ridesharing goal tailored to each facility, and expressed as a percentage of fulltime personnel working at that facility who use ridesharing in the commute between home and work. Agencies that share facilities or that are within easy walking distance of one another should coordinate their efforts to develop and implement ridesharing opportunities.

1–103. Agencies shall designate, in accordance with OMB Circular A–118, an employee transportation coordinator. Agencies that share facilities may designate a single transportation coordinator. The coordinator shall assist employees in forming carpools or vanpools (employee-owned or leased) and facilitate employee participation in ridesharing matching programs. The coordinator shall publicize within the facility the availability of public transportation. The coordinator shall also communicate employee needs for new or improved transportation service to the appropriate local public transit authorities or other organizations furnishing multi-passenger modes of travel.

1–104. Agencies shall report to the Administrator of General Services, hereinafter referred to as the Administrator, the goals established, the means developed to achieve those goals, and the progress achieved. These reports shall be in such form and frequency as the Administrator may require.

1–2. RESPONSIBILITIES OF THE ADMINISTRATOR OF GENERAL SERVICES

1–201. The Administrator shall issue such regulations as are necessary to implement this Order.

1–202. The Administrator may exempt small, remotely located Federal facilities from the requirements of Sections 1–102, 1–103, and 1–104 on his own initiative or upon request of the agency. An exemption shall be granted in whole or in part when, in the judgment of the Administrator, the requirements of those Sections would not yield significant ridesharing benefits.

1–203. The Administrator shall, in consultation with the Secretary of Transportation, periodically provide agencies with guidelines, instructions, and other practical aids for establishing, implementing, and improving their ridesharing programs.

1–204. The Administrator shall assist in coordinating the ridesharing activities of the agencies with the

efforts of the Department of Energy, under the Federal Energy Management Program and in the development of an emergency energy conservation plan for the Federal government.

1–205. The Administrator shall take into consideration the advice of the Environmental Protection Agency under the Clean Air Act, as amended [42 U.S.C. 7401 et seq.] in performing his responsibilities under this Order.

1–206. The Administrator shall, in consultation with the Secretary of Transportation, report annually to the President on the performance of the agencies in implementing the policies and actions contained in this Order. The report shall include (a) an assessment of each agency's performance, including the reasonableness of its goals and the adequacy of its effort, (b) a comparison of private sector and State and local government ridesharing efforts with those of the Federal government, and (c) recommendations for additional actions necessary to remove barriers or to provide additional incentives to encourage more ridesharing by personnel at Federal facilities.

JIMMY CARTER.

§6362. Energy conservation policies and practices

(a) "Agency" defined

In this section, "agency" means—

(1) the Department of Transportation with respect to part A of subtitle VII of title 49, United States Code;

(2) the Interstate Commerce Commission;

(3) the Federal Maritime Commission; and

(4) the Federal Power Commission.

(b) Statement of probable impact of major regulatory action on energy efficiency

Except as provided in subsection (c), each of the agencies specified in subsection (a) shall, where practicable and consistent with the exercise of their authority under other law, include in any major regulatory action (as defined by rule by each such agency) taken by each such agency, a statement of the probable impact of such major regulatory action on energy efficiency and energy conservation.

(c) Application of provisions to authority exercised to protect public health and safety

Subsection (b) shall not apply to any authority exercised under any provision of law designed to protect the public health or safety.

(Pub. L. 94–163, title III, §382, Dec. 22, 1975, 89 Stat. 939; Pub. L. 103–272, §4(h), July 5, 1994, 108 Stat. 1364.)

EDITORIAL NOTES

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–272, §4(h)(1), added subsec. (a) and struck out former subsec. (a) which related to reports to Congress by Federal agencies, feasibility of additional savings in energy consumption, and administration of laws permitting inefficient use of energy.

Subsec. (b). Pub. L. 103–272, §4(h)(2), substituted "subsection (a)" for "subsection (a)(1)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104–88, to Surface Transportation Board effective Jan. 1, 1996, by section 1302 of Title 49, Transportation, and section 101 of Pub. L. 104–88, set out as a note under section 1301 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104–88, set out as a note under section 1301 of Title 49.

§6363. Federal actions with respect to recycled oil

(a) Purpose

The purposes of this section are—

(1) to encourage the recycling of used oil;

(2) to promote the use of recycled oil;

(3) to reduce consumption of new oil by promoting increased utilization of recycled oil; and

(4) to reduce environmental hazards and wasteful practices associated with the disposal of used oil.

(b) Definitions

As used in this section:

(1) the term "used oil" means any oil which has been refined from crude oil, has been used, and as a result of such use has been contaminated by physical or chemical impurities.

(2) The term "recycled oil" means—

(A) used oil from which physical and chemical contaminants acquired through use have been removed by re-refining or other processing, or

(B) any blend of oil, consisting of such re-refined or otherwise processed used oil and new oil or additives,

with respect to which the manufacturer has determined, pursuant to the rule prescribed under subsection (d)(1)(A)(i), is substantially equivalent to new oil for a particular end use.

(3) The term "new oil" means any oil which has been refined from crude oil and has not been used, and which may or may not contain additives. Such term does not include used oil or recycled oil.

(4) The term "manufacturer" means any person who re-refines or otherwise processes used oil to remove physical or chemical impurities acquired through use or who blends such re-refined or otherwise processed used oil with new oil or additives.

(5) The term "Commission" means the Federal Trade Commission.

(c) Test procedures for determining substantial equivalency of recycled oil and new oil

As soon as practicable after December 22, 1975, the National Institute of Standards and Technology shall develop test procedures for the determination of substantial equivalency of re-refined or otherwise processed used oil or blend of oil, consisting of such re-refined or otherwise processed used oil and new oil or additives, with new oil for a particular end use. As soon as practicable after development of such test procedures, the National Institute of Standards and Technology shall report such procedures to the Commission.

(d) Promulgation of rules prescribing test procedures and labeling standards

(1)(A) Within 90 days after the date on which the Commission receives the report under subsection (c), the Commission shall, by rule, prescribe—

(i) test procedures for the determination of substantial equivalency of re-refined or otherwise processed used oil or blend of oil, consisting of such re-refined or otherwise processed used oil and new oil or additives, with new oil distributed for a particular end use; and

(ii) labeling standards applicable to containers of recycled oil in order to carry out the purposes of this section.

(B) Such labeling standards shall permit any container of recycled oil to bear a label indicating any particular end use for which a determination of substantial equivalency has been made pursuant to subparagraph (A)(i).

(2) Not later than the expiration of such 90-day period, the Administrator of the Environmental Protection Agency shall, by rule, prescribe labeling standards applicable to containers of new oil,

used oil, and recycled oil relating to the proper disposal of such oils after use. Such standards shall be designed to reduce, to the maximum extent practicable, environmental hazards and wasteful practices associated with the disposal of such oils after use.

(e) Labeling standards

Beginning on the effective date of the standards prescribed pursuant to subsection (d)(1)(A)—

(1) no rule or order of the Commission, other than the rules required to be prescribed pursuant to subsection (d)(1)(A), and no law, regulation, or order of any State or political subdivision thereof may apply, or remain applicable, to any container of recycled oil, if such law, regulation, rule, or order requires any container of recycled oil, which container bears a label in accordance with the terms of the rules prescribed under subsection (d)(1)(A), to bear any label with respect to the comparative characteristics of such recycled oil with new oil which is not identical to that permitted by the rule respecting labeling standards prescribed under subsection (d)(1)(A)(ii); and

(2) no rule or order of the Commission may require any container of recycled oil to also bear a label containing any term, phrase, or description which connotes less than substantial equivalency of such recycled oil with new oil.

(f) Conformity of acts of Federal officials to Commission rules

After the effective date of the rules required to be prescribed under subsection (d)(1)(A), all Federal officials shall act within their authority to carry out the purposes of this section, including—

(1) revising procurement policies to encourage procurement of recycled oil for military and nonmilitary Federal uses whenever such recycled oil is available at prices competitive with new oil procured for the same end use; and

(2) educating persons employed by Federal and State governments and private sectors of the economy of the merits of recycled oil, the need for its use in order to reduce the drain on the Nation's oil reserves, and proper disposal of used oil to avoid waste of such oil and to minimize environmental hazards associated with improper disposal.

(Pub. L. 94–163, title III, §383, Dec. 22, 1975, 89 Stat. 940; Pub. L. 100–418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433.)

EDITORIAL NOTES

AMENDMENTS

1988—Subsec. (c). Pub. L. 100–418 substituted "National Institute of Standards and Technology" for "National Bureau of Standards" in two places.

STATUTORY NOTES AND RELATED SUBSIDIARIES

APPLICABILITY OF LABELING STANDARDS

Pub. L. 96–463, §4(c), Oct. 15, 1980, 94 Stat. 2056, provided: "Before the effective date of the labeling standards required to be prescribed under section 383(d)(1)(A) of the Energy Policy and Conservation Act [subsec. (d)(1)(A) of this section], no requirement of any rule or order of the Federal Trade Commission may apply, or remain applicable, to any container of recycled oil (as defined in section 383(b) of such Act [subsec. (b) of this section]) if such requirement provides that the container must bear any label referring to the fact that it has been derived from previously used oil. Nothing in this subsection [this note] shall be construed to affect any labeling requirement applicable to recycled oil under any authority of law to the extent such requirement relates to fitness for intended use or any other performance characteristic of such oil or to any characteristic of such oil other than that referred to in the preceding sentence."

§6364. Operation of battery recharging stations in parking areas used by Federal employees

(1) Authorization

(A) In general

The Administrator of General Services may install, construct, operate, and maintain on a reimbursable basis a battery recharging station (or allow, on a reimbursable basis, the use of a 120-volt electrical receptacle for battery recharging) in a parking area that is in the custody, control, or administrative jurisdiction of the General Services Administration for the use of only privately owned vehicles of employees of the General Services Administration, tenant Federal agencies, and others who are authorized to park in such area to the extent such use by only privately owned vehicles does not interfere with or impede access to the equipment by Federal fleet vehicles.

(B) Areas under other Federal agencies

The Administrator of General Services (on the request of a Federal agency) or the head of a Federal agency may install, construct, operate, and maintain on a reimbursable basis a battery recharging station (or allow, on a reimbursable basis, the use of a 120-volt electrical receptacle for battery recharging) in a parking area that is in the custody, control, or administrative jurisdiction of the requesting Federal agency, to the extent such use by only privately owned vehicles does not interfere with or impede access to the equipment by Federal fleet vehicles.

(C) Use of vendors

The Administrator of General Services, with respect to subparagraph (A) or (B), or the head of a Federal agency, with respect to subparagraph (B), may carry out such subparagraph through a contract with a vendor, under such terms and conditions (including terms relating to the allocation between the Federal agency and the vendor of the costs of carrying out the contract) as the Administrator or the head of the Federal agency, as the case may be, and the vendor may agree to.

(2) Imposition of fees to cover costs

(A) Fees

The Administrator of General Services or the head of the Federal agency under paragraph (1)(B) shall charge fees to the individuals who use the battery recharging station in such amount as is necessary to ensure that the respective agency recovers all of the costs such agency incurs in installing, constructing, operating, and maintaining the station.

(B) Deposit and availability of fees

Any fees collected by the Administrator of General Services or the Federal agency, as the case may be, under this paragraph shall be—

(i) deposited monthly in the Treasury to the credit of the respective agency's appropriations account for the operations of the building where the battery recharging station is located; and

(ii) available for obligation without further appropriation during—

(I) the fiscal year collected; and

(II) the fiscal year following the fiscal year collected.

(3) No effect on existing programs for House and Senate

Nothing in this subsection affects the installation, construction, operation, or maintenance of battery recharging stations by the Architect of the Capitol—

(A) under section 2171 of title 2, relating to employees of the House of Representatives and individuals authorized to park in any parking area under the jurisdiction of the House of Representatives on the Capitol Grounds; or

(B) under section 2170 of title 2, relating to employees of the Senate and individuals authorized to park in any parking area under the jurisdiction of the Senate on the Capitol Grounds.

(4) No effect on similar authorities

Nothing in this subsection—

(A) repeals or limits any existing authorities of a Federal agency to install, construct, operate, or maintain battery recharging stations; or

(B) requires a Federal agency to seek reimbursement for the costs of installing or constructing a

battery recharging station—

(i) that has been installed or constructed prior to December 4, 2015;

(ii) that is installed or constructed for Federal fleet vehicles, but that receives incidental use to recharge privately owned vehicles; or

(iii) that is otherwise installed or constructed pursuant to appropriations for that purpose.

(5) Annual report to Congress

Not later than 2 years after December 4, 2015, and annually thereafter for 10 years, the Administrator of General Services shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report describing—

(A) the number of battery recharging stations installed by the Administrator on the Administrator's own initiative under this subsection;

(B) requests from other Federal agencies to install battery recharging stations; and

(C) the status and disposition of requests from other Federal agencies.

(6) Federal agency defined

In this subsection, the term "Federal agency" has the meaning given the term "Executive agency" in section 105 of title 5 and includes—

(A) the United States Postal Service;

(B) the Executive Office of the President;

(C) the military departments (as defined in section 102 of title 5); and

(D) the judicial branch.

(7) Effective date

This subsection shall apply with respect to fiscal year 2016 and each succeeding fiscal year.

(Pub. L. 114–94, div. A, title I, §1413(c), Dec. 4, 2015, 129 Stat. 1418.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Fixing America's Surface Transportation Act, also known as the FAST Act, and not as part of the Energy Policy and Conservation Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

PART E—ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HOSPITALS

EDITORIAL NOTES

CODIFICATION

This part was, in the original, designated part G and has been changed to part E for purposes of codification.

§6371. Definitions

For the purposes of this part—

(1) The term "building" means any structure the construction of which was completed on or before May 1, 1989, which includes a heating or cooling system, or both.

(2) The term "energy conservation measure" means an installation or modification of an installation in a building which is primarily intended to maintain or reduce energy consumption and reduce energy costs or allow the use of an alternative energy source, including, but not limited to—

(A) insulation of the building structure and systems within the building;

(B) storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflective glazed and coated windows and door systems, additional glazing, reductions in glass area, and other window and door system modifications;

(C) automatic energy control systems and load management systems;

(D) equipment required to operate variable steam, hydraulic, and ventilating systems adjusted by automatic energy control systems;

(E) solar space heating or cooling systems, solar electric generating systems, or any combination thereof;

(F) solar water heating systems;

(G) furnace or utility plant and distribution system modifications including—

(i) replacement burners, furnaces, boilers, or any combination thereof, which substantially increases the energy efficiency of the heating system,

(ii) devices for modifying flue openings which will increase the energy efficiency of the heating system,

(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights, and

(iv) utility plant system conversion measures including conversion of existing oil- and gas-fired boiler installations to alternative energy sources, including coal;

(H) caulking and weatherstripping;

(I) replacement or modification of lighting fixtures which replacement or modification increases the energy efficiency of the lighting system without increasing the overall illumination of a facility (unless such increase in illumination is necessary to conform to any applicable State or local building code or, if no such code applies, the increase is considered appropriate by the Secretary);

(J) energy recovery systems;

(K) cogeneration systems which produce steam or forms of energy such as heat, as well as electricity for use primarily within a building or a complex of buildings owned by a school or hospital and which meet such fuel efficiency requirements as the Secretary may by rule prescribe;

(L) such other measures as the Secretary identifies by rule for purposes of this part; and

(M) such other measures as a grant applicant shows will save a substantial amount of energy and as are identified in an energy audit prescribed pursuant to section 6325(e)(2) of this title.

(3) The term "hospital" means a public or nonprofit institution which is—

(A) a general hospital, tuberculosis hospital, or any other type of hospital, other than a hospital furnishing primarily domiciliary care; and

(B) duly authorized to provide hospital services under the laws of the State in which it is situated.

(4) The term "hospital facilities" means buildings housing a hospital and related facilities, including laboratories, outpatient departments, nurses' home and training facilities and central service facilities operated in connection with a hospital, and also includes buildings housing education or training facilities for health professions personnel operated as an integral part of a hospital.

(5) The term "public or nonprofit institution" means an institution owned and operated by—

(A) a State, a political subdivision of a State or an agency or instrumentality of either, or

(B) an organization exempt from income tax under section 501(c)(3) of title 26.

(6) The term "school" means a public or nonprofit institution which—

(A) provides, and is legally authorized to provide, elementary education or secondary education, or both, on a day or residential basis;

(B)(i) provides, and is legally authorized to provide a program of education beyond secondary education, on a day or residential basis;

(ii) admits as students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate;

(iii) is accredited by a nationally recognized accrediting agency or association; and

(iv) provides an educational program for which it awards a bachelor's degree or higher degree or provides not less than a two-year program which is acceptable for full credit toward such a degree at any institution which meets the requirements of clauses (i), (ii), and (iii) and which provides such a program;

(C) provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (i), (ii), and (iii) of subparagraph (B); or

(D) is a local educational agency.

(7) The term "local education agency" means a public board of education or other public authority or a nonprofit institution legally constituted within, or otherwise recognized by, a State for either administrative control or direction of, or to perform administrative services for, a group of schools within a State.

(8) The term "school facilities" means buildings housing classrooms, laboratories, dormitories, administrative facilities, athletic facilities, or related facilities operated in connection with a school.

(9) The term "State" means, in addition to the several States of the Union, the District of Columbia, Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands.

(10) The term "State energy agency" means the State agency responsible for developing State energy conservation plans pursuant to section 6322 of this title, or, if no such agency exists, a State agency designated by the Governor of such State to prepare and submit a State plan under section 6371c of this title.

(11) The term "State school facilities agency" means an existing agency which is broadly representative of public institutions of higher education, nonprofit institutions of higher education, public elementary and secondary schools, nonprofit elementary and secondary schools, public vocational education institutions, nonprofit vocational education institutions, and the interests of handicapped persons, in a State or, if no such agency exists, an agency which is designated by the Governor of such State which conforms to the requirements of this paragraph.

(12) The term "State hospital facilities agency" means an existing agency which is broadly representative of the public hospitals and the nonprofit hospitals, or, if no such agency exists, an agency designated by the Governor of such State which conforms to the requirements of this paragraph.

(13) The term "energy audit" means a determination of the energy consumption characteristics of a building which—

(A) identifies the type, size, and rate of energy consumption of such building and the major energy using systems of such building;

(B) determines appropriate energy conservation maintenance and operating procedures; and

(C) indicates the need, if any, for the acquisition and installation of energy conservation measures.

(14) The term "preliminary energy audit" means a determination of the energy consumption characteristics of a building, including the size, type, rate of energy consumption and major energy-using systems of such building.

(15) The term "energy conservation project" means—

(A) an undertaking to acquire and to install one or more energy conservation measures in school or hospital facilities and

(B) technical assistance in connection with any such undertaking and technical assistance as described in paragraph (17)(A).

(16) The term "energy conservation project costs" includes only costs incurred in the design, acquisition, construction, and installation of energy conservation measures and technical assistance costs.

(17) The term "technical assistance" means assistance, under rules promulgated by the Secretary, to States, schools, and hospitals—

(A) to conduct specialized studies identifying and specifying energy savings or energy cost savings that are likely to be realized as a 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.)

EDITORIAL NOTES

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).

STATUTORY NOTES AND RELATED SUBSIDIARIES

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 after the submission of the original plan if the agency obtains the consent of the Secretary.

(c) Development and implementation of approved plans; submission of proposed State plan

(1) If a State plan has not been approved under this section within 2 years and 90 days after November 9, 1978, or within 90 days after the completion of the preliminary audits under section 6371b(a) of this title, whichever is later, the Secretary may take such action as necessary to develop and implement such a State plan and to carry out the functions which would otherwise be carried out under this part by the State energy agency, State school facilities agency, and State hospital facilities agency, in order that the energy conservation program for schools and hospitals may be implemented in such State.

(2) Notwithstanding any other provision contained in this section, a State may, at any time, submit a proposed State plan for such State under this section. The Secretary shall approve or disapprove such plan not later than 60 days after receipt by the Secretary. If such plan meets the requirements of subsection (a) and is not inconsistent with any plan developed and implemented by the Secretary under paragraph (1), the Secretary shall approve the plan and withdraw any such plan developed and implemented by the Secretary.

(Pub. L. 94–163, title III, §394, as added Pub. L. 95–619, title III, §302(a), Nov. 9, 1978, 92 Stat. 3243; amended Pub. L. 105–388, §5(a)(10), Nov. 13, 1998, 112 Stat. 3478.)

EDITORIAL NOTES

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–388, §5(a)(10)(A), substituted semicolon for comma at end.
Subsec. (a)(2). Pub. L. 105–388, §5(a)(10)(B), substituted semicolon for period at end.
Subsec. (a)(3), (5). Pub. L. 105–388, §5(a)(10)(A), substituted semicolon for comma at end.
Subsec. (a)(6). Pub. L. 105–388, §5(a)(10)(C), substituted semicolon for colon at end.

§6371d. Applications for financial assistance

(a) Limitation on number of applications by States, schools, and hospitals; submittal to State

energy agency

Applications of States, schools, and hospitals for financial assistance under this part for energy conservation projects shall be made not more than once for any fiscal year. Schools and hospitals applying for such financial assistance shall submit their applications to the State energy agency and the State energy agency shall make a single submittal to the Secretary, containing all applications which comply with the State plan.

(b) Required information

Applications for financial assistance under this part for energy conservation projects shall contain, or shall be accompanied by, such information as the Secretary may reasonably require, including the results of energy audits which comply with guidelines under this part. The annual submittal to the Secretary by the State energy agency under subsection (a) shall include a listing and description of energy conservation projects proposed to be funded within the State during the fiscal year for which such application is made, and such information concerning expected expenditures as the Secretary may, by rule, require.

(c) Conditions for financial assistance; applications consistent with related State programs and health plans

(1) The Secretary may not provide financial assistance to States, schools, or hospitals for energy conservation projects unless the application for a grant for such project is submitted through, or approved by the appropriate State hospital facilities agency or State school facilities agency, respectively, and determined by the State energy agency to comply with the State plan.

(2) Applications of States, schools, and hospitals and State plans pursuant to this part shall be consistent with—

(A) related State programs for educational facilities in such State, and

(B) State health plans under section 300m–3(c)(2) [1] and 300o–2 [1] of this title, and shall be coordinated through the review mechanisms required under section 300m–2 [1] of this title and section 1320a–1 of this title.

(d) Compliance required for approval; reasons for disapproval; resubmittal; amendment

The Secretary shall approve such applications submitted by a State energy agency as he determines to be in compliance with this section and with the requirements of the applicable State plan approved under section 6371c of this title. The Secretary shall state the reasons for his disapproval in the case of any application which he disapproves. Any application not approved by the Secretary may be resubmitted by the applicant at any time in the same manner as the original application and the Secretary shall approve such resubmitted application as he determines to be in compliance with this section and the requirements of the State plan. Amendments of an application shall, except as the Secretary may otherwise provide, be subject to approval in the same manner as the original application. All or any portion of an application under this section may be disapproved to the extent that funds are not available under this part to carry out such application or portion.

(e) Suspension of further assistance for failure to comply

Whenever the Secretary, after reasonable notice and opportunity for hearing to any State, school, or hospital receiving assistance under this part, finds that there has been a failure to comply substantially with the provisions set forth in the application approved under this section, the Secretary shall notify the State, school, or hospital that further assistance will not be made available to such State, school or hospital under this part until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied no further assistance shall be made to such State, school, or hospital under this part.

(Pub. L. 94–163, title III, §395, as added Pub. L. 95–619, title III, §302(a), Nov. 9, 1978, 92 Stat. 3244.)

EDITORIAL NOTES

REFERENCES IN TEXT

Sections 300m–2 and 300m–3 of this title, referred to in subsec. (c)(2)(B), were repealed effective Jan. 1, 1987, by Pub. L. 99–660, title VII, §701(a), Nov. 14, 1986, 100 Stat. 3799.

Section 300*o*–2 of this title, referred to in subsec. (c)(2)(B), was repealed by Pub. L. 96–79, title II, §202(a), Oct. 4, 1979, 93 Stat. 632.

[1] *See References in Text note below.*

§6371e. Grants for project costs and technical assistance

(a) Authorization of Secretary; project costs

The Secretary may make grants to schools and hospitals for carrying out energy conservation projects the applications for which have been approved under section 6371d of this title.

(b) Restrictions on use of funds

(1) Except as provided in paragraph (2), amounts made available for purposes of this section (together with any amounts available for such purposes from other Federal sources) may not be used to pay more than 50 percent of the costs of any energy conservation project. The non-Federal share of the costs of any such energy conservation project may be provided by using programs of innovative financing for energy conservation projects (including, but not limited to, loan programs and performance contracting), even if, pursuant to such financing, clear title to the equipment does not pass to the school or hospital until after the grant is completed.

(2) Amounts made available for purposes of this section (together with any amounts available for such purposes from other Federal sources) may be used to pay not to exceed 90 percent of the costs of an energy conservation project if the Secretary determines that a project meets the hardship criteria of section 6371a(d) of this title. Grants made under this paragraph shall be from the funds provided under section 6371g(a)(2) of this title.

(c) Allocation requirements

Grants made under this section in any State in any year shall be made in accordance with the requirements contained in section 6371g of this title.

(d) Technical assistance costs

(1) The Secretary may make grants to States for paying technical assistance costs. Schools in any State shall not be allocated less than 30 percent of the funds for energy conservation projects within such State and hospitals in any State shall not be allocated less than 30 percent of such funds.

(2) A State may utilize up to 100 percent of the funds provided by the Secretary under this part for any fiscal year for program and technical assistance and up to 50 percent of such funds for marketing and other costs associated with leveraging of non-Federal funds for carrying out this part and may administer a continuous and consecutive application and award procedure for providing program and technical assistance under this part in accordance with regulations that the Secretary shall establish, if the State—

(A) has adopted a State plan in accordance with section 6371c of this title, the administration of which is in accordance with applicable regulations; and

(B) certifies to the Secretary that not more than 15 percent of the aggregate amount of Federal and non-Federal funds used by the State to provide program and technical assistance, implement energy conservation measures, and otherwise carry out a program pursuant to this part for the fiscal year concerned will be expended for program and technical assistance and for marketing and other costs associated with leveraging of non-Federal funds for such program.

(Pub. L. 94–163, title III, §396, as added Pub. L. 95–619, title III, §302(a), Nov. 9, 1978, 92 Stat. 3245; amended Pub. L. 101–440, §6(a), (c), (d), Oct. 18, 1990, 104 Stat. 1011.)

EDITORIAL NOTES

AMENDMENTS

1990—Subsec. (b)(1). Pub. L. 101–440, §6(a), inserted at end "The non-Federal share of the costs of any such energy conservation project may be provided by using programs of innovative financing for energy conservation projects (including, but not limited to, loan programs and performance contracting), even if, pursuant to such financing, clear title to the equipment does not pass to the school or hospital until after the grant is completed."

Subsec. (d). Pub. L. 101–440, §6(d), designated existing provisions as par. (1) and added par. (2).

Subsec. (e). Pub. L. 101–440, §6(c), struck out subsec. (e) which prohibited funds for buildings used principally for administration.

§6371f. Authorization of appropriations

For the purpose of carrying out this part, there are authorized to be appropriated for fiscal years 1999 through 2003 such sums as may be necessary.

(Pub. L. 94–163, title III, §397, as added Pub. L. 95–619, title III, §302(a), Nov. 9, 1978, 92 Stat. 3246; amended Pub. L. 101–440, §8(b), Oct. 18, 1990, 104 Stat. 1015; Pub. L. 105–388, §2(b), Nov. 13, 1998, 112 Stat. 3477.)

EDITORIAL NOTES

AMENDMENTS

1998—Pub. L. 105–388 amended section generally, substituting provisions authorizing appropriations for fiscal years 1999 through 2003 for provisions authorizing appropriations for fiscal years 1991 through 1993.

1990—Pub. L. 101–440 amended section generally, substituting provisions authorizing appropriations for fiscal years 1991 through 1993 for provisions authorizing appropriations for fiscal years ending Sept. 30, 1978, Sept. 30, 1979, and Sept. 30, 1980.

§6371g. Allocation of grants

(a) Section 6371e grants

(1) Except as otherwise provided in subsection (b), the Secretary shall allocate 90 percent of the amounts made available under section 6371f(b) [1] of this title in any year for purposes of making energy conservation project grants pursuant to section 6371e of this title as follows:

(A) Eighty percent of amounts made available under section 6371f(b) [1] of this title shall be allocated among the States in accordance with a formula to be prescribed, by rule, by the Secretary, taking into account population and climate of each State, and such other factors as the Secretary may deem appropriate.

(B) Ten percent of amounts made available under section 6371f(b) [1] of this title shall be allocated among the States in such manner as the Secretary determines by rule after taking into account the availability and cost of fuel or other energy used in, and the amount of fuel or other energy consumed by, schools and hospitals in the States, and such other factors as he deems appropriate.

(2) The Secretary shall allocate 10 percent of the amounts made available under section 6371f(b) [1] of this title in any year for purposes of making grants as provided under section 6371e(b)(2) of this title in excess of the 50 percent limitation contained in section 6371e(b)(1) of this title.

(3) In the case of any State which received for any fiscal year an amount which exceeded 50 percent of the cost of any energy audit as provided in section 6371b(e)(2) of this title, the aggregate amount allocated to such State under this subsection for such fiscal year (determined after applying paragraphs (1) and (2)) shall be reduced by an amount equal to such excess. The amount of such reduction shall be reallocated to the States for such fiscal year as provided in this subsection except

that for purposes of such reallocation, the State which received such excess shall not be eligible for any portion of such reallocation.

(b) Restrictions on allocations to States

The total amount allocated to any State under subsection (a) in any year shall not exceed 10 percent of the total amount allocated to all the States in such year under such subsection (a). Except for the District of Columbia, Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands, not less than 0.5 percent of such total allocation to all States for that year shall be allocated in such year for the total of grants to States and to schools and hospitals in each State which has an approved State plan under this part.

(c) Prescription of rules governing allocations among States with regard to energy audits

Not later than 60 days after November 9, 1978, the Secretary shall prescribe rules governing the allocation among the States of funds for grants for preliminary energy audits and energy audits. Such rules shall take into account the population and climate of such States and such other factors as he may deem appropriate.

(d) Prescription of rules limiting allocations to States for administrative expenses

The Secretary shall prescribe rules limiting the amount of funds allocated to a State which may be expended for administrative expenses by such State.

(e) Reallocations

Funds allocated for projects in any States for a fiscal year under this section but not obligated in such fiscal year shall be available for reallocation under subsection (a) of this section in the subsequent fiscal year.

(Pub. L. 94–163, title III, §398, as added Pub. L. 95–619, title III, §302(a), Nov. 9, 1978, 92 Stat. 3246; amended Pub. L. 98–454, title VI, §601(e), Oct. 5, 1984, 98 Stat. 1736.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 6371f of this title, referred to in subsec. (a)(1), (2), was amended by Pub. L. 101–440, §8(b), Oct. 18, 1990, 104 Stat. 1015, and, as so amended, no longer contains a subsec. (b).

AMENDMENTS

1984—Subsec. (b). Pub. L. 98–454 inserted reference to Northern Mariana Islands.

[1] *See References in Text note below.*

§6371h. Administration; detailed description in annual report

(a) The Secretary may prescribe such rules as may be necessary in order to carry out the provisions of this part.

(b) The Secretary shall include in his annual report a detailed description of the actions taken under this part in the preceding fiscal year and the actions planned to be taken in the subsequent fiscal year. Such description shall show the allocations made (including the allocations made to each State) and include information on the types of conservation measures implemented, with funds allocated, and an estimate of the energy savings achieved.

(Pub. L. 94–163, title III, §399, as added Pub. L. 95–619, title III, §302(a), Nov. 9, 1978, 92 Stat. 3247; amended Pub. L. 96–470, title II, §203(b), Oct. 19, 1980, 94 Stat. 2242.)

EDITORIAL NOTES

AMENDMENTS

1980—Subsec. (b). Pub. L. 96–470 substituted "include in his annual report a detailed description" for ", within one year after November 9, 1978, and annually thereafter while funds are available under this part, submit to Congress a detailed report" and "Such description" for "Such report".

§6371h–1. Energy sustainability and efficiency grants and loans for institutions

(a) Definitions

In this section:

(1) Combined heat and power

The term "combined heat and power" means the generation of electric energy and heat in a single, integrated system, with an overall thermal efficiency of 60 percent or greater on a higher-heating-value basis.

(2) District energy systems

The term "district energy systems" means systems providing thermal energy from a renewable energy source, thermal energy source, or highly efficient technology to more than 1 building or fixed energy-consuming use from 1 or more thermal-energy production facilities through pipes or other means to provide space heating, space conditioning, hot water, steam, compression, process energy, or other end uses for that energy.

(3) Energy sustainability

The term "energy sustainability" includes using a renewable energy source, thermal energy source, or a highly efficient technology for transportation, electricity generation, heating, cooling, lighting, or other energy services in fixed installations.

(4) Institution of higher education

The term "institution of higher education" has the meaning given the term in section 15801 of this title.

(5) Institutional entity

The term "institutional entity" means an institution of higher education, a public school district, a local government, a municipal utility, or a designee of 1 of those entities.

(6) Renewable energy source

The term "renewable energy source" has the meaning given the term in section 918c of title 7.

(7) Sustainable energy infrastructure

The term "sustainable energy infrastructure" means—

(A) facilities for production of energy from renewable energy sources, thermal energy sources, or highly efficient technologies, including combined heat and power or other waste heat use; and

(B) district energy systems.

(8) Thermal energy source

The term "thermal energy source" means—

(A) a natural source of cooling or heating from lake or ocean water; and

(B) recovery of useful energy that would otherwise be wasted from ongoing energy uses.

(b) Technical assistance grants

(1) In general

Subject to the availability of appropriated funds, the Secretary shall implement a program of information dissemination and technical assistance to institutional entities to assist the institutional entities in identifying, evaluating, designing, and implementing sustainable energy infrastructure projects in energy sustainability.

(2) Assistance

The Secretary shall support institutional entities in—

(A) identification of opportunities for sustainable energy infrastructure;

(B) understanding the technical and economic characteristics of sustainable energy infrastructure;

(C) utility interconnection and negotiation of power and fuel contracts;

(D) understanding financing alternatives;

(E) permitting and siting issues;

(F) obtaining case studies of similar and successful sustainable energy infrastructure systems; and

(G) reviewing and obtaining computer software for assessment, design, and operation and maintenance of sustainable energy infrastructure systems.

(3) Eligible costs for technical assistance grants

On receipt of an application of an institutional entity, the Secretary may make grants to the institutional entity to fund a portion of the cost of—

(A) feasibility studies to assess the potential for implementation or improvement of sustainable energy infrastructure;

(B) analysis and implementation of strategies to overcome barriers to project implementation, including financial, contracting, siting, and permitting barriers; and

(C) detailed engineering of sustainable energy infrastructure.

(c) Grants for energy efficiency improvement and energy sustainability

(1) Grants

(A) In general

The Secretary shall award grants to institutional entities to carry out projects to improve energy efficiency on the grounds and facilities of the institutional entity.

(B) Requirement

To the extent that applications have been submitted, grants under subparagraph (A) shall include not less than 1 grant each year to an institution of higher education in each State.

(C) Minimum funding

Not less than 50 percent of the total funding for all grants under this subsection shall be awarded in grants to institutions of higher education.

(2) Criteria

Evaluation of projects for grant funding shall be based on criteria established by the Secretary, including criteria relating to—

(A) improvement in energy efficiency;

(B) reduction in greenhouse gas emissions and other air emissions, including criteria air pollutants and ozone-depleting refrigerants;

(C) increased use of renewable energy sources or thermal energy sources;

(D) reduction in consumption of fossil fuels;

(E) active student participation; and

(F) need for funding assistance.

(3) Condition

As a condition of receiving a grant under this subsection, an institutional entity shall agree—

(A) to implement a public awareness campaign concerning the project in the community in which the institutional entity is located; and

(B) to submit to the Secretary, and make available to the public, reports on any efficiency improvements, energy cost savings, and environmental benefits achieved as part of a project carried out under paragraph (1), including quantification of the results relative to the criteria described under paragraph (2).

(d) Grants for innovation in energy sustainability

(1) Grants

(A) In general

The Secretary shall award grants to institutional entities to engage in innovative energy sustainability projects.

(B) Requirement

To the extent that applications have been submitted, grants under subparagraph (A) shall include not less than 2 grants each year to institutions of higher education in each State.

(C) Minimum funding

Not less than 50 percent of the total funding for all grants under this subsection shall be awarded in grants to institutions of higher education.

(2) Innovation projects

An innovation project carried out with a grant under this subsection shall—

(A) involve—

(i) an innovative technology that is not yet commercially available; or

(ii) available technology in an innovative application that maximizes energy efficiency and sustainability;

(B) have the greatest potential for testing or demonstrating new technologies or processes; and

(C) to the extent undertaken by an institution of higher education, ensure active student participation in the project, including the planning, implementation, evaluation, and other phases of projects.

(3) Condition

As a condition of receiving a grant under this subsection, an institutional entity shall agree to submit to the Secretary, and make available to the public, reports that describe the results of the projects carried out using grant funds.

(e) Allocation to institutions of higher education with small endowments

(1) In general

Of the total amount of grants provided to institutions of higher education for a fiscal year under this section, the Secretary shall provide not less than 50 percent of the amount to institutions of higher education that have an endowment of not more than $100,000,000.

(2) Requirement

To the extent that applications have been submitted, at least 50 percent of the amount described in paragraph (1) shall be provided to institutions of higher education that have an endowment of not more than $50,000,000.

(f) Grant amounts

(1) In general

If the Secretary determines that cost sharing is appropriate, the amounts of grants provided under this section shall be limited as provided in this subsection.

(2) Technical assistance grants

In the case of grants for technical assistance under subsection (b), grant funds shall be available for not more than—

(A) an amount equal to the lesser of—

(i) $50,000; or

(ii) 75 percent of the cost of feasibility studies to assess the potential for implementation or

improvement of sustainable energy infrastructure;

(B) an amount equal to the lesser of—
(i) $90,000; or
(ii) 60 percent of the cost of guidance on overcoming barriers to project implementation, including financial, contracting, siting, and permitting barriers; and

(C) an amount equal to the lesser of—
(i) $250,000; or
(ii) 40 percent of the cost of detailed engineering and design of sustainable energy infrastructure.

(3) Grants for efficiency improvement and energy sustainability

In the case of grants for efficiency improvement and energy sustainability under subsection (c), grant funds shall be available for not more than an amount equal to the lesser of—
(A) $1,000,000; or
(B) 60 percent of the total cost.

(4) Grants for innovation in energy sustainability

In the case of grants for innovation in energy sustainability under subsection (d), grant funds shall be available for not more than an amount equal to the lesser of—
(A) $500,000; or
(B) 75 percent of the total cost.

(g) Loans for energy efficiency improvement and energy sustainability

(1) In general

Subject to the availability of appropriated funds, the Secretary shall provide loans to institutional entities for the purpose of implementing energy efficiency improvements and sustainable energy infrastructure.

(2) Terms and conditions

(A) In general

Except as otherwise provided in this paragraph, loans made under this subsection shall be on such terms and conditions as the Secretary may prescribe.

(B) Maturity

The final maturity of loans made within a period shall be the lesser of, as determined by the Secretary—
(i) 20 years; or
(ii) 90 percent of the useful life of the principal physical asset to be financed by the loan.

(C) Default

No loan made under this subsection may be subordinated to another debt contracted by the institutional entity or to any other claims against the institutional entity in the case of default.

(D) Benchmark interest rate

(i) In general

Loans under this subsection shall be at an interest rate that is set by reference to a benchmark interest rate (yield) on marketable Treasury securities with a similar maturity to the direct loans being made.

(ii) Minimum

The minimum interest rate of loans under this subsection shall be at the interest rate of the benchmark financial instrument.

(iii) New loans

The minimum interest rate of new loans shall be adjusted each quarter to take account of changes in the interest rate of the benchmark financial instrument.

(E) Credit risk

The Secretary shall—

(i) prescribe explicit standards for use in periodically assessing the credit risk of making direct loans under this subsection; and

(ii) find that there is a reasonable assurance of repayment before making a loan.

(F) Advance budget authority required

New direct loans may not be obligated under this subsection except to the extent that appropriations of budget authority to cover the costs of the new direct loans are made in advance, as required by section 661c of title 2.

(3) Criteria

Evaluation of projects for potential loan funding shall be based on criteria established by the Secretary, including criteria relating to—

(A) improvement in energy efficiency;

(B) reduction in greenhouse gas emissions and other air emissions, including criteria air pollutants and ozone-depleting refrigerants;

(C) increased use of renewable electric energy sources or renewable thermal energy sources;

(D) reduction in consumption of fossil fuels; and

(E) need for funding assistance, including consideration of the size of endowment or other financial resources available to the institutional entity.

(4) Labor standards

(A) In general

All laborers and mechanics employed by contractors or subcontractors in the performance of construction, repair, or alteration work funded in whole or in part under this section shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with sections 3141 through 3144, 3146, and 3147 of title 40. The Secretary shall not approve any such funding without first obtaining adequate assurance that required labor standards will be maintained upon the construction work.

(B) Authority and functions

The Secretary of Labor shall have, with respect to the labor standards specified in paragraph (1), the authority and functions set forth in Reorganization Plan Number 14 of 1950 (15 Fed. Reg. 3176; 64 Stat. 1267) and section 3145 of title 40.

(h) Program procedures

Not later than 180 days after December 19, 2007, the Secretary shall establish procedures for the solicitation and evaluation of potential projects for grant and loan funding and administration of the grant and loan programs.

(i) Authorization

(1) Grants

There is authorized to be appropriated for the cost of grants authorized in subsections (b), (c), and (d) $250,000,000 for each of fiscal years 2009 through 2013, of which not more than 5 percent may be used for administrative expenses.

(2) Loans

There is authorized to be appropriated for the initial cost of direct loans authorized in subsection (g) $500,000,000 for each of fiscal years 2009 through 2013, of which not more than 5 percent may be used for administrative expenses.

(Pub. L. 94–163, title III, §399A, as added Pub. L. 110–140, title IV, §471, Dec. 19, 2007, 121 Stat. 1642.)

EDITORIAL NOTES

REFERENCES IN TEXT

Reorganization Plan Number 14 of 1950, referred to in subsec. (g)(4)(B), is set out in the Appendix to Title 5, Government Organization and Employees.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§6371i. Records

Each recipient of assistance under this part shall keep such records, provide such reports, and furnish such access to books and records as the Secretary may by rule prescribe.

(Pub. L. 94–163, title III, §400, as added Pub. L. 95–619, title III, §302(a), Nov. 9, 1978, 92 Stat. 3247; amended Pub. L. 105–388, §5(a)(11), Nov. 13, 1998, 112 Stat. 3479.)

EDITORIAL NOTES

AMENDMENTS

1998—Pub. L. 105–388 struck out "(a)" before "Each recipient".

§6371j. Application of sections 3141–3144, 3146, and 3147 of title 40

No grant for a project (other than so much of a grant as is used for a preliminary energy audit, energy audit, or technical assistance or a grant the total project cost of which is $5,000 or less, excluding costs for a preliminary energy audit, energy audit, or technical assistance) shall be made under this part or part 1 unless the Secretary finds that all laborers and mechanics employed by contractors or subcontractors in the performance of work on any construction utilizing such grants will be paid at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40; and the Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 3145 of title 40.

(Pub. L. 95–619, title III, §312, Nov. 9, 1978, 92 Stat. 3254.)

EDITORIAL NOTES

REFERENCES IN TEXT

This part, referred to in text, means part 2 (§§310–312) of title III of Pub. L. 95–619, Nov. 9, 1978, 92 Stat. 3248, which enacted sections 6371j and 6372 to 6372i of this title and enacted provisions set out as a note under section 6372 of this title. For complete classification of this part to the Code, see Tables.

Part 1, referred to in text, means part 1 (§§301–304) of title III of Pub. L. 95–619, Nov. 9, 1978, 92 Stat. 3238, which enacted sections 6371 to 6371i of this title, amended sections 300k–2 and 300n–1 of this title, and enacted provisions set out as notes under sections 6371 of this title. For complete classification of this part to the Code, see Tables.

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5,

Government Organization and Employees.

CODIFICATION

In text, "sections 3141–3144, 3146, and 3147 of title 40" substituted for "the Act of March 31, 1931 (40 U.S.C. 276a—276a–5, known as the Davis-Bacon Act)" and "section 3145 of title 40" substituted for "section 2 of the Act of June 13, 1934 (40 U.S.C. 276c)" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

Section was enacted as a part of the National Energy Conservation Policy Act, and not as a part of the Energy Policy and Conservation Act which comprises this chapter, and consequently is not a part of part E of this subchapter.

§6371k. Coordination of energy retrofitting assistance for schools

(a) Definition of school

In this section, the term "school" means—

(1) an elementary school or secondary school (as defined in section 7801 of title 20);

(2) an institution of higher education (as defined in section 1001(a) of title 20);

(3) a postsecondary vocational institution (as defined in section 1002(c) of title 20);

(4) a school of the defense dependents' education system under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.) or established under section 2164 of title 10;

(5) a school operated by the Bureau of Indian Education;

(6) a tribally controlled school (as defined in section 2511 of title 25); and

(7) a Tribal College or University (as defined in section 1059c(b) of title 20).

(b) Designation of lead agency

The Secretary of Energy (in this section referred to as the "Secretary"), acting through the Office of Energy Efficiency and Renewable Energy, shall act as the lead Federal agency for coordinating and disseminating information on existing Federal programs and assistance that may be used to help initiate, develop, and finance energy efficiency, renewable energy, and energy retrofitting projects for schools.

(c) Requirements

In carrying out coordination and outreach under subsection (b), the Secretary shall—

(1) in consultation and coordination with the appropriate Federal agencies, carry out a review of existing programs and financing mechanisms (including revolving loan funds and loan guarantees) available in or from the Department of Agriculture, the Department of Energy, the Department of Education, the Department of the Treasury, the Internal Revenue Service, the Environmental Protection Agency, and other appropriate Federal agencies with jurisdiction over energy financing and facilitation that are currently used or may be used to help initiate, develop, and finance energy efficiency, renewable energy, and energy retrofitting projects for schools;

(2) establish a Federal cross-departmental collaborative coordination, education, and outreach effort to streamline communication and promote available Federal opportunities and assistance described in paragraph (1), for energy efficiency, renewable energy, and energy retrofitting projects that enables States, local educational agencies, and schools—

(A) to use existing Federal opportunities more effectively; and

(B) to form partnerships with Governors, State energy programs, local educational, financial, and energy officials, State and local government officials, nonprofit organizations, and other appropriate entities, to support the initiation of the projects;

(3) provide technical assistance for States, local educational agencies, and schools to help develop and finance energy efficiency, renewable energy, and energy retrofitting projects—

(A) to increase the energy efficiency of buildings or facilities;

(B) to install systems that individually generate energy from renewable energy resources;

(C) to establish partnerships to leverage economies of scale and additional financing

mechanisms available to larger clean energy initiatives; or

(D) to promote—

(i) the maintenance of health, environmental quality, and safety in schools, including the ambient air quality, through energy efficiency, renewable energy, and energy retrofit projects; and

(ii) the achievement of expected energy savings and renewable energy production through proper operations and maintenance practices;

(4) develop and maintain a single online resource website with contact information for relevant technical assistance and support staff in the Office of Energy Efficiency and Renewable Energy for States, local educational agencies, and schools to effectively access and use Federal opportunities and assistance described in paragraph (1) to develop energy efficiency, renewable energy, and energy retrofitting projects; and

(5) establish a process for recognition of schools that—

(A) have successfully implemented energy efficiency, renewable energy, and energy retrofitting projects; and

(B) are willing to serve as resources for other local educational agencies and schools to assist initiation of similar efforts.

(d) Report

Not later than 180 days after December 27, 2020, the Secretary shall submit to Congress a report describing the implementation of this section.

(Pub. L. 116–260, div. Z, title I, §1001, Dec. 27, 2020, 134 Stat. 2420.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Defense Dependents' Education Act of 1978, referred to in subsec. (a)(4), is title XIV of Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2365, which is classified principally to chapter 25A (§921 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 921 of Title 20 and Tables.

CODIFICATION

Section was enacted as part of the Energy Act of 2020, and not as part of the Energy Policy and Conservation Act which comprises this chapter.

PART F—ENERGY CONSERVATION PROGRAM FOR BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT AND PUBLIC CARE INSTITUTIONS

EDITORIAL NOTES

CODIFICATION

This part was, in the original, designated part H and has been changed to part F for purposes of codification.

§6372. Definitions

For purposes of this part—

(1) The terms "hospital", "State", "school", "Governor", "State energy agency", "energy conservation measure", "energy conservation maintenance and operating procedure", "preliminary energy audit", "technical assistance costs", "energy audit" and "Secretary" have the meanings

provided in section 6371 of this title.

(2) The term "unit of local government" means the government of a county, municipality, or township, which is a unit of general purpose government below the State (determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes) and the District of Columbia. Such term also means the recognized governing body of an Indian tribe (as defined in section 6862 of this title) which governing body performs substantial governmental functions.

(3) The term "building" has the meaning provided in section 6371 of this title except that for purposes of this part such term includes only buildings which are owned and primarily occupied by offices or agencies of a unit of local government or by a public care institution and does not include any building intended for seasonal use or any building utilized primarily by a school or hospital.

(4) The term "public care institution" means a public or nonprofit institution which owns—

(A) a facility for long term care, a rehabilitation facility, or a public health center, as described in section 300s–3 of this title, or

(B) a residential child care center.

(5) The term "public or nonprofit institution" means an institution owned and operated by—

(A) a State, a political subdivision of a State or an agency or instrumentality of either, or

(B) an organization exempt from income tax under section 501(c)(3) or 501(c)(4) of title 26.

(6) The term "technical assistance program costs" means the costs of carrying out a technical assistance program.

(7) The term "technical assistance" means assistance under rules, promulgated by the Secretary, to States, units of local government and public care institutions—

(A) to conduct specialized studies identifying and specifying energy savings and related cost savings that are likely to be realized as a result of (i) modification or maintenance and operating procedures in a building, (ii) the acquisition and installation of one or more specified energy conservation measures in such building or (iii) both, or

(B) the planning or administration of such specialized studies.

(Pub. L. 94–163, title III, §400A, as added Pub. L. 95–619, title III, §311(a), Nov. 9, 1978, 92 Stat. 3248; amended Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095.)

EDITORIAL NOTES

AMENDMENTS

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.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SEPARABILITY

For separability of provisions of title III of Pub. L. 95–619, see section 302(c) of Pub. L. 95–619, set out as a note under section 6371 of this title.

CONGRESSIONAL STATEMENT OF FINDINGS AND PURPOSES

Pub. L. 95–619, title III, §310, Nov. 9, 1978, 92 Stat. 3248, provided that:

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

"(1) the Nation's nonrenewable energy resources are being rapidly depleted;

"(2) buildings owned by units of local government and public care institutions are major consumers of energy, and such units and institutions have been especially burdened by rising energy prices and fuel shortages;

"(3) substantial energy conservation can be achieved in buildings owned by units of local government and public care institutions through the implementation of energy conservation maintenance and operating

procedures; and

"(4) units of local government and public care institutions in many instances need financial assistance in order to conduct energy audits and to identify energy conservation maintenance and operating procedures and to evaluate the potential benefits of acquiring and installing energy conservation measures.

"(b) PURPOSE.—It is the purpose of this part [part 2 (§§310–312) of title III of Pub. L. 95–619, enacting sections 6371j and 6372 to 6372i of this title] to authorize grants to States and units of local government and public care institutions to assist them in conducting preliminary energy audits and energy audits in identifying and implementing energy conservation maintenance and operating procedures and in evaluating energy conservation measures to reduce the energy use and anticipated energy costs of buildings owned by units of local government and public care institutions."

APPLICATION OF SECTIONS 3141–3144, 3146, AND 3147 OF TITLE 40

For application of sections 3141–3144, 3146, and 3147 of title 40 to grants made by the Secretary under this part, see section 6371j of this title.

§6372a. Guidelines

(a) Energy audits

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

(1) prescribe guidelines for the conduct of the preliminary energy audits for buildings owned by units of local government and public care institutions, including a description of the type, number and distribution of preliminary energy audits of such buildings that will provide a reasonably accurate evaluation of the energy conservation needs of all such buildings in each State, and

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

(b) Implementation of technical assistance programs

The Secretary shall, by rule, not later than 90 days after November 9, 1978, prescribe guidelines for State plans for the implementation of technical assistance programs for buildings owned by units of local government and public care institutions. The guidelines shall include—

(1) a description of the factors to be considered in determining which technical assistance programs 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 undertake technical assistance work; 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 part may be revised from time to time after notice and opportunity for comment.

(Pub. L. 94–163, title III, §400B, as added Pub. L. 95–619, title III, §311(a), Nov. 9, 1978, 92 Stat. 3249.)

§6372b. 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 the guidelines under section 6372a(a) of this title for grants to conduct preliminary energy audits of buildings owned by units of local government and public care institutions 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 to assist in conducting preliminary energy audits under this part for buildings owned by units of local

government and public care institutions. Such audits shall be conducted in accordance with the guidelines prescribed under section 6372a(a)(1) of this title.

(c) Application by Governor, unit of local government or public care institution

The Governor of any State, unit of local government or public care institution may apply to the Secretary at such time as the Secretary may specify after promulgation of the guidelines under section 6372a(a) of this title for grants to conduct energy audits of buildings owned by units of local government and public care institutions in such State under this part.

(d) Grants for conduct of energy audits

Upon application under subsection (c) the Secretary may make grants to States, units of local government, and public care institutions for purposes of conducting energy audits of facilities under this part in accordance with the guidelines prescribed under section 6372a(a)(2) of this title.

(e) Audits conducted prior to grant of financial assistance

If a State, unit of local government, or public care institution, 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 technical assistance programs for such State, and shall be in addition to amounts otherwise available for such purpose.

(f) Restriction on use of funds

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 energy audit.

(Pub. L. 94–163, title III, §400C, as added Pub. L. 95–619, title III, §311(a), Nov. 9, 1978, 92 Stat. 3250.)

§6372c. State plans

(a) 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 6372a of this title, or such longer period as the Secretary may, for good cause, allow, a proposed 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 pursuant to section 6372a(a)(1) of this title, and an estimate of the energy savings that may result from the modification of maintenance and operating procedures in buildings owned by units of local government and public care institutions;

(2) a recommendation as to the types of technical assistance programs considered appropriate for buildings owned by units of local government and public care institutions in such State, together with an estimate of the costs of carrying out such programs;

(3) a program for identifying persons qualified to carry out technical assistance programs;

(4) procedures for the coordination among technical assistance programs within any State and for coordination of programs authorized under this part with other State energy conservation programs,[1]

(5) a description of the policies and procedures to be followed in the allocation of funds among eligible applicants for technical assistance within such State, including procedures to insure that funds will be allocated among eligible applicants on the basis of relative need and including recommendations as to how priorities should be established between buildings owned by units of local government and public care institutions, and among competing proposals taking into account such factors as cost, energy consumption, and energy savings;

(6) procedures to assure that all grants for technical assistance provided under this part are expended in compliance with the requirements of an approved State plan for such State and in compliance with the requirements of this part (including requirements contained in rules

promulgated under this part); and

(7) 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) Each State plan submitted under this section shall be reviewed and approved or disapproved by the Secretary 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 after the submission of the original plan if the agency obtains the consent of the Secretary.

(Pub. L. 94–163, title III, §400D, as added Pub. L. 95–619, title III, §311(a), Nov. 9, 1978, 92 Stat. 3251; amended Pub. L. 105–388, §5(a)(12), Nov. 13, 1998, 112 Stat. 3479.)

EDITORIAL NOTES

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–388 substituted semicolon for comma at end.

Subsec. (a)(2). Pub. L. 105–388, which directed substitution of semicolon for comma at end, could not be executed because comma does not appear at end.

Subsec. (a)(3). Pub. L. 105–388 substituted semicolon for comma at end.

[1] *So in original. The comma probably should be a semicolon.*

§6372d. Applications for grants for technical assistance

(a) Limitation on number of applications by units of local government and public care institutions; submittal to State energy agency

Applications of units of local government and public care institutions for grants for technical assistance under this part shall be made not more than once for any fiscal year. Such applications shall be submitted to the State energy agency and the State energy agency shall make a single submittal to the Secretary containing all applications which comply with the State plan.

(b) Required information

Applications for grants for technical assistance under this part shall contain or be accompanied by, such information as the Secretary may reasonably require, including the results of energy audits which comply with guidelines under this part. The annual submittal to the Secretary by the State energy agency under subsection (a) shall include a listing and description of technical assistance proposed to be funded under this part within the State during the fiscal year for which such application is made, and such information concerning expenditures as the Secretary may, by rule, require.

(c) Compliance required for approval; reasons for disapproval; resubmittal; amendment

The Secretary shall approve such applications submitted by a State energy agency as he determines to be in compliance with this section and the requirements of the applicable State plan approved under section 6372c of this title. The Secretary shall state the reasons for his disapproval in the case of any application which he disapproves. Any application not approved by the Secretary may be resubmitted by the applicant at any time in the same manner as the original application and the Secretary shall approve such resubmitted application as he determines to be in compliance with this section and the requirements of the State plan. Amendments of an application shall, except as the Secretary may otherwise provide be subject to approval in the same manner as the original application. All or any portions of an application under this section may be disapproved to the extent that funds are not available under this part.

(d) Suspension of further assistance for failure to comply

Whenever the Secretary after reasonable notice and opportunity for hearing to any unit of local government or public care institution receiving assistance under this part, finds that there has been a failure to comply substantially with the provisions set forth in the application approved under this section, the Secretary shall notify the unit of local government or public care institution that further assistance will not be made available to such unit of local government or public care institution under this part until he is satisfied that there is no longer any failure to comply. Until he is so satisfied, no further assistance shall be made to such unit of local government or public care institution under this part.

(Pub. L. 94–163, title III, §400E, as added Pub. L. 95–619, title III, §311(a), Nov. 9, 1978, 92 Stat. 3252.)

§6372e. Grants for technical assistance

(a) Authorization of Secretary

The Secretary may make grants to States and to units of local government and public care institutions in payment of technical assistance program costs for buildings owned by units of local government and public care institutions the applications for which have been approved under section 6372d of this title.

(b) Restriction on use of funds

Amounts made available for purposes of this section (together with any amounts available for such purposes from other Federal sources) may not be used to pay more than 50 percent of technical assistance program costs.

(c) Allocation requirements

Grants made under this section in any State in any year shall be made in accordance with the requirements contained in section 6372g of this title.

(d) Prescription of rules limiting allocations to States for administrative expenses

The Secretary shall prescribe rules limiting the amount of funds allocated to a State which may be expended for administrative expenses by such State.

(Pub. L. 94–163, title III, §400F, as added Pub. L. 95–619, title III, §311(a), Nov. 9, 1978, 92 Stat. 3252.)

§6372f. Authorization of appropriations

(a) For the purpose of making grants to States to conduct preliminary energy audits and energy audits under this part there is authorized to be appropriated not to exceed $7,500,000 for the fiscal year ending September 30, 1978, and $7,500,000 for the fiscal year ending September 30, 1979, such funds to remain available until expended.

(b) For the purpose of making technical assistance grants under this part to States and to units of local government and public care institutions, there is hereby authorized to be appropriated not to exceed $17,500,000 for the fiscal year ending September 30, 1978, and $32,500,000 for the fiscal year ending September 30, 1979, such funds to remain available until expended.

(c) For the expenses of the Secretary in administering the provisions of this part, there are hereby authorized to be appropriated such sums as may be necessary for each fiscal year in the two consecutive fiscal year periods ending September 30, 1979, such funds to remain available until expended.

(Pub. L. 94–163, title III, §400G, as added Pub. L. 95–619, title III, §311(a), Nov. 9, 1978, 92 Stat. 3253.)

§6372g. Allocation of grants

(a) Grants made under this part shall be allocated among the States in accordance with a formula to be prescribed, by rule, by the Secretary, taking into account population and climate of each State, and such other factors as the Secretary may deem appropriate.

(b) The total amount allocated to any State under subsection (a) in any year shall not exceed 10 percent of the total amount allocated to all the States in such year under such subsection (a). Except for the District of Columbia, Puerto Rico, Guam, American Samoa, and the Virgin Islands, not less than 0.5 percent of such total allocation to all States for that year shall be allocated in such year for the total of grants in each State which has an approved State plan under this part.

(Pub. L. 94–163, title III, §400H, as added Pub. L. 95–619, title III, §311(a), Nov. 9, 1978, 92 Stat. 3253.)

§6372h. Administration; detailed description in annual report

(a) The Secretary may prescribe such rules as may be necessary in order to carry out the provisions of this part.

(b) The Secretary shall include in his annual report a detailed description of the actions taken under this part in the preceding fiscal year and the actions planned to be taken in the subsequent fiscal year. Such description shall show the allocations made (including the allocations made to each State) and include information on the technical assistance carried out with funds allocated, and an estimate of the energy savings, if any, achieved.

(Pub. L. 94–163, title III, §400I, as added Pub. L. 95–619, title III, §311(a), Nov. 9, 1978, 92 Stat. 3253; amended Pub. L. 96–470, title II, §203(a), Oct. 19, 1980, 94 Stat. 2242; Pub. L. 105–388, §5(a)(13), Nov. 13, 1998, 112 Stat. 3479.)

EDITORIAL NOTES

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–388 struck out comma after "Secretary shall".

1980—Subsec. (b). Pub. L. 96–470 substituted "include in his annual report a detailed description" for "within one year after November 9, 1978, and annually thereafter while funds are available under this part, submit to the Congress a detailed report" and "Such description" for "Such report".

§6372i. Records

Each recipient of assistance under this part shall keep such records, provide such reports, and furnish such access to books and records as the Secretary may by rule prescribe.

(Pub. L. 94–163, title III, §400J, as added Pub. L. 95–619, title III, §311(a), Nov. 9, 1978, 92 Stat. 3253.)

PART G—OFF-HIGHWAY MOTOR VEHICLES

EDITORIAL NOTES

CODIFICATION

This part was, in the original, designated part I and has been changed to part G for purposes of codification.

§6373. Off-highway motor vehicles

Not later than 1 year after November 9, 1978, the Secretary of Transportation shall complete a study of the energy conservation potential of recreational motor vehicles, including, but not limited to, aircraft and motor boats which are designed for recreational use, and shall submit a report to the President and to the Congress containing the results of such study.

(Pub. L. 94–163, title III, §385, as added Pub. L. 95–619, title VI, §681(a), Nov. 9, 1978, 92 Stat. 3286.)

PART H—ENCOURAGING USE OF ALTERNATIVE FUELS

EDITORIAL NOTES

CODIFICATION

This part was, in the original, designated part J and has been changed to part H for purposes of codification.

§6374. Alternative fuel use by light duty Federal vehicles

(a) Department of Energy program

(1) Beginning in the fiscal year ending September 30, 1990, the Secretary shall ensure, with the cooperation of other appropriate agencies and consistent with other Federal law, that the maximum number practicable of the vehicles acquired annually for use by the Federal Government shall be alternative fueled vehicles. In no event shall the number of such vehicles acquired be less than the number required under section 13212 of this title.

(2) In any determination of whether the acquisition of a vehicle is practicable under paragraph (1), the initial cost of such vehicle to the United States shall not be considered as a factor unless the initial cost of such vehicle exceeds the initial cost of a comparable gasoline or diesel fueled vehicle by at least 5 percent.

(3)(A) To the extent practicable, the Secretary shall acquire both dedicated and dual fueled vehicles, and shall ensure that each type of alternative fueled vehicle is used by the Federal Government.

(B) Vehicles acquired under this section shall be acquired from original equipment manufacturers. If such vehicles are not available from original equipment manufacturers, vehicles converted to use alternative fuels may be acquired if, after conversion, the original equipment manufacturer's warranty continues to apply to such vehicles, pursuant to an agreement between the original equipment manufacturer and the person performing the conversion. This subparagraph shall not apply to vehicles acquired by the United States Postal Service pursuant to a contract entered into by the United States Postal Service before October 24, 1992, and which terminates on or before December 31, 1997.

(C) Alternative fueled vehicles, other than those described in subparagraph (B), may be acquired solely for the purposes of studies under subsection (b), whether or not original equipment manufacturer warranties still apply.

(D) In deciding which types of alternative fueled vehicles to acquire in implementing this part, the Secretary shall consider as a factor—

(i) which types of vehicles yield the greatest reduction in pollutants emitted per dollar spent; and

(ii) the source of the fuel to supply the vehicles, giving preference to vehicles that operate on alternative fuels derived from domestic sources.

(E)(i) Dual fueled vehicles acquired pursuant to this section shall be operated on alternative fuels

unless the Secretary determines that an agency qualifies for a waiver of such requirement for vehicles operated by the agency in a particular geographic area in which—

(I) the alternative fuel otherwise required to be used in the vehicle is not reasonably available to retail purchasers of the fuel, as certified to the Secretary by the head of the agency; or

(II) the cost of the alternative fuel otherwise required to be used in the vehicle is unreasonably more expensive compared to gasoline, as certified to the Secretary by the head of the agency.

(ii) The Secretary shall monitor compliance with this subparagraph by all such fleets and shall report annually to Congress on the extent to which the requirements of this subparagraph are being achieved. The report shall include information on annual reductions achieved from the use of petroleum-based fuels and the problems, if any, encountered in acquiring alternative fuels.

(F) At least 50 percent of the alternative fuels used in vehicles acquired pursuant to this section shall be derived from domestic feedstocks, except to the extent inconsistent with the multilateral trade agreements (as defined in section 3501(4) of title 19). The Secretary shall issue regulations to implement this requirement. For purposes of this subparagraph, the term "domestic" has the meaning given such term in section 13211(7) of this title.

(G) Except to the extent inconsistent with the multilateral trade agreements (as defined in section 3501(4) of title 19), vehicles acquired under this section shall be motor vehicles manufactured in the United States or Canada.

(4) Acquisitions of vehicles under this section shall, to the extent practicable, be coordinated with acquisitions of alternative fueled vehicles by State and local governments.

(b) Studies

(1)(A) The Secretary, in cooperation with the Environmental Protection Agency and the National Highway Traffic Safety Administration, shall conduct a study of a representative sample of alternative fueled vehicles in Federal fleets, which shall at a minimum address—

(i) the performance of such vehicles, including performance in cold weather and at high altitude;

(ii) the fuel economy, safety, and emissions of such vehicles; and

(iii) a comparison of the operation and maintenance costs of such vehicles to the operation and maintenance costs of other passenger automobiles and light duty trucks.

(B) The Secretary shall provide a report on the results of the study conducted under subparagraph (A) to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, within one year after the first such vehicles are acquired.

(2)(A) The Secretary and the Administrator of the General Services Administration shall conduct a study of the advisability, feasibility, and timing of the disposal of vehicles acquired under subsection (a) and any problems of such disposal. Such study shall take into account existing laws governing the sale of Government vehicles and shall specifically focus on when to sell such vehicles and what price to charge, without compromising studies of the use of such vehicles authorized under this part.

(B) The Secretary and the Administrator of the General Services Administration shall report the results of the study conducted under subparagraph (A) to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, within 12 months after funds are appropriated for carrying out this section.

(3) Studies undertaken under this subsection shall be coordinated with relevant testing activities of the Environmental Protection Agency and the Department of Transportation.

(c) Availability to public

To the extent practicable, at locations where vehicles acquired under subsection (a) are supplied with alternative fuels, such fuels shall be offered for sale to the public. The head of the Federal agency responsible for such a location shall consider whether such sale is practicable, taking into account, among other factors—

(1) whether alternative fuel is commercially available for vehicles in the vicinity of such location;

(2) security and safety considerations;

(3) whether such sale is in accordance with applicable local, State, and Federal law;

(4) the ease with which the public can access such location; and

(5) the cost to the United States of such sale.

(d) Federal agency use of demonstration vehicles

(1) Upon the request of the head of any agency of the Federal Government, the Secretary shall ensure that such Federal agency be provided with vehicles acquired under subsection (a) to the maximum extent practicable.

(2)(A) Funds appropriated under this section for the acquisition of vehicles under subsection (a) shall be applicable only to the portion of the cost of vehicles acquired under subsection (a) which exceeds the cost of comparable gasoline or diesel fueled vehicles.

(B) To the extent that appropriations are available for such purposes, the Secretary shall ensure that the cost to any Federal agency receiving a vehicle under paragraph (1) shall not exceed the cost to such agency of a comparable gasoline or diesel fueled vehicle.

(3) Only one-half of the vehicles acquired under this section by an agency of the Federal Government shall be counted against any limitation under law, Executive order, or executive or agency policy on the number of vehicles which may be acquired by such agency.

(4) Any Federal agency receiving a vehicle under paragraph (1) shall cooperate with studies undertaken by the Secretary under subsection (b).

(e) Detail of personnel

Upon the request of the Secretary, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Department of Energy to assist the Secretary in carrying out the Secretary's duties under this section.

(f) Exemptions

(1) Vehicles acquired under this section shall not be counted in any calculation of the average fuel economy of the fleet of passenger automobiles acquired in a fiscal year by the United States.

(2) The incremental cost of vehicles acquired under this section over the cost of comparable gasoline or diesel fueled vehicles shall not be applied to any calculation with respect to a limitation under law on the maximum cost of individual vehicles which may be acquired by the United States.

(g) Definitions

For purposes of this part—

(1) the term "acquired" means leased for a period of sixty continuous days or more, or purchased;

(2) the term "alternative fuel" means methanol, denatured ethanol, and other alcohols; mixtures containing 85 percent or more (or such other percentage, but not less than 70 percent, as determined by the Secretary, by rule, to provide for requirements relating to cold start, safety, or vehicle functions) by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; fuels (other than alcohol) derived from biological materials; electricity (including electricity from solar energy); and any other fuel the Secretary determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits;

(3) the term "alternative fueled vehicle" means a dedicated vehicle or a dual fueled vehicle;

(4) the term "dedicated vehicle" means—

(A) a dedicated automobile, as such term is defined in section 32901(a)(7) [1] of title 49; or

(B) a motor vehicle, other than an automobile, that operates solely on alternative fuel;

(5) the term "dual fueled vehicle" means—

(A) dual fueled automobile, as such term is defined in section 32901(a)(8) [1] of title 49; or

(B) a motor vehicle, other than an automobile, that is capable of operating on alternative fuel

and is capable of operating on gasoline or diesel fuel; and

(6) the term "heavy duty vehicle" means a vehicle of greater than 8,500 pounds gross vehicle weight rating.

(h) Funding

(1) For the purposes of this section, there are authorized to be appropriated such sums as may be necessary for fiscal years 1993 through 1998, to remain available until expended.

(2) The authority of the Secretary to obligate amounts to be expended under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

(Pub. L. 94–163, title III, §400AA, as added Pub. L. 100–494, §4(a), Oct. 14, 1988, 102 Stat. 2442; amended Pub. L. 102–486, title III, §§302(a), 309, Oct. 24, 1992, 106 Stat. 2868, 2874; Pub. L. 104–66, title I, §§1051(a), 1052(e), Dec. 21, 1995, 109 Stat. 716, 718; Pub. L. 105–388, §5(a)(14), Nov. 13, 1998, 112 Stat. 3479; Pub. L. 106–36, title I, §1002(h), June 25, 1999, 113 Stat. 134; Pub. L. 109–58, title VII, §701, Aug. 8, 2005, 119 Stat. 814.)

EDITORIAL NOTES

REFERENCES IN TEXT

Paragraphs (7) and (8) of section 32901(a) of title 49, referred to in subsec. (g)(4)(A), (5)(A), were redesignated (8) and (9), respectively, and a new par. (7) was enacted by Pub. L. 110–140, title I, §103(a)(2), (3), Dec. 19, 2007, 121 Stat. 1501.

CODIFICATION

In subsec. (g)(4)(A), (5)(A), "section 32901(a)(7) of title 49" substituted for "section 513(h)(1)(C) of the Motor Vehicle Information Cost Savings Act" and "section 32901(a)(8) of title 49" substituted for "section 513(h)(1)(D) of the Motor Vehicle Information and Cost Savings Act", respectively, on authority of Pub. L. 103–272, §6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation.

AMENDMENTS

2005—Subsec. (a)(3)(E). Pub. L. 109–58 amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: "Dual fueled vehicles acquired pursuant to this section shall be operated on alternative fuels unless the Secretary determines that operation on such alternative fuels is not feasible."

1999—Subsec. (a)(3)(F), (G). Pub. L. 106–36 substituted "multilateral trade agreements (as defined in section 3501(4) of title 19)" for "General Agreement on Tariffs and Trade".

1998—Subsecs. (h), (i). Pub. L. 105–388 redesignated subsec. (i) as (h).

1995—Subsec. (b)(1)(B). Pub. L. 104–66, §1052(e), struck out before period at end ", and annually thereafter".

Subsec. (b)(3) to (5). Pub. L. 104–66, §1051(a), redesignated par. (5) as (3) and struck out former par. (3) which directed Secretary to conduct study of heavy duty vehicles acquired under Department of Energy program and report results to Congress and par. (4) which directed Secretary to conduct study of advisability of heavy duty vehicle disposal and report results to Congress.

1992—Subsec. (a)(1). Pub. L. 102–486, §302(a)(1), substituted "vehicles" for "passenger automobiles and light duty trucks" before "acquired annually for use" and "alternative fueled vehicles. In no event shall the number of such vehicles acquired be less than the number required under section 13212 of this title." for "alcohol powered vehicles, dual energy vehicles, natural gas powered vehicles, or natural gas dual energy vehicles."

Subsec. (a)(3). Pub. L. 102–486, §302(a)(2), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "The Secretary shall, to the extent practicable and consistent with this part, ensure that the number of dual energy vehicles acquired under this subsection is at least as great as the number of alcohol powered vehicles acquired under this subsection, and that the number of natural gas dual energy vehicles acquired under this subsection is at least as great as the number of natural gas powered vehicles acquired under this

subsection. To the extent practicable, both vehicles capable of operating on alcohol and vehicles capable of operating on natural gas shall be acquired in carrying out this subsection, and such vehicles shall be supplied by original equipment manufacturers."

Subsec. (a)(4). Pub. L. 102–486, §302(a)(3), added par. (4).

Subsec. (b)(1)(A). Pub. L. 102–486, §309, substituted "a representative sample of alternative fueled vehicles in Federal fleets" for "the vehicles acquired under subsection (a) of this section".

Subsec. (b)(3) to (5). Pub. L. 102–486, §302(a)(4), added pars. (3) to (5).

Subsec. (c). Pub. L. 102–486, §302(a)(5), in introductory provisions substituted "alternative fuels, such fuels" for "alcohol or natural gas, alcohol or natural gas" and in par. (1) substituted "alternative fuel" for "alcohol or natural gas".

Subsec. (d)(2)(B). Pub. L. 102–486, §302(a)(6), substituted "To the extent that appropriations are available for such purposes, the Secretary" for "The Secretary".

Subsec. (g)(2) to (6). Pub. L. 102–486, §302(a)(7), added pars. (2) to (6) and struck out former pars. (2) to (6) which read as follows:

"(2) the term 'alcohol' means a mixture containing 85 percent or more by volume methanol, ethanol, or other alcohols, in any combination;

"(3) the term 'alcohol powered vehicle' means a vehicle designed to operate exclusively on alcohol;

"(4) the term 'dual energy vehicle' means a vehicle which is capable of operating on alcohol and on gasoline or diesel fuel;

"(5) the term 'natural gas dual energy vehicle' means a vehicle which is capable of operating on natural gas and on gasoline or diesel fuel; and

"(6) the term 'natural gas powered vehicle' means a vehicle designed to operate exclusively on natural gas."

Subsec. (i)(1). Pub. L. 102–486, §302(a)(8), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "For the purposes of this section, there are authorized to be appropriated for the fiscal year ending September 30, 1990, $5,000,000, for the fiscal year ending September 30, 1991, $3,000,000, for the fiscal year ending September 30, 1992, $2,000,000, and for the fiscal year ending September 30, 1993, $2,000,000."

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

TERMINATION DATE

Pub. L. 100–494, §4(b), Oct. 14, 1988, 102 Stat. 2448, which provided that this section and the amendments made by this section (enacting this part) were to cease to be effective after Sept. 30, 1997, was repealed by Pub. L. 102–486, title III, §302(b), Oct. 24, 1992, 106 Stat. 2871.

FINDINGS

Pub. L. 100–494, §2, Oct. 14, 1988, 102 Stat. 2441, provided that: "The Congress finds and declares that—

"(1) the achievement of long-term energy security for the United States is essential to the health of the national economy, the well-being of our citizens, and the maintenance of national security;

"(2) the displacement of energy derived from imported oil with alternative fuels will help to achieve energy security and improve air quality;

"(3) transportation uses account for more than 60 percent of the oil consumption of the Nation;

"(4) the Nation's security, economic, and environmental interests require that the Federal Government should assist clean-burning, nonpetroleum transportation fuels to reach a threshold level of commercial application and consumer acceptability at which they can successfully compete with petroleum-based fuels;

"(5) methanol, ethanol, and natural gas are proven transportation fuels that burn more cleanly and efficiently than gasoline and diesel fuel;

"(6) the production and use as transportation fuels of ethanol, methanol made from natural gas or

biomass, and compressed natural gas have been estimated in some studies to release less carbon dioxide than comparable quantities of petroleum-based fuel;

"(7) the amount of carbon dioxide released with methanol from a coal-to-methanol industry using currently available technologies has been estimated in some studies to be significantly greater than the amount released with a comparable quantity of petroleum-based fuel;

"(8) there exists evidence that manmade pollution—the release of carbon dioxide, chlorofluorocarbons, methane, and other trace gases into the atmosphere—may be producing a long term and substantial increase in the average temperature on Earth, a phenomenon known as global warming through the greenhouse effect; and

"(9) ongoing pollution and deforestation may be contributing now to an irreversible process producing unacceptable global climate changes; necessary actions must be identified and implemented in time to protect the climate, including the development of technologies to control increased carbon dioxide emissions that result with methanol from a coal-to-methanol industry."

PURPOSE

Pub. L. 100–494, §3, Oct. 14, 1988, 102 Stat. 2442, provided that: "The purpose of this Act [see Short Title of 1988 Amendment note set out under section 6201 of this title] is to encourage—

"(1) the development and widespread use of methanol, ethanol, and natural gas as transportation fuels by consumers; and

"(2) the production of methanol, ethanol, and natural gas powered motor vehicles."

USE OF NONSTANDARD FUELS

Pub. L. 100–494, §5, Oct. 14, 1988, 102 Stat. 2448, provided that: "No guaranty or warranty with respect to any passenger automobile or light-duty truck acquired by the United States after October 1, 1989, shall be voided or reduced in effect by reason of the operation of such vehicle with any fuel for which a currently effective waiver, which includes a limitation regarding Reid vapor pressure with respect to such fuel, has been issued by the Administrator of the Environmental Protection Agency under section 211(f) of the Clean Air Act (42 U.S.C. 7545(f))."

[1] *See References in Text note below.*

§6374a. Alternative fuels truck commercial application program

(a) Establishment

The Secretary, in cooperation with manufacturers of heavy duty engines and with other Federal agencies, shall establish a commercial application program to study the use of alternative fuels in heavy duty trucks and, if appropriate, other heavy duty applications.

(b) Funding

(1) There are authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary for fiscal years 1993 through 1995, to remain available until expended.

(2) The authority of the Secretary to obligate amounts to be expended under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

(Pub. L. 94–163, title III, §400BB, as added Pub. L. 100–494, §4(a), Oct. 14, 1988, 102 Stat. 2444; amended Pub. L. 102–486, title IV, §401, Oct. 24, 1992, 106 Stat. 2875.)

EDITORIAL NOTES

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–486, §401(a), substituted "alternative fuels" for "alcohol and natural gas".

Subsec. (b)(1). Pub. L. 102–486, §401(b), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "There are authorized to be appropriated for the period encompassing the fiscal years ending

September 30, 1990, September 30, 1991, and September 30, 1992, a total of $2,000,000 for alcohol powered vehicles and dual energy vehicles, and a total of $2,000,000 for natural gas powered vehicles and natural gas dual energy vehicles, to carry out the purposes of this section."

§6374b. Alternative fuels bus program

(a) Testing

The Secretary, in cooperation with the Administrator of the Environmental Protection Agency and the Administrator of the National Highway Traffic Safety Administration, shall, beginning in the fiscal year ending September 30, 1990, assist State and local government agencies in the testing in urban settings of buses capable of operating on alternative fuels for the emissions levels, durability, safety, and fuel economy of such buses, comparing the different types with each other and with diesel powered buses, as such buses will be required to operate under Federal safety and environmental standards applicable to such buses for the model year 1991. To the extent practicable, testing assisted under this section shall apply to each of the various types of alternative fuel buses.

(b) Funding

There are authorized to be appropriated for the period encompassing the fiscal years ending September 30, 1990, September 30, 1991, and September 30, 1992, a total of $2,000,000 to carry out the purposes of this section.

(c) "Bus" defined

For purposes of this section, the term "bus" means a vehicle which is designed to transport 30 individuals or more.

(Pub. L. 94–163, title III, §400CC, as added Pub. L. 100–494, §4(a), Oct. 14, 1988, 102 Stat. 2445; amended Pub. L. 102–486, title IV, §402(1), Oct. 24, 1992, 106 Stat. 2875.)

EDITORIAL NOTES

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–486 substituted "alternative fuels" for "alcohol and buses capable of operating on natural gas" and "each of the various types of alternative fuel buses" for "both buses capable of operating on alcohol and buses capable of operating on natural gas".

§6374c. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 94–163, title III, §400DD, as added Pub. L. 100–494, §4(a), Oct. 14, 1988, 102 Stat. 2445; amended Pub. L. 102–486, title IV, §402(2), (3), Oct. 24, 1992, 106 Stat. 2876, provided for establishment of the Interagency Commission on Alternative Motor Fuels and the United States Alternative Fuels Council, required the Commission to submit interim reports and a final report by Sept. 30, 1992, to Congress, and terminated the Commission and Council upon submission of the final report.

§6374d. Studies and reports

(a) Methanol study

(1) The Secretary shall study methanol plants, including the costs and practicability of such plants, that are—

(A) capable of utilizing current domestic supplies of unutilized natural gas;

(B) relocatable; or
(C) suitable for natural gas to methanol conversion by natural gas distribution companies.

(2) For purposes of this subsection, the term "unutilized natural gas" means gas that is available in small remote fields and cannot be economically transported to natural gas pipelines, or gas the quality of which is so poor that extensive and uneconomic pretreatment is required prior to its introduction into the natural gas distribution system.

(3) The Secretary shall submit a report under this subsection to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, no later than September 30, 1990.

(b) Omitted

(c) Public participation

Adequate opportunity shall be provided for public comment on the reports required by this section before they are submitted to the Congress, and a summary of such comments shall be attached to such reports.

(Pub. L. 94–163, title III, §400EE, as added Pub. L. 100–494, §4(a), Oct. 14, 1988, 102 Stat. 2447.)

EDITORIAL NOTES

REFERENCES IN TEXT

This part, referred to in subsec. (b)(1)(A), was in the original "the Alternative Motor Fuels Act of 1988", Pub. L. 100–494, Oct. 14, 1988, 102 Stat. 2441, which is classified principally to this part. For complete classification of this Act to the Code, see Short Title of 1988 Amendment note set out under section 6201 of this title and Tables.

CODIFICATION

Subsec. (b) of this section, which required the Administrator of the Environmental Protection Agency to submit biennially to Congress a report which includes a comprehensive analysis of the environmental impacts associated with the production and use of alternative motor vehicle fuels under this part and an extended forecast of the environmental effects of such production and use, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, the 25th item on page 163 of House Document No. 103–7.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

§6374e. Federal fleet conservation requirements

(a) Mandatory reduction in petroleum consumption

(1) In general

Not later than 18 months after December 19, 2007, the Secretary shall issue regulations for Federal fleets subject to section 6374 of this title to require that, beginning in fiscal year 2010,

each Federal agency shall reduce petroleum consumption and increase alternative fuel consumption each year by an amount necessary to meet the goals described in paragraph (2).

(2) Goals

The goals of the requirements under paragraph (1) are that not later than October 1, 2015, and for each year thereafter, each Federal agency shall achieve at least a 20 percent reduction in annual petroleum consumption and a 10 percent increase in annual alternative fuel consumption, as calculated from the baseline established by the Secretary for fiscal year 2005.

(3) Milestones

The Secretary shall include in the regulations described in paragraph (1)—

(A) interim numeric milestones to assess annual agency progress towards accomplishing the goals described in that paragraph; and

(B) a requirement that agencies annually report on progress towards meeting each of the milestones and the 2015 goals.

(b) Plan

(1) Requirement

(A) In general

The regulations under subsection (a) shall require each Federal agency to develop a plan, and implement the measures specified in the plan by dates specified in the plan, to meet the required petroleum reduction levels and the alternative fuel consumption increases, including the milestones specified by the Secretary.

(B) Inclusions

The plan shall—

(i) identify the specific measures the agency will use to meet the requirements of subsection (a)(2); and

(ii) quantify the reductions in petroleum consumption or increases in alternative fuel consumption projected to be achieved by each measure each year.

(2) Measures

The plan may allow an agency to meet the required petroleum reduction level through—

(A) the use of alternative fuels;

(B) the acquisition of vehicles with higher fuel economy, including hybrid vehicles, neighborhood electric vehicles, electric vehicles, and plug-in hybrid vehicles if the vehicles are commercially available;

(C) the substitution of cars for light trucks;

(D) an increase in vehicle load factors;

(E) a decrease in vehicle miles traveled;

(F) a decrease in fleet size; and

(G) other measures.

(Pub. L. 94–163, title III, §400FF, as added Pub. L. 110–140, title I, §142, Dec. 19, 2007, 121 Stat. 1518.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

SUBCHAPTER IV—GENERAL PROVISIONS

PART A—ENERGY DATA BASE AND ENERGY INFORMATION

§6381. Verification examinations

(a) Authority of Comptroller General

The Comptroller General may conduct verification examinations with respect to the books, records, papers, or other documents of—

(1) any person who is required to submit energy information to the Secretary, the Department of the Interior, or the Federal Energy Regulatory Commission pursuant to any rule, regulation, order, or other legal process of such Secretary, Department or Commission;

(2) any person who is engaged in the production, processing, refining, transportation by pipeline, or distribution (at other than the retail level) of energy resources—

(A) if such person has furnished, directly or indirectly, energy information (without regard to whether such information was furnished pursuant to legal requirements) to any Federal agency (other than the Internal Revenue Service), and

(B) if the Comptroller General of the United States determines that such information has been or is being used or taken into consideration, in whole or in part, by a Federal agency in carrying out responsibilities committed to such agency; or

(3) any vertically integrated petroleum company with respect to financial information of such company related to energy resource exploration, development, and production and the transportation, refining and marketing of energy resources and energy products.

(b) Request for examination

The Comptroller General shall conduct verification examinations of any person or company described in subsection (a), if requested to do so by any duly established committee of the Congress having legislative or oversight responsibilities under the rules of the House of Representatives or of the Senate, with respect to energy matters or any of the laws administered by the Department of the Interior (or the Secretary thereof), the Federal Energy Regulatory Commission, or the Secretary.

(c) Definitions

For the purposes of this subchapter—

(1) The term "verification examination" means an examination of such books, records, papers, or other documents of a person or company as the Comptroller General determines necessary and appropriate to assess the accuracy, reliability, and adequacy of the energy information, or financial information, referred to in subsection (a).

(2) The term "energy information" has the same meaning as such term has in section 796(e)(1) of title 15.

(3) The term "person" has the same meaning as such term has in section 796(e)(2) of title 15.

(4) The term "vertically integrated petroleum company" means any person which itself, or through a person which is controlled by, controls, or is under common control with such person, is engaged in the production, refining, and marketing of petroleum products.

(Pub. L. 94–163, title V, §501, Dec. 22, 1975, 89 Stat. 956; Pub. L. 95–91, title III, §301, title IV, §402, title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 583, 606, 607; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in subsec. (c), was in the original "this title", meaning title V of Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 956, which is classified principally to this subchapter. For complete classification of

title V to the Code, see Tables.

AMENDMENTS

1978—Subsec. (b). Pub. L. 95–619 purported to substitute "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration. See Transfer of Functions note below.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Secretary, the Department of the Interior, or the Federal Energy Regulatory Commission" and "Secretary" substituted for "Federal Energy Administration, the Department of the Interior, or the Federal Power Commission" and "Administration", respectively, in subsec. (a)(1), and "Federal Energy Regulatory Commission, or the Secretary" substituted for "Federal Power Commission, or the Federal Energy Administration (or the Administrator)" in subsec. (b) pursuant to sections 301, 402, 703, and 707 of Pub. L. 95–91, which are classified to sections 7151, 7172, 7293, and 7297 of this title and which terminated the Federal Energy Administration and transferred its functions and functions of Administrator thereof (with certain exceptions) to the Secretary of Energy and terminated the Federal Power Commission and transferred its functions to the Federal Energy Regulatory Commission and the Secretary of Energy.

§6382. Powers and duties of Comptroller General

(a) Subpenas; discovery and inspection; oaths; search

For the purpose of carrying out his authority under section 6381 of this title—

(1) the Comptroller General may—

(A) sign and issue subpenas for the attendance and testimony of witnesses and the production of books, records, papers, and other documents;

(B) require any person, by general or special order, to submit answers in writing to interrogatories, to submit books, records, papers, or other documents, or to submit any other information or reports, and such answers or other submissions shall be made within such reasonable period, and under oath or otherwise, as the Comptroller General may determine; and

(C) administer oaths.

(2) the Comptroller General, or any officer or employee duly designated by the Comptroller General, upon presenting appropriate credentials and a written notice from the Comptroller General to the owner, operator, or agent in charge, may—

(A) enter, at reasonable times, any business premise or facility; and

(B) inspect, at reasonable times and in a reasonable manner, any such premise or facility, inventory and sample any stock of energy resources therein, and examine and copy books, records, papers, or other documents, relating to any energy information, or any financial information in the case of a vertically integrated petroleum company.

(b) Information in possession of Federal agencies

The Comptroller General shall have access to any energy information within the possession of any Federal agency (other than the Internal Revenue Service) as is necessary to carry out his authority under this section.

(c) Transmission of examination results to Federal agencies

(1) Except as provided in subsections (d) and (e), the Comptroller General shall transmit a copy of the results of any verification examination conducted under section 6381 of this title to the Federal agency to which energy information which was subject to such examination was furnished.

(2) Any report made pursuant to paragraph (1) shall include the Comptroller General's findings with respect to the accuracy, reliability, and adequacy of the energy information which was the subject of such examination.

(d) Report to Congressional committees

If the verification examination was conducted at the request of any committee of the Congress, the Comptroller General shall report his findings as to the accuracy, reliability, or adequacy of the energy information which was the subject of such examination, or financial information in the case of a vertically integrated petroleum company, directly to such committee of the Congress and any such information obtained and such report shall be deemed the property of such committee and may not be disclosed except in accordance with the rules of the committee and the rules of the House of Representatives or the Senate and as permitted by law.

(e) Disclosure of geological or geophysical information

(1) Any information obtained by the Comptroller General or any officer or employee of the Government Accountability Office pursuant to the exercise of responsibilities or authorities under this section which relates to geological or geophysical information, or any estimate or interpretation thereof, the disclosure of which would result in significant competitive disadvantage or significant loss to the owner thereof shall not be disclosed except to a committee of Congress. Any such information so furnished to a committee of the Congress shall be deemed the property of such committee and may not be disclosed except in accordance with the rules of the committee and the rules of the House of Representatives or the Senate and as permitted by law.

(2) Any person who knowingly discloses information in violation of paragraph (1) shall be subject to the penalties specified in section 754(a)(3)(B) and (4) [1] of title 15.

(Pub. L. 94–163, title V, §502, Dec. 22, 1975, 89 Stat. 957; Pub. L. 104–316, title I, §122(p), Oct. 19, 1996, 110 Stat. 3838; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 754 of title 15, referred to in subsec. (e)(2), was omitted from the Code pursuant to section 760g of Title 15, Commerce and Trade, which provided for the expiration of the President's authority under that section on Sept. 30, 1981.

AMENDMENTS

2004—Subsec. (e)(1). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office".

1996—Subsec. (f). Pub. L. 104–316 struck out subsec. (f) which read as follows: "The Comptroller General shall prepare and submit to the Congress an annual report with respect to the exercise of its authorities under this part, which report shall specifically identify any deficiencies in energy information or financial information reviewed by the Comptroller General and include a discussion of action taken by the person or company so examined, if any, to correct any such deficiencies."

[1] *See References in Text note below.*

§6383. Accounting practices

(a) Development by Securities and Exchange Commission; time of taking effect

For purposes of developing a reliable energy data base related to the production of crude oil and natural gas, the Securities and Exchange Commission shall take such steps as may be necessary to assure the development and observance of accounting practices to be followed in the preparation of accounts by persons engaged, in whole or in part, in the production of crude oil or natural gas in the United States. Such practices shall be developed not later than 24 months after December 22, 1975, and shall take effect with respect to the fiscal year of each such person which begins 3 months after the date on which such practices are prescribed or made effective under the authority of subsection (b)(2).

(b) Consultation with Secretary, Government Accountability Office and Federal Energy

Regulatory Commission; rules; reliance on practices developed by Financial Accounting Standards Board; opportunity to submit written comment

In carrying out its responsibilities under subsection (a), the Securities and Exchange Commission shall—

(1) consult with the Secretary, the Government Accountability Office, and the Federal Energy Regulatory Commission with respect to accounting practices to be developed under subsection (a), and

(2) have authority to prescribe rules applicable to persons engaged in the production of crude oil or natural gas, or make effective by recognition, or by other appropriate means indicating a determination to rely on, accounting practices developed by the Financial Accounting Standards Board, if the Securities and Exchange Commission is assured that such practice will be observed by persons engaged in the production of crude oil or natural gas to the same extent as would result if the Securities and Exchange Commission had prescribed such practices by rule.

The Securities and Exchange Commission shall afford interested persons an opportunity to submit written comments with respect to whether it should exercise its discretion to recognize or otherwise rely on such accounting practice in lieu of prescribing such practices by rule and may extend the 24-month period referred to in subsection (a) as it determines may be necessary to allow for a meaningful comment period with respect to such determination.

(c) Requirements for accounting practices

The Securities and Exchange Commission shall assure that accounting practices developed pursuant to this section, to the greatest extent practicable, permit the compilation, treating domestic and foreign operations as separate categories, of an energy data base consisting of:

(1) The separate calculation of capital, revenue, and operating cost information pertaining to—

(A) prospecting,

(B) acquisition,

(C) exploration,

(D) development, and

(E) production,

including geological and geophysical costs, carrying costs, unsuccessful exploratory drilling costs, intangible drilling and development costs on productive wells, the cost of unsuccessful development wells, and the cost of acquiring oil and gas reserves by means other than development. Any such calculation shall take into account disposition of capitalized costs, contractual arrangements involving special conveyance of rights and joint operations, differences between book and tax income, and prices used in the transfer of products or other assets from one person to any other person, including a person controlled by, controlling, or under common control with such person.

(2) The full presentation of the financial information of persons engaged in the production of crude oil or natural gas, including—

(A) disclosure of reserves and operating activities, both domestic and foreign, to facilitate evaluation of financial effort and result; and

(B) classification of financial information by function to facilitate correlation with reserve and operating statistics, both domestic and foreign.

(3) Such other information, projections, and relationships of collected data as shall be necessary to facilitate the compilation of such data base.

(Pub. L. 94–163, title V, §503, Dec. 22, 1975, 89 Stat. 958; Pub. L. 95–91, title III, §301, title IV, §402, title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 583, 606, 607; Pub. L. 105–388, §5(a)(15), Nov. 13, 1998, 112 Stat. 3479; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

EDITORIAL NOTES

AMENDMENTS

2004—Subsec. (b)(1). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office".

1998—Subsec. (b). Pub. L. 105–388, §5(a)(15)(A), substituted "with respect to" for "with repect to" in concluding provisions.

Subsec. (c)(1). Pub. L. 105–388, §5(a)(15)(B), substituted ", controlling," for "controlling" in concluding provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Secretary" and "Federal Energy Regulatory Commission" substituted for "Federal Energy Administration" and "Federal Power Commission", respectively, in subsec. (b)(1) pursuant to sections 301, 402, 703, and 707 of Pub. L. 95–91, which are classified to sections 7151, 7172, 7293, and 7297 of this title and which terminated the Federal Energy Administration and transferred its functions (with certain exceptions) to the Secretary of Energy and terminated the Federal Power Commission and transferred its functions to the Federal Energy Regulatory Commission and the Secretary of Energy.

§6384. Enforcement

(a) Civil penalties

Any person who violates any general or special order of the Comptroller General issued under section 6382(a)(1)(B) of this title may be assessed a civil penalty not to exceed $10,000 for each violation. Each day of failure to comply with such an order shall be deemed a separate violation. Such penalty shall be assessed by the Comptroller General and collected in a civil action brought by the Comptroller General through any attorney employed by the Government Accountability Office or any other attorney designated by the Comptroller General, or, upon request of the Comptroller General, the Attorney General. A person shall not be liable with respect to any period during which the effectiveness of the order with respect to such person was stayed.

(b) Jurisdiction; process

Any action to enjoin or set aside an order issued under section 6382(a)(1)(B) of this title may be brought only before the United States Court of Appeals for the District of Columbia. Any action to collect a civil penalty for violation of any general or special order may be brought only in the United States District Court for the District of Columbia. In any action brought under subsection (a) to collect a civil penalty, process may be served in any judicial district of the United States.

(c) Securing compliance with subpena

Upon petition by the Comptroller General through any attorney employed by the Government Accountability Office or designated by the Comptroller General, or, upon request of the Comptroller General, the Attorney General, any United States district court within the jurisdiction of which any inquiry under this part is carried on may, in the case of refusal to obey a subpena of the Comptroller General issued under this part, issue an order requiring compliance therewith; and any failure to obey the order of the court may be treated by the court as a contempt thereof.

(Pub. L. 94–163, title V, §504, Dec. 22, 1975, 89 Stat. 959; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

EDITORIAL NOTES

AMENDMENTS

2004—Subsecs. (a), (c). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office".

§6385. Petroleum product information

The President or his delegate shall, pursuant to authority otherwise available to the President or his delegate under any other provision of law, collect information on the pricing, supply, and distribution of petroleum products by product category at the wholesale and retail levels, on a State-by-State basis, which was collected as of September 1, 1981, by the Energy Information Administration.

(Pub. L. 94–163, title V, §507, as added Pub. L. 97–229, §5(a), Aug. 3, 1982, 96 Stat. 252.)

PART B—GENERAL PROVISIONS

§6391. Prohibited actions

(a) Unreasonable classifications and differentiations

Action taken under the authorities to which this section applies, resulting in the allocation of petroleum products or electrical energy among classes of users or resulting in restrictions on use of petroleum products and electrical energy shall not be based upon unreasonable classifications of, or unreasonable differentiations between, classes of users. In making any such allocation the President, or any agency of the United States to which such authority is delegated, shall give consideration to the need to foster reciprocal and nondiscriminatory treatment by foreign countries of United States citizens engaged in commerce in those countries.

(b) Unreasonably disproportionate share of burdens between segments of business community

To the maximum extent practicable, any restriction under authorities to which this section applies on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden of such restriction on all sectors of the economy, without imposing an unreasonably disproportionate share of such burden on any specific class of industry, business, or commercial enterprise, or on any individual segment thereof. In prescribing any such restriction, due consideration shall be given to the needs of commercial, retail, and service establishments whose normal function is to supply goods or services of an essential convenience nature during times of day other than conventional daytime working hours.

(c) Authorities to which section applies

This section applies to actions under any of the following authorities:

(1) titles I and II of this Act (other than any provision of such titles which amends another law).

(2) this title.[1]

(3) the Emergency Petroleum Allocation Act of 1973.[1]

(Pub. L. 94–163, title V, §521, Dec. 22, 1975, 89 Stat. 960.)

EDITORIAL NOTES

REFERENCES IN TEXT

Title I of this Act, referred to in subsec. (c)(1), is title I of Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 875, which is classified principally to subchapter I (§6211 et seq.) of this chapter. For complete classification of title I to the Code, see Tables.

Title II of this Act, referred to in subsec. (c)(1), is title II of Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 890, which is classified generally to subchapter II (§6271 et seq.) of this chapter. For complete classification of title II to the Code, see Tables.

This title, referred to in subsec. (c)(2), is title V of Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 956, which is classified principally to this subchapter. For complete classification of title V to the Code, see Tables.

The Emergency Petroleum Allocation Act of 1973, referred to in subsec. (c)(3), is Pub. L. 93–159, Nov. 27, 1973, 87 Stat. 628, which was classified generally to chapter 16A (§751 et seq.) of Title 15, Commerce and

Trade, and was omitted from the Code pursuant to section 760g of Title 15, which provided for the expiration of the President's authority under that chapter on Sept. 30, 1981.

[1] *See References in Text note below.*

§6392. Repealed. Pub. L. 104–106, div. D, title XLIII, §4304(b)(8), Feb. 10, 1996, 110 Stat. 664

Section, Pub. L. 94–163, title V, §522, Dec. 22, 1975, 89 Stat. 961; Pub. L. 95–91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288, related to conflicts of interest.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

For effective date and applicability of repeal, see section 4401 of Pub. L. 104–106, set out as an Effective Date of 1996 Amendment note under section 2220 of Title 10, Armed Forces.

§6393. Administrative procedure and judicial review

(a)(1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5 shall apply to any rule, regulation, or order having the applicability and effect of a rule as defined in section 551(4) of title 5 issued under title I (other than section 103 [1] thereof) and title II of this Act, or this title [1] (other than any provision of such titles which amends another law).

(2)(A) Notice of any proposed rule, regulation, or order described in paragraph (1) which is substantive and of general applicability shall be given by publication of such proposed rule, regulation, or order in the Federal Register. In each case, a minimum of 30 days following the date of such publication and prior to the effective date of the rule shall be provided for opportunity to comment; except that the 30-day period for opportunity to comment prior to the effective date of the rule may be—

(i) reduced to no less than 10 days if the President finds that strict compliance would seriously impair the operation of the program to which such rule, regulation, or order relates and such findings are set out in such rule, regulation, or order, or

(ii) waived entirely, if the President finds that such waiver is necessary to act expeditiously during an emergency affecting the national security of the United States.

(B) Public notice of any rule, regulation, or order which is substantive and of general applicability which is promulgated by officers of a State or political subdivision thereof or to State or local boards which have been delegated authority pursuant to title I or II of this Act or this title (other than any provision of such title) [2] which amend [3] another law shall, to the maximum extent practicable, be achieved by publication of such rules, regulations, or orders in a sufficient number of newspapers of general circulation calculated to receive widest practicable notice.

(3) In addition to the requirements of paragraph (2) and to the maximum extent practicable, an opportunity for oral presentation of data, views, and arguments shall be afforded and such opportunity shall be afforded prior to the effective date of such rule, regulation, or order, but in all cases such opportunity shall be afforded no later than 45 days, and no later than 10 days (in the case of a waiver of the entire comment period under paragraph (2) (ii)), after such date. A transcript shall be made of any oral presentation.

(4) Any officer or agency authorized to issue rules, regulations, or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act as may be necessary to prevent special hardship, inequity, or an unfair distribution of burdens and

shall in rules prescribed by it establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules, regulations and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) or other applicable law when such denial becomes final. The officer or agency shall, by rule, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this paragraph.

(b) The procedures for judicial review established by section 211 of the Economic Stabilization Act of 1970 shall apply to proceedings to which subsection (a) applies, as if such proceedings took place under such Act. Such procedures for judicial review shall apply notwithstanding the expiration of the Economic Stabilization Act of 1970.

(c) Any agency authorized to issue any rule, regulation, or order described in subsection (a)(1) shall, upon written request of any person, which request is filed after any grant or denial of a request for exception or exemption from any such rule, regulation, or order, furnish such person, within 30 days after the date on which such request is filed, with a written opinion setting forth applicable facts and the legal basis in support of such grant or denial.

(Pub. L. 94–163, title V, §523, Dec. 22, 1975, 89 Stat. 962.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(1), (2)(B), (4), is Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 871, known as the Energy Policy and Conservation Act. Title I of the Act is classified principally to subchapter I (§6211 et seq.) of this chapter. Section 103 of the Act was classified to section 6212 of this title, prior to repeal by Pub. L. 114–113, div. O, title I, §101(a), Dec. 18, 2015, 129 Stat. 2987. Title II of the Act is classified generally to subchapter II (§6271 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

This title, referred to in subsec. (a)(1), (2)(B), is title V of Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 956, which is classified principally to this subchapter. For complete classification of title V to the Code, see Tables.

The Economic Stabilization Act of 1970, referred to in subsec. (b), is title II of Pub. L. 91–379, Aug. 15, 1970, 84 Stat. 799, formerly set out as an Economic Stabilization Provisions note under section 1904 of Title 12, Banks and Banking.

[1] See References in Text note below.

[2] So in original. The closing parenthesis probably should follow "another law".

[3] So in original. Probably should be "amends".

§6394. Prohibited acts

It shall be unlawful for any person—

(1) to violate any provision of title I or title II of this Act or this title [1] (other than any provision of such titles which amend [2] another law),

(2) to violate any rule, regulation, or order issued pursuant to any such provision or any provision of section 383 of this Act [42 U.S.C. 6363]; or

(3) to fail to comply with any provision prescribed in, or pursuant to, an energy conservation contingency plan which is in effect.

(Pub. L. 94–163, title V, §524, Dec. 22, 1975, 89 Stat. 963.)

EDITORIAL NOTES

REFERENCES IN TEXT

Title I of this Act, referred to in par. (1), is title I of Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 875, which is classified principally to subchapter I (§6211 et seq.) of this chapter. For complete classification of title I to the Code, see Tables.

Title II of this Act, referred to in par. (1), is title II of Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 890, which is classified generally to subchapter II (§6271 et seq.) of this chapter. For complete classification of title II to the Code, see Tables.

This title, referred to in par. (1), is title V of Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 956, which is classified principally to this subchapter. For complete classification of title V to the Code, see Tables.

[1] *See References in Text note below.*

[2] *So in original. Probably should be "amends".*

§6395. Enforcement

(a) Civil penalty

Whoever violates section 6394 of this title shall be subject to a civil penalty of not more than $5,000 for each violation.

(b) Penalty for willful violation

Whoever willfully violates section 6394 of this title shall be fined not more than $10,000 for each violation.

(c) Penalty for violation after having been subjected to civil penalty for prior violation

Any person who knowingly and willfully violates section 6394 of this title with respect to the sale, offer of sale, or distribution in commerce of a product or commodity after having been subjected to a civil penalty for a prior violation of section 6394 of this title with respect to the sale, offer of sale, or distribution in commerce of such product or commodity shall be fined not more than $50,000 or imprisoned not more than 6 months, or both.

(d) Injunction action by Attorney General

Whenever it appears to any officer or agency of the United States in whom is vested, or to whom is delegated, authority under this chapter that any person has engaged, is engaged, or is about to engage in acts or practices constituting a violation of section 6394 of this title, such officer or agency may request the Attorney General to bring an action in an appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with any rule, regulation, or order described in section 6394 of this title.

(e) Private right of action

(1) Any person suffering legal wrong because of any act or practice arising out of any violation of any provision of this chapter described in paragraph (2), may bring an action in an appropriate district court of the United States without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment or writ of injunction. Nothing in this subsection shall authorize any person to recover damages.

(2) The provisions of this chapter referred to in paragraph (1) are as follows:

(A) Section 6262 [1] of this title (relating to energy conservation plans).
(B) Section 6271 of this title (relating to international oil allocation).
(C) Section 6272 of this title (relating to international voluntary agreements).
(D) Section 6273 of this title (relating to advisory committees).

(E) Section 6274 of this title (relating to international exchange of information).
(F) Section 6391 of this title (relating to prohibition on certain actions).

(Pub. L. 94–163, title V, §525, Dec. 22, 1975, 89 Stat. 963.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (d) and (e), was in the original "this Act", meaning Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 871, known as the Energy Policy and Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

Section 6262 of this title, referred to in subsec. (e)(2)(A), was repealed by Pub. L. 106–469, title I, §104(1), Nov. 9, 2000, 114 Stat. 2033.

[1] *See References in Text note below.*

§6396. State laws or programs

No State law or State program in effect on December 22, 1975, or which may become effective thereafter, shall be superseded by any provision of title I or II of this Act (other than any provision of such title which amends another law) or any rule, regulation, or order thereunder, except insofar as such State law or State program is in conflict with such provision, rule, regulation, or order.

(Pub. L. 94–163, title V, §526, Dec. 22, 1975, 89 Stat. 964.)

EDITORIAL NOTES

REFERENCES IN TEXT

Title I of this Act, referred to in par. (1), is title I of Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 875, which is classified principally to subchapter I (§6211 et seq.) of this chapter. For complete classification of title I to the Code, see Tables.

Title II of this Act, referred to in par. (1), is title II of Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 890, which is classified generally to subchapter II (§6271 et seq.) of this chapter. For complete classification of title II to the Code, see Tables.

§6397. Repealed. Pub. L. 95–619, title VI, §691(b)(1), Nov. 9, 1978, 92 Stat. 3288

Section, Pub. L. 94–163, title V, §527, Dec. 22, 1975, 89 Stat. 964, related to transfer of authority on termination of Federal Energy Administration.

§6398. Authorization of appropriations

Any authorization of appropriations in this Act, or in any amendment to any other law made by this Act, for the fiscal year 1976 shall be deemed to include an additional authorization of appropriations for the period beginning July 1, 1976, and ending September 30, 1976, in amounts which equal one-fourth of any amount authorized for fiscal year 1976, unless appropriations for the same purpose are specifically authorized in a law hereinafter enacted.

(Pub. L. 94–163, title V, §528, Dec. 22, 1975, 89 Stat. 964.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 871, known as the Energy

Policy and Conservation Act, which is classified principally to this chapter (§6201 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

§6399. Intrastate natural gas

No provision of this chapter shall permit the imposition of any price controls on, or require any allocation of, natural gas not subject to the jurisdiction of the Secretary or the Federal Energy Regulatory Commission.

(Pub. L. 94–163, title V, §529, Dec. 22, 1975, 89 Stat. 964; Pub. L. 95–91, title III, §301(a), title IV, §402, title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 583, 606, 607.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 871, known as the Energy Policy and Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Secretary or the Federal Energy Regulatory Commission" substituted for "Federal Power Commission" pursuant to sections 301(a), 402, 703, and 707 of Pub. L. 95–91, which are classified to sections 7151(a), 7172, 7293, and 7297 of this title and which terminated the Federal Power Commission and transferred its functions to the Federal Energy Regulatory Commission and the Secretary of Energy.

§6400. Limitation on loan guarantees

Loan guarantees and obligation guarantees under this Act or any amendment to another law made by this Act may not be issued in violation of any limitation in appropriations or other Acts, with respect to the amounts of outstanding obligational authority.

(Pub. L. 94–163, title V, §530, Dec. 22, 1975, 89 Stat. 964.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 871, known as the Energy Policy and Conservation Act, which is classified principally to this chapter (§6201 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

§6401. Repealed. Pub. L. 99–58, title I, §104(c)(3), July 2, 1985, 99 Stat. 105

Section, Pub. L. 94–163, title V, §531, Dec. 22, 1975, 89 Stat. 965, provided for the expiration of all authority under subchapters I and II of this chapter at midnight June 30, 1985.

PART C—CONGRESSIONAL REVIEW

§6421. Procedure for Congressional review of Presidential requests to implement

certain authorities

(a) "Energy action" defined

For purposes of this section, the term "energy action" means any matter required to be transmitted, or submitted to the Congress in accordance with the procedures of this section.

(b) Transmittal of energy action to Congress

The President shall transmit any energy action (bearing an identification number) to both Houses of Congress on the same day. If both Houses are not in session on the day any energy action is received by the appropriate officers of each House, for purposes of this section such energy action shall be deemed to have been transmitted on the first succeeding day on which both Houses are in session.

(c) Effective date of energy action

(1) Except as provided in paragraph (2) of this subsection, if energy action is transmitted to the Houses of Congress, such action shall take effect at the end of the first period of 15 calendar days of continuous session of Congress after the date on which such action is transmitted to such Houses, unless between the date of transmittal and the end of such 15-day period, either House passes a resolution stating in substance that such House does not favor such action.

(2) An energy action described in paragraph (1) may take effect prior to the expiration of the 15-calendar-day period after the date on which such action is transmitted, if each House of Congress approves a resolution affirmatively stating in substance that such House does not object to such action.

(d) Computation of period

For the purpose of subsection (c) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 15-calendar-day period.

(e) Provision in energy action for later effective date

Under provisions contained in an energy action, a provision of such an action may take effect on a date later than the date on which such action otherwise takes effect pursuant to the provisions of this section.

(f) Resolutions with respect to energy action

(1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(2) For purposes of this subsection, the term "resolution" means only a resolution of either House of Congress described in subparagraph (A) or (B) of this paragraph.

(A) A resolution the matter after the resolving clause of which is as follows: "That the _____ does not object to the energy action numbered _____ submitted to the Congress on _____, 19____.", the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one energy action.

(B) A resolution the matter after the resolving clause of which is as follows: "That the _____ does not favor the energy action numbered _____ transmitted to Congress on _____, 19____.", the first blank space therein being filled with the name of the resolving House and the

other blank spaces therein being appropriately filled; but does not include a resolution which specifies more than one energy action.

(3) A resolution once introduced with respect to an energy action shall immediately be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4)(A) If the committee to which a resolution with respect to an energy action has been referred has not reported it at the end of 5 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such energy action which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same energy action), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same energy action.

(5)(A) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to; except that it shall be in order—

(i) to offer an amendment in the nature of a substitute, consisting of the text of a resolution described in paragraph (2)(A) of this subsection with respect to an energy action, for a resolution described in paragraph (2)(B) of this subsection with respect to the same such action, or

(ii) to offer an amendment in the nature of a substitute, consisting of the text of a resolution described in paragraph (2)(B) of this subsection with respect to an energy action, for a resolution described in paragraph (2)(A) of this subsection with respect to the same such action.

The amendments described in clauses (i) and (ii) of this subparagraph shall not be amendable.

(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(7) Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to an energy action, then it shall not be in order to consider in that House any other resolution with respect to the same such action.

(Pub. L. 94–163, title V, §551, Dec. 22, 1975, 89 Stat. 965.)

§6422. Expedited procedure for Congressional consideration of certain

authorities

(a) Contingency plan identification number; transmittal of plan to Congress

Any contingency plan transmitted to the Congress pursuant to section 6261(a)(1) [1] of this title shall bear an identification number and shall be transmitted to both Houses of Congress on the same day and to each House while it is in session.

(b) Necessity of Congressional resolution within certain period for plan to be considered approved

(1) No such energy conservation contingency plan may be considered approved for purposes of section 6261(b) [1] of this title unless between the date of transmittal and the end of the first period of 60 calendar days of continuous session of Congress after the date on which such action is transmitted to such House, each House of Congress passes a resolution described in subsection (d)(2)(A).

(2)(A) Subject to subparagraph (B), any such rationing contingency plan shall be considered approved for purposes of section 6261(d) [1] of this title only if such plan is not disapproved by a resolution described in subsection (d)(2)(B)(i) which passes each House of the Congress during the 30-calendar-day period of continuous session after the plan is transmitted to such Houses and which thereafter becomes law.

(B) A rationing contingency plan may be considered approved prior to the expiration of the 30-calendar-day period after such plan is transmitted if a resolution described in subsection (d)(2)(B)(ii) is passed by each House of the Congress and thereafter becomes law.

(c) Computation of period

For the purpose of subsection (b) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the calendar-day period involved.

(d) Resolution with respect to contingency plan

(1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(2)(A) For purposes of applying this section with respect to any energy conservation contingency plan, the term "resolution" means only a resolution of either House of Congress the matter after the resolving clauses of which is as follows: "That the _____ approves the energy conservation contingency plan numbered _____ submitted to the Congress on _____, 19____.", the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one energy conservation contingency plan.

(B) For purposes of applying this subsection with respect to any rationing contingency plan (other than pursuant to section 6261(d)(2)(B) [1] of this title), the term "resolution" means only a joint resolution described in clause (i) or (ii) of this subparagraph with respect to such plan.

(i) A joint resolution of either House of the Congress (I) which is entitled: "Joint resolution relating to a rationing contingency plan.", (II) which does not contain a preamble, and (III) the matter after the resolving clause of which is: "That the Congress of the United States disapproves the rationing contingency plan transmitted to the Congress on _____, 19____.", the blank spaces therein appropriately filled.

(ii) A joint resolution of either House of the Congress (I) which is entitled: "Joint resolution relating to a rationing contingency plan.", (II) which does not contain a preamble, and (III) the matter after the resolving clause of which is: "That the Congress of the United States does not object to the rationing contingency plan transmitted to the Congress on _____, 19____.", the blank spaces therein appropriately filled.

(3) A resolution once introduced with respect to a contingency plan shall immediately be referred to a committee (and all resolutions with respect to the same contingency plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4)(A) If the committee to which a resolution with respect to a contingency plan has been referred has not reported it at the end of 20 calendar days after its referral in the case of any energy conservation contingency plan or at the end of 10 calendar days after its referral in the case of any rationing contingency plan, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such contingency plan which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same contingency plan), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. Except to the extent provided in paragraph (7)(A), an amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same contingency plan.

(5)(A) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. Except to the extent provided in paragraph (7)(B), an amendment to, or motion to recommit the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedures relating to a resolution shall be decided without debate.

(7) With respect to any rationing contingency plan—

(A) In the consideration of any motion to discharge any committee from further consideration of any resolution on any such plan, it shall be in order after debate allowed for under paragraph (4)(B) to offer an amendment in the nature of a substitute for such motion—

(i) consisting of a motion to discharge such committee from further consideration of a resolution described in paragraph (2)(B)(i) with respect to any rationing contingency plan, if the discharge motion sought to be amended relates to a resolution described in paragraph (2)(B)(ii) with respect to the same such plan, or

(ii) consisting of a motion to discharge such committee from further consideration of a resolution described in paragraph (2)(B)(ii) with respect to any rationing contingency plan, if

the discharge motion sought to be amended relates to a resolution described in paragraph (2)(B)(i) with respect to the same such plan.

An amendment described in this subparagraph shall not be amendable. Debate on such an amendment shall be limited to not more than 1 hour, which shall be divided equally between those favoring and those opposing the amendment.

(B) In the consideration of any resolution on any such plan which has been reported by a committee, it shall be in order at any time during the debate allowed for under paragraph (5)(B) to offer an amendment in the nature of a substitute for such resolution—

(i) consisting of the text of a resolution described in paragraph (2)(B)(i) with respect to any rationing contingency plan, if the resolution sought to be amended is a resolution described in paragraph (2)(B)(ii) with respect to the same such plan, or

(ii) consisting of the text of a resolution described in paragraph (2)(B)(ii) with respect to any rationing contingency plan, if the resolution sought to be amended is a resolution described in paragraph (2)(B)(i) with respect to the same such plan.

An amendment described in this subparagraph shall not be amendable.

(C) If one House receives from the other House a resolution with respect to a rationing contingency plan, then the following procedure applies:

(i) the resolution of the other House with respect to such plan shall not be referred to a committee;

(ii) in the case of a resolution of the first House with respect to such plan—

(I) the procedure with respect to that or other resolutions of such House with respect to such plan shall be the same as if no resolution from the other House with respect to such plan had been received; but

(II) on any vote on final passage of a resolution of the first House with respect to such plan a resolution from the other House with respect to such plan which has the same effect shall be automatically substituted for the resolution of the first House.

(D) Notwithstanding any of the preceding provisions of this subsection, if a House has approved a resolution with respect to a rationing contingency plan, then it shall not be in order to consider in that House any other resolution under this section with respect to the approval of such plan.

(Pub. L. 94–163, title V, §552, Dec. 22, 1975, 89 Stat. 967; Pub. L. 96–102, title I, §§103(b)(2), 105(a)(4), (b)(6), Nov. 5, 1979, 93 Stat. 753, 756; Pub. L. 105–388, §5(a)(16), Nov. 13, 1998, 112 Stat. 3479.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 6261 of this title, referred to in subsecs. (a), (b)(1), (2)(A), and (d)(2)(B), was repealed by Pub. L. 106–469, title I, §104(1), Nov. 9, 2000, 114 Stat. 2033.

AMENDMENTS

1998—Subsec. (d)(5)(A). Pub. L. 105–388 substituted "motion" for "notion" after "amendment to the".

1979—Subsec. (b). Pub. L. 96–102, §§103(b)(2)(A), 105(b)(6), designated existing provisions as par. (1) and substituted "No such energy conservation contingency plan" for "No such contingency plan", "section 6261(b)" for "section 6261(a)(2)", and "subsection (d)(2)(A)" for "subsection (d)(2)", and added par. (2).

Subsec. (c)(2). Pub. L. 96–102, §103(b)(2)(B), substituted "calendar-day period involved" for "60-calendar-day period".

Subsec. (d)(2). Pub. L. 96–102, §§103(b)(2)(C), 105(a)(4), designated existing provisions as subpar. (A), substituted "For purposes of applying this section with respect to any energy conservation contingency plan" for "For purposes of this subsection" and "energy conservation contingency plan" for "contingency plan" in two places, and added subpar. (B).

Subsec. (d)(4)(A). Pub. L. 96–102, §103(b)(2)(D), inserted "in the case of any energy conservation

contingency plan or at the end of 10 calendar days after its referral in the case of any rationing contingency plan" after "after its referral".

Subsec. (d)(4)(B). Pub. L. 96–102, §103(b)(2)(E), substituted "Except to the extent provided in paragraph (7)(A), an amendment" for "An amendment".

Subsec. (d)(5)(B). Pub. L. 96–102, §103(b)(2)(F), substituted "Except to the extent provided in paragraph (7)(B), an amendment" for "An amendment".

Subsec. (d)(7). Pub. L. 96–102, §103(b)(2)(G), added par. (7).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–102 effective Nov. 5, 1979, see section 302 of Pub. L. 96–102, set out as an Effective Date note under section 8501 of this title.

[1] *See References in Text note below.*

CHAPTER 78—NATIONAL PETROLEUM RESERVE IN ALASKA

Sec.

6501. "Petroleum" defined.

6502. Designation of National Petroleum Reserve in Alaska; reservation of lands; disposition and conveyance of mineral materials, lands, etc., preexisting property rights.

6503. Transfer of jurisdiction, duties, property, etc., to Secretary of the Interior from Secretary of Navy.

6504. Administration of reserve.

6505. Executive department responsibility for studies to determine procedures used in development, production, transportation, and distribution of petroleum resources in reserve; reports to Congress by President; establishment of task force by Secretary of the Interior; purposes; membership; report and recommendations to Congress by Secretary; contents.

6506. Applicability of antitrust provisions; plans and proposals submitted to Congress to contain report by Attorney General on impact of plans and proposals on competition.

6506a. Competitive leasing of oil and gas.

6507. Authorization of appropriations; Federal financial assistance for increased municipal services and facilities in communities located on or near reserve resulting from authorized exploration and study activities.

6508. Transferred.

§6501. "Petroleum" defined

As used in this chapter, the term "petroleum" includes crude oil, gases (including natural gas), natural gasoline, and other related hydrocarbons, oil shale, and the products of any of such resources.

(Pub. L. 94–258, title I, §101, Apr. 5, 1976, 90 Stat. 303.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 94–258, §1, Apr. 5, 1976, 90 Stat. 303, provided: "That this Act [enacting this chapter and section 7420 of Title 10, Armed Forces, and amending section 6244 of this title and sections 7421 to 7436 and 7438 of Title 10] may be cited as the 'Naval Petroleum Reserves Production Act of 1976'."

§6502. Designation of National Petroleum Reserve in Alaska; reservation of lands; disposition and conveyance of mineral materials, lands, etc., preexisting property rights

The area known as Naval Petroleum Reserve Numbered 4, Alaska, established by Executive order of the President, dated February 27, 1923, except for tract Numbered 1 as described in Public Land Order 2344, dated April 24, 1961, shall be transferred to and administered by the Secretary of the Interior in accordance with the provisions of this Act. Effective on the date of transfer all lands within such area shall be redesignated as the "National Petroleum Reserve in Alaska" (hereinafter in this chapter referred to as the "reserve"). Subject to valid existing rights, all lands within the exterior boundaries of such reserve are hereby reserved and withdrawn from all forms of entry and disposition under the public land laws, including the mining and mineral leasing laws, and all other Acts; but the Secretary is authorized to (1) make dispositions of mineral materials pursuant to the Act of July 31, 1947 (61 Stat. 681), as amended [30 U.S.C. 601 et seq.], for appropriate use by Alaska Natives and the North Slope Borough, (2) make such dispositions of mineral materials and grant such rights-of-way, licenses, and permits as may be necessary to carry out his responsibilities under this Act, (3) convey the surface of lands properly selected on or before December 18, 1975, by Native village corporations pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], and (4) grant such rights-of-way to the North Slope Borough, under the provisions of title V of the Federal Land Policy and Management Act of 1976 [43 U.S.C. 1761 et seq.] or section 28 of the Mineral Leasing Act, as amended [30 U.S.C. 185], as may be necessary to permit the North Slope Borough to provide energy supplies to villages on the North Slope. All other provisions of law heretofore enacted and actions heretofore taken reserving such lands as a Naval Petroleum Reserve shall remain in full force and effect to the extent not inconsistent with this Act.

(Pub. L. 94–258, title I, §102, Apr. 5, 1976, 90 Stat. 303; Pub. L. 98–366, §4(a), July 17, 1984, 98 Stat. 470.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 94–258, Apr. 5, 1976, 90 Stat. 303, known as the Naval Petroleum Reserves Production Act of 1976, which enacted this chapter and section 7420 of Title 10, Armed Forces, and amended section 6244 of this title and sections 7421 to 7436 and 7438 of Title 10. For complete classification of this Act to the Code, see Short Note set out under section 6501 of this title and Tables.

Act of July 31, 1947 (61 Stat. 681), referred to in text, popularly known as the Materials Act of 1947, is classified generally to subchapter I (§601 et seq.) of chapter 15 of Title 30. For complete classification of this Act to the Code, see Short Title note set out under section 601 of Title 30 and Tables.

The Alaska Native Claims Settlement Act, referred to in text, is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

The Federal Land Policy and Management Act of 1976, referred to in text, is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743. Title V of the Federal Land Policy and Management Act of 1976 is classified generally to subchapter V (§1761 et seq.) of chapter 35 of Title 43. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

AMENDMENTS

1984—Pub. L. 98–366 inserted "and the North Slope Borough" after "Alaska Natives", struck out "and" after "responsibilities under this Act," and inserted ", and (4) grant rights-of-way to the North Slope Borough, under the provisions of title V of the Federal Land Policy and Management Act of 1976 or section 28 of the Mineral Leasing Act, as amended, as may be necessary to permit the North Slope Borough to provide energy supplies to the villages on the North Slope".

§6503. Transfer of jurisdiction, duties, property, etc., to Secretary of the Interior

from Secretary of Navy

(a) Transfer of jurisdiction over reserve; date of transfer

Jurisdiction over the reserve shall be transferred by the Secretary of the Navy to the Secretary of the Interior on June 1, 1977.

(b) Protection of environmental, fish and wildlife, and historical or scenic values; promulgation of rules and regulations

With respect to any activities related to the protection of environmental, fish and wildlife, and historical or scenic values, the Secretary of the Interior shall assume all responsibilities as of April 5, 1976. As soon as possible, but not later than the effective date of transfer, the Secretary of the Interior may promulgate such rules and regulations as he deems necessary and appropriate for the protection of such values within the reserve.

(c) Contract responsibilities and functions

The Secretary of the Interior shall, upon the effective date of the transfer of the reserve, assume the responsibilities and functions of the Secretary of the Navy under any contracts which may be in effect with respect to activities within the reserve.

(d) Equipment, facilities, and other properties used in connection with operation of reserve; transfer without reimbursement

On the date of transfer of jurisdiction of the reserve, all equipment, facilities, and other property of the Department of the Navy used in connection with the operation of the reserve, including all records, maps, exhibits, and other informational data held by the Secretary of the Navy in connection with the reserve, shall be transferred without reimbursement from the Secretary of the Navy to the Secretary of the Interior who shall thereafter be authorized to use them to carry out the provisions of this chapter.

(e) Unexpended funds previously appropriated for use in connection with reserve and civilian personnel ceilings assigned to management and operation of reserve

On the date of transfer of jurisdiction of the reserve, the Secretary of the Navy shall transfer to the Secretary of the Interior all unexpended funds previously appropriated for use in connection with the reserve and all civilian personnel ceilings assigned by the Secretary of the Navy to the management and operation of the reserve as of January 1, 1976.

(Pub. L. 94–258, title I, §103, Apr. 5, 1976, 90 Stat. 303.)

§6504. Administration of reserve

(a) Conduct of exploration within designated areas to protect surface values

Any exploration within the Utukok River, the Teshekpuk Lake areas, and other areas designated by the Secretary of the Interior containing any significant subsistence, recreational, fish and wildlife, or historical or scenic value, shall be conducted in a manner which will assure the maximum protection of such surface values to the extent consistent with the requirements of this Act for the exploration of the reserve.

(b) Continuation of ongoing petroleum exploration program by Secretary of Navy prior to date of transfer of jurisdiction; duties of Secretary of Navy prior to transfer date

The Secretary of the Navy shall continue the ongoing petroleum exploration program within the reserve until the date of the transfer of jurisdiction specified in section 6503(a) of this title. Prior to the date of such transfer of jurisdiction the Secretary of the Navy shall—

(1) cooperate fully with the Secretary of the Interior providing him access to such facilities and such information as he may request to facilitate the transfer of jurisdiction;

(2) provide to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives copies of any reports, plans, or

contracts pertaining to the reserve that are required to be submitted to the Committees on Armed Services of the Senate and the House of Representatives; and

(3) cooperate and consult with the Secretary of the Interior before executing any new contract or amendment to any existing contract pertaining to the reserve and allow him a reasonable opportunity to comment on such contract or amendment, as the case may be.

(c) Commencement of petroleum exploration by Secretary of the Interior as of date of transfer of jurisdiction; powers and duties of Secretary of the Interior in conduct of exploration

The Secretary of the Interior shall commence further petroleum exploration of the reserve as of the date of transfer of jurisdiction specified in section 6503(a) of this title. In conducting this exploration effort, the Secretary of the Interior—

(1) is authorized to enter into contracts for the exploration of the reserve, except that no such contract may be entered into until at least thirty days after the Secretary of the Interior has provided the Attorney General with a copy of the proposed contract and such other information as may be appropriate to determine legal sufficiency and possible violations under, or inconsistencies with, the antitrust laws. If, within such thirty day period, the Attorney General advises the Secretary of the Interior that any such contract would unduly restrict competition or be inconsistent with the antitrust laws, then the Secretary of the Interior may not execute that contract;

(2) shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives any new plans or substantial amendments to ongoing plans for the exploration of the reserve. All such plans or amendments submitted to such committees pursuant to this section shall contain a report by the Attorney General of the United States with respect to the anticipated effects of such plans or amendments on competition. Such plans or amendments shall not be implemented until sixty days after they have been submitted to such committees; and

(3) shall report annually to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives on the progress of, and future plans for, exploration of the reserve.

(Pub. L. 94–258, title I, §104, Apr. 5, 1976, 90 Stat. 304; Pub. L. 98–366, §4(b), July 17, 1984, 98 Stat. 470; Pub. L. 103–437, §15(q), Nov. 2, 1994, 108 Stat. 4594; Pub. L. 109–58, title III, §347(c), Aug. 8, 2005, 119 Stat. 708.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 94–258, Apr. 5, 1976, 90 Stat. 303, known as the Naval Petroleum Reserves Production Act of 1976, which enacted this chapter and section 7420 of Title 10, Armed Forces, and amended section 6244 of this title and sections 7421 to 7436 and 7438 of Title 10. For complete classification of this Act to the Code, see Short Note set out under section 6501 of this title and Tables.

AMENDMENTS

2005—Pub. L. 109–58 redesignated subsecs. (b) to (d) as (a) to (c), respectively, and struck out former subsec. (a) which read as follows: "Except as provided in subsection (e) of this section, production of petroleum from the reserve is prohibited and no development leading to production of petroleum from the reserve shall be undertaken until authorized by an Act of Congress."

1994—Subsecs. (c)(2), (d)(2), (3). Pub. L. 103–437 substituted "Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House" for "Committees on Interior and Insular Affairs of the Senate and the House".

1984—Subsec. (e). Pub. L. 98–366 struck out subsec. (e) which read as follows: "Until the reserve is transferred to the jurisdiction of the Secretary of the Interior, the Secretary of the Navy is authorized to develop and continue operation of the South Barrow gas field, or such other fields as may be necessary, to supply gas at reasonable and equitable rates to the native village of Barrow, and other communities and installations at or near Point Barrow, Alaska, and to installations of the Department of Defense and other agencies of the United States located at or near Point Barrow, Alaska. After such transfer, the Secretary of the

Interior shall take such actions as may be necessary to continue such service to such village, communities, installations, and agencies at reasonable and equitable rates."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98–366, §4(b), July 17, 1984, 98 Stat. 470, provided that the amendment made by that section is effective Oct. 1, 1984.

§6505. Executive department responsibility for studies to determine procedures used in development, production, transportation, and distribution of petroleum resources in reserve; reports to Congress by President; establishment of task force by Secretary of the Interior; purposes; membership; report and recommendations to Congress by Secretary; contents

(a) Omitted

(b)(1) The President shall direct such Executive departments and/or agencies as he may deem appropriate to conduct a study, in consultation with representatives of the State of Alaska, to determine the best overall procedures to be used in the development, production, transportation, and distribution of petroleum resources in the reserve. Such study shall include, but shall not be limited to, a consideration of—

(A) the alternative procedures for accomplishing the development, production, transportation, and distribution of the petroleum resources from the reserve, and

(B) the economic and environmental consequences of such alternative procedures.

(2) The President shall make semiannual progress reports on the implementation of this subsection to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives beginning not later than six months after April 5, 1976, and shall, not later than one year after the transfer of jurisdiction of the reserve, and annually thereafter, report any findings or conclusions developed as a result of such study together with appropriate supporting data and such recommendations as he deems desirable. The study shall be completed and submitted to such committees, together with recommended procedures and any proposed legislation necessary to implement such procedures not later than January 1, 1980.

(c)(1) The Secretary of the Interior shall establish a task force to conduct a study to determine the values of, and best uses for, the lands contained in the reserve, taking into consideration (A) the natives who live or depend upon such lands, (B) the scenic, historical, recreational, fish and wildlife, and wilderness values, (C) mineral potential, and (D) other values of such lands.

(2) Such task force shall be composed of representatives from the government of Alaska, the Arctic slope native community, and such offices and bureaus of the Department of the Interior as the Secretary of the Interior deems appropriate, including, but not limited to, the Bureau of Land Management, the United States Fish and Wildlife Service, the United States Geological Survey, and the United States Bureau of Mines.

(3) The Secretary of the Interior shall submit a report, together with the concurring or dissenting views, if any, of any non-Federal representatives of the task force, of the results of such study to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives within three years after April 5, 1976, and shall include in such report his recommendations with respect to the value, best use, and appropriate designation of the lands referred to in paragraph (1).

(Pub. L. 94–258, title I, §105, Apr. 5, 1976, 90 Stat. 305; Pub. L. 102–285, §10(b), May 18, 1992, 106 Stat. 172.)

EDITORIAL NOTES

CODIFICATION

Subsec. (a) of this section amended former section 6244 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"United States Bureau of Mines" substituted for "Bureau of Mines" in subsec. (c)(2) pursuant to section 10(b) of Pub. L. 102–285, set out as a note under section 1 of Title 30, Mineral Lands and Mining. For provisions relating to closure and transfer of functions of the United States Bureau of Mines, see note set out under section 1 of Title 30, Mineral Lands and Mining.

Committee on Interior and Insular Affairs of Senate abolished and replaced by Committee on Energy and Natural Resources of Senate, effective Feb. 11, 1977. See Rule XXV of Standing Rules of Senate, as amended by Senate Resolution No. 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§6506. Applicability of antitrust provisions; plans and proposals submitted to Congress to contain report by Attorney General on impact of plans and proposals on competition

Unless otherwise provided by Act of Congress, whenever development leading to production of petroleum is authorized, the provisions of subsections (g), (h), and (i) of section 8730 of title 10 shall be deemed applicable to the Secretary of the Interior with respect to rules and regulations, plans of development and amendments thereto, and contracts and operating agreements. All plans and proposals submitted to the Congress under this chapter or pursuant to legislation authorizing development leading to production shall contain a report by the Attorney General of the United States on the anticipated effects upon competition of such plans and proposals.

(Pub. L. 94–258, title I, §106, Apr. 5, 1976, 90 Stat. 306; Pub. L. 115–232, div. A, title VIII, §809(n)(1), Aug. 13, 2018, 132 Stat. 1844.)

EDITORIAL NOTES

AMENDMENTS

2018—Pub. L. 115–232 substituted "section 8730 of title 10" for "section 7430 of title 10".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of Title 10, Armed Forces.

§6506a. Competitive leasing of oil and gas

(a) In general

The Secretary shall conduct an expeditious program of competitive leasing of oil and gas in the Reserve in accordance with this Act.

(b) Mitigation of adverse effects

Activities undertaken pursuant to this Act shall include or provide for such conditions, restrictions, and prohibitions as the Secretary deems necessary or appropriate to mitigate reasonably foreseeable and significantly adverse effects on the surface resources of the National Petroleum Reserve in Alaska.

(c) Land use planning; BLM wilderness study

The provisions of section 1712 and section 1782 of title 43 shall not be applicable to the Reserve.

(d) First lease sale

The; [1] first lease sale shall be conducted within twenty months of December 12, 1980: *Provided*, That the first lease sale shall be conducted only after publication of a final environmental impact statement if such is deemed necessary under the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(e) Withdrawals

The withdrawals established by section 6502 of this title are rescinded for the purposes of the oil and gas leasing program authorized under this section.

(f) Bidding systems

Bidding systems used in lease sales shall be based on bidding systems included in section 205(a)(1)(A) through (H) [2] of the Outer Continental Shelf Lands Act Amendments of 1978 (92 Stat. 629).

(g) Geological structures

Lease tracts may encompass identified geological structures.

(h) Size of lease tracts

The size of lease tracts may be up to sixty thousand acres, as determined by the Secretary.

(i) Terms

(1) In general

Each lease shall be issued for an initial period of not more than 10 years, and shall be extended for so long thereafter as oil or gas is produced from the lease in paying quantities, oil or gas is capable of being produced in paying quantities, or drilling or reworking operations, as approved by the Secretary, are conducted on the leased land.

(2) Renewal of leases with discoveries

At the end of the primary term of a lease the Secretary shall renew for an additional 10-year term a lease that does not meet the requirements of paragraph (1) if the lessee submits to the Secretary an application for renewal not later than 60 days before the expiration of the primary lease and the lessee certifies, and the Secretary agrees, that hydrocarbon resources were discovered on one or more wells drilled on the leased land in such quantities that a prudent operator would hold the lease for potential future development.

(3) Renewal of leases without discoveries

At the end of the primary term of a lease the Secretary shall renew for an additional 10-year term a lease that does not meet the requirements of paragraph (1) if the lessee submits to the Secretary an application for renewal not later than 60 days before the expiration of the primary lease and pays the Secretary a renewal fee of $100 per acre of leased land, and—

(A) the lessee provides evidence, and the Secretary agrees that, the lessee has diligently pursued exploration that warrants continuation with the intent of continued exploration or future potential development of the leased land; or

(B) all or part of the lease—

(i) is part of a unit agreement covering a lease described in subparagraph (A); and

(ii) has not been previously contracted out of the unit.

(4) Applicability

This subsection applies to a lease that is in effect on or after August 8, 2005.

(5) Expiration for failure to produce

Notwithstanding any other provision of this Act, if no oil or gas is produced from a lease within 30 years after the date of the issuance of the lease the lease shall expire.

(6) Termination

No lease issued under this section covering lands capable of producing oil or gas in paying quantities shall expire because the lessee fails to produce the same due to circumstances beyond the control of the lessee.

(j) Unit agreements

(1) In general

For the purpose of conservation of the natural resources of all or part of any oil or gas pool, field, reservoir, or like area, lessees (including representatives) of the pool, field, reservoir, or like area may unite with each other, or jointly or separately with others, in collectively adopting and operating under a unit agreement for all or part of the pool, field, reservoir, or like area (whether or not any other part of the oil or gas pool, field, reservoir, or like area is already subject to any cooperative or unit plan of development or operation), if the Secretary determines the action to be necessary or advisable in the public interest. In determining the public interest, the Secretary should consider, among other things, the extent to which the unit agreement will minimize the impact to surface resources of the leases and will facilitate consolidation of facilities.

(2) Consultation

In making a determination under paragraph (1), the Secretary shall consult with and provide opportunities for participation by the State of Alaska or a Regional Corporation (as defined in section 1602 of title 43) with respect to the creation or expansion of units that include acreage in which the State of Alaska or the Regional Corporation has an interest in the mineral estate.

(3) Production allocation methodology

(A) The Secretary may use a production allocation methodology for each participating area within a unit that includes solely Federal land in the Reserve.

(B) The Secretary shall use a production allocation methodology for each participating area within a unit that includes Federal land in the Reserve and non-Federal land based on the characteristics of each specific oil or gas pool, field, reservoir, or like area to take into account reservoir heterogeneity and area variation in reservoir producibility across diverse leasehold interests. The implementation of the foregoing production allocation methodology shall be controlled by agreement among the affected lessors and lessees.

(4) Benefit of operations

Drilling, production, and well reworking operations performed in accordance with a unit agreement shall be deemed to be performed for the benefit of all leases that are subject in whole or in part to such unit agreement.

(5) Pooling

If separate tracts cannot be independently developed and operated in conformity with an established well spacing or development program, any lease, or a portion thereof, may be pooled with other lands, whether or not owned by the United States, under a communitization or drilling agreement providing for an apportionment of production or royalties among the separate tracts of land comprising the drilling or spacing unit when determined by the Secretary of the Interior (in consultation with the owners of the other land) to be in the public interest, and operations or production pursuant to such an agreement shall be deemed to be operations or production as to each such lease committed to the agreement.

(k) Exploration incentives

(1) In general

(A) Waiver, suspension, or reduction

To encourage the greatest ultimate recovery of oil or gas or in the interest of conservation, the Secretary may waive, suspend, or reduce the rental fees or minimum royalty, or reduce the royalty on an entire leasehold (including on any lease operated pursuant to a unit agreement), whenever (after consultation with the State of Alaska and the North Slope Borough of Alaska and the concurrence of any Regional Corporation for leases that include land that was made available for acquisition by the Regional Corporation under the provisions of section 1431(o) of the Alaska National Interest Lands Conservation Act) in the judgment of the Secretary it is necessary to do so to promote development, or whenever in the judgment of the Secretary the leases cannot be successfully operated under the terms provided therein.

(B) Applicability

This paragraph applies to a lease that is in effect on or after August 8, 2005..[1]

(2) Suspension of operations and production

The Secretary may direct or assent to the suspension of operations and production on any lease or unit.

(3) Suspension of payments

If the Secretary, in the interest of conservation, shall direct or assent to the suspension of operations and production on any lease or unit, any payment of acreage rental or minimum royalty prescribed by such lease or unit likewise shall be suspended during the period of suspension of operations and production, and the term of such lease shall be extended by adding any such suspension period to the lease.

(l) Receipts

(1) In general

Except as provided in paragraph (2), all receipts from sales, rentals, bonuses, and royalties on leases issued pursuant to this section shall be paid into the Treasury of the United States: *Provided* , That 50 percent thereof shall be paid by the Secretary of the Treasury semiannually, as soon thereafter as practicable after March 30 and September 30 each year, to the State of Alaska for: (1) planning; (2) construction, maintenance, and operation of essential public facilities; and (3) other necessary provisions of public service: *Provided further*, That in the allocation of such funds, the State shall give priority to use by subdivisions of the State most directly or severely impacted by development of oil and gas leased under this Act.

(2) Percent share for fiscal year 2034 and thereafter

Beginning in fiscal year 2034, of the receipts from sales, rentals, bonuses, and royalties on leases issued pursuant to this section after July 4, 2025—

(A) 70 percent shall be paid to the State of Alaska; and

(B) 30 percent shall be paid into the Treasury of the United States.

(m) Explorations

Any agency of the United States and any person authorized by the Secretary may conduct geological and geophysical explorations in the National Petroleum Reserve in Alaska which do not interfere with operations under any contract maintained or granted previously. Any information acquired in such explorations shall be subject to the conditions of 43 U.S.C. 1352(a)(1)(A).

(n) Environmental impact statements

(1) Judicial review

Any action seeking judicial review of the adequacy of any program or site-specific environmental impact statement under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) concerning oil and gas leasing in the National Petroleum Reserve-Alaska shall be barred unless brought in the appropriate District Court within 60 days after notice of the availability of such statement is published in the Federal Register.

(2) Initial lease sales

The detailed environmental studies and assessments that have been conducted on the exploration program and the comprehensive land-use studies carried out in response to sections [3] 6505(b) and (c) of this title shall be deemed to have fulfilled the requirements of section 102(2)(c) [4] of the National Environmental Policy Act (Public Law 91–190) [42 U.S.C. 4332(2)(C)], with regard to the first two oil and gas lease sales in the National Petroleum Reserve-Alaska: *Provided*, That not more than a total of 2,000,000 acres may be leased in these two sales: *Provided further*, That any exploration or production undertaken pursuant to this section shall be in accordance with section 6504(a) of this title.

(o) Regulations

As soon as practicable after August 8, 2005, the Secretary shall issue regulations to implement this section.

(p) Waiver of administration for conveyed lands

(1) In general

Notwithstanding section 1613(g) of title 43—

(A) the Secretary of the Interior shall waive administration of any oil and gas lease to the extent that the lease covers any land in the Reserve in which all of the subsurface estate is conveyed to the Arctic Slope Regional Corporation (referred to in this subsection as the "Corporation");

(B)(i) in a case in which a conveyance of a subsurface estate described in subparagraph (A) does not include all of the land covered by the oil and gas lease, the person that owns the subsurface estate in any particular portion of the land covered by the lease shall be entitled to all of the revenues reserved under the lease as to that portion, including, without limitation, all the royalty payable with respect to oil or gas produced from or allocated to that portion;

(ii) in a case described in clause (i), the Secretary of the Interior shall—

(I) segregate the lease into 2 leases, 1 of which shall cover only the subsurface estate conveyed to the Corporation; and

(II) waive administration of the lease that covers the subsurface estate conveyed to the Corporation; and

(iii) the segregation of the lease described in clause (ii)(I) has no effect on the obligations of the lessee under either of the resulting leases, including obligations relating to operations, production, or other circumstances (other than payment of rentals or royalties); and

(C) nothing in this subsection limits the authority of the Secretary of the Interior to manage the federally-owned surface estate within the Reserve.

(Pub. L. 94–258, title I, §107, formerly Pub. L. 96–514, title I, Dec. 12, 1980, 94 Stat. 2964; Pub. L. 98–620, title IV, §402(41), Nov. 8, 1984, 98 Stat. 3360; Pub. L. 105–83, title I, §128, Nov. 14, 1997, 111 Stat. 1568; renumbered Pub. L. 94–258, title I, §107, and amended Pub. L. 109–58, title III, §347(a)(2), (b), Aug. 8, 2005, 119 Stat. 704; Pub. L. 119–21, title V, §50105(e), July 4, 2025, 139 Stat. 144.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsecs. (a), (b), (i)(5), and (l), is Pub. L. 94–258, Apr. 5, 1976, 90 Stat. 303, known as the Naval Petroleum Reserves Production Act of 1976, which enacted this chapter and section 7420 of Title 10, Armed Forces, and amended section 6244 of this title and sections 7421 to 7436 and 7438 of Title 10. For complete classification of this Act to the Code, see Short Title note set out under section 6501 of this title and Tables.

December 12, 1980, referred to in subsec. (d), was in the original "the date of enactment of this Act", which was translated as meaning the date of enactment of Pub. L. 96–514, which enacted this section, to reflect the

probable intent of Congress.

The National Environmental Policy Act of 1969, referred to in subsec. (d), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

Section 205(a)(1)(A) through (H) of the Outer Continental Shelf Lands Act Amendments of 1978, referred to in subsec. (f), probably should have been a reference to section 8(a)(1)(A) through (H) of the Outer Continental Shelf Lands Act (act Aug. 7, 1953, ch. 345), as amended by section 205(a) of the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95–372), which is classified to section 1337(a)(1)(A)–(H) of Title 43, Public Lands. Subpar. (H) of section 8(a)(1) of act Aug. 7, 1953, was redesignated subpar. (I) and a new subpar. (H) was added by Pub. L. 104–58, title III, §303, Nov. 28, 1995, 109 Stat. 565.

Section 1431(o) of the Alaska National Interest Lands Conservation Act, referred to in subsec. (k)(1)(A), is section 1431(o) of title XIV of Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2542, which was not classified to the Code.

CODIFICATION

Section, which consisted of the matter under the heading "Exploration of National Petroleum Reserve in Alaska" in title I of Pub. L. 96–514, as amended, prior to being renumbered section 107 of Pub. L. 94–258, was formerly classified to section 6508 of this title.

PRIOR PROVISIONS

A prior section 107 of Pub. L. 94–258 was renumbered 108 and is classified to section 6507 of this title.

AMENDMENTS

2025—Subsec. (l). Pub. L. 119–21 designated existing provisions as par. (1), inserted heading, substituted "Except as provided in paragraph (2), all receipts from" for "All receipts from", and added par. (2).

2005—Pub. L. 109–58 amended section catchline and revised and restructured text into subsecs. (a) to (p). Amendments by Pub. L. 109–58, §347(b)(2) to (7), were executed by disregarding the second set of closed quotation marks in each such paragraph to reflect the probable intent of Congress. Prior to amendment, text related to competitive leasing of oil and gas and consisted of four undesignated pars.

1997—Pub. L. 105–83, in first par., substituted cls. (8) to (11) and two concluding provisos for "(8) each lease shall be issued for an initial period of up to ten years, and shall be extended for so long thereafter as oil or gas is produced from the lease in paying quantities, or as drilling or reworking operations, as approved by the Secretary, are conducted thereon; and (9) all receipts from sales, rentals, bonuses, and royalties on leases issued pursuant to this Act shall be paid into the Treasury of the United States: *Provided*, That 50 per centum thereof shall be paid by the Secretary of the Treasury semiannually, as soon as practicable after March 30 and September 30 each year, to the State of Alaska for (a) planning, (b) construction, maintenance, and operation of essential public facilities, and (c) other necessary provisions of public service: *Provided further*, That in the allocation of such funds, the State shall give priority to use by subdivisions of the State most directly or severely impacted by development of oil and gas leased under this Act."

1984—Pub. L. 98–620 struck out provision in third par. that required that any proceeding on such action be assigned for hearing at the earliest possible date and be expedited by the Court.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98–620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

NATIONAL PETROLEUM RESERVE–ALASKA

Pub. L. 119–21, title V, §50105(a)–(d), July 4, 2025, 139 Stat. 143, 144, provided that:

"(a) DEFINITIONS.—In this section:

"(1) NPR–A FINAL ENVIRONMENTAL IMPACT STATEMENT.—The term 'NPR–A final environmental impact statement' means the final environmental impact statement published by the Bureau of Land Management entitled 'National Petroleum Reserve in Alaska Integrated Activity Plan Final Environmental Impact Statement' and dated June 2020, including the errata sheet dated October 6, 2020, and excluding the errata sheet dated September 20, 2022.

"(2) NPR–A RECORD OF DECISION.—The term 'NPR–A record of decision' means the record of

decision published by the Bureau of Land Management entitled 'National Petroleum Reserve in Alaska Integrated Activity Plan Record of Decision' and dated December 2020.

"(3) PROGRAM.—The term 'Program' means the competitive oil and gas leasing, exploration, development, and production program established under section 107 of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6506a).

"(4) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

"(b) RESTORATION OF NPR–A OIL AND GAS LEASING PROGRAM.—Effective beginning on the date of enactment of this Act [July 4, 2025], the Secretary shall expeditiously restore and resume oil and gas lease sales under the Program for domestic energy production and Federal revenue in the areas designated for oil and gas leasing as described in the NPR–A final environmental impact statement and the NPR–A record of decision.

"(c) RESUMPTION OF NPR–A LEASE SALES.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall conduct not fewer than 5 lease sales under the Program by not later than 10 years after the date of enactment of this Act.

"(2) SALES ACREAGES; SCHEDULE.—

"(A) ACREAGES.—In conducting the lease sales required under paragraph (1), the Secretary shall offer not fewer than 4,000,000 acres in each lease sale.

"(B) SCHEDULE.—The Secretary shall offer—

"(i) an initial lease sale under paragraph (1) not later than 1 year after the date of enactment of this Act; and

"(ii) an additional lease sale under paragraph (1) not later than every 2 years after the date of enactment of this Act.

"(d) TERMS AND STIPULATIONS FOR NPR–A LEASE SALES.—In conducting lease sales under subsection (c), the Secretary shall offer the same lease form, lease terms, economic conditions, and stipulations as described in the NPR–A final environmental impact statement and the NPR–A record of decision."

[1] *So in original.*

[2] *See References in Text note below.*

[3] *So in original. Probably should be "section".*

[4] *So in original. Probably should be "102(2)(C)".*

§6507. Authorization of appropriations; Federal financial assistance for increased municipal services and facilities in communities located on or near reserve resulting from authorized exploration and study activities

(a) There are authorized to be appropriated to the Department of the Interior such sums as may be necessary to carry out the provisions of this chapter.

(b) If the Secretary of the Interior determines that there is an immediate and substantial increase in the need for municipal services and facilities in communities located on or near the reserve as a direct result of the exploration and study activities authorized by this chapter and that an unfair and excessive financial burden will be incurred by such communities as a result of the increased need for such services and facilities, then he is authorized to assist such communities in meeting the costs of providing increased municipal services and facilities. The Secretary of the Interior shall carry out the provisions of this section through existing Federal programs and he shall consult with the heads of the departments or agencies of the Federal Government concerned with the type of services and facilities for which financial assistance is being made available.

(Pub. L. 94–258, title I, §108, formerly §107, Apr. 5, 1976, 90 Stat. 306; renumbered §108, Pub. L. 109–58, title III, §347(a)(1), Aug. 8, 2005, 119 Stat. 704.)

§6508. Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 96–514, title I, Dec. 12, 1980, 94 Stat. 2964, as amended, which related to competitive leasing of oil and gas, was renumbered section 107 of Pub. L. 94–258, the Naval Petroleum Reserves Production Act of 1976, by Pub. L. 109–58, title III, §347(a)(2), August 8, 2005, 119 Stat. 704, and is classified to section 6506a of this title.

CHAPTER 79—SCIENCE AND TECHNOLOGY POLICY, ORGANIZATION AND PRIORITIES

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SUBCHAPTER I—NATIONAL SCIENCE, ENGINEERING, AND TECHNOLOGY POLICY AND PRIORITIES

§6601. Congressional findings; priority goals

(a) The Congress, recognizing the profound impact of science and technology on society, and the interrelations of scientific, technological, economic, social, political, and institutional factors, hereby finds and declares that—

(1) the general welfare, the security, the economic health and stability of the Nation, the conservation and efficient utilization of its natural and human resources, and the effective functioning of government and society require vigorous, perceptive support and employment of science and technology in achieving national objectives;

(2) the many large and complex scientific and technological factors which increasingly influence the course of national and international events require appropriate provision, involving long-range, inclusive planning as well as more immediate program development, to incorporate scientific and technological knowledge in the national decisionmaking process;

(3) the scientific and technological capabilities of the United States, when properly fostered, applied, and directed, can effectively assist in improving the quality of life, in anticipating and resolving critical and emerging international, national, and local problems, in strengthening the Nation's international economic position, and in furthering its foreign policy objectives;

(4) Federal funding for science and technology represents an investment in the future which is indispensable to sustained national progress and human betterment, and there should be a continuing national investment in science, engineering, and technology which is commensurate with national needs and opportunities and the prevalent economic situation;

(5) the manpower pool of scientists, engineers, and technicians, constitutes an invaluable national resource which should be utilized to the fullest extent possible; and

(6) the Nation's capabilities for technology assessment and for technological planning and policy formulation must be strengthened at both Federal and State levels.

(b) As a consequence, the Congress finds and declares that science and technology should contribute to the following priority goals without being limited thereto:

(1) fostering leadership in the quest for international peace and progress toward human freedom, dignity, and well-being by enlarging the contributions of American scientists and engineers to the knowledge of man and his universe, by making discoveries of basic science widely available at home and abroad, and by utilizing technology in support of United States national and foreign policy goals;

(2) increasing the efficient use of essential materials and products, and generally contributing to economic opportunity, stability, and appropriate growth;

(3) assuring an adequate supply of food, materials, and energy for the Nation's needs;

(4) contributing to the national security;

(5) improving the quality of health care available to all residents of the United States;

(6) preserving, fostering, and restoring a healthful and esthetic natural environment;

(7) providing for the protection of the oceans and coastal zones, and the polar regions, and the efficient utilization of their resources;

(8) strengthening the economy and promoting full employment through useful scientific and

technological innovations;

(9) increasing the quality of educational opportunities available to all residents of the United States;

(10) promoting the conservation and efficient utilization of the Nation's natural and human resources;

(11) improving the Nation's housing, transportation, and communication systems, and assuring the provision of effective public services throughout urban, suburban, and rural areas;

(12) eliminating air and water pollution, and unnecessary, unhealthful, or ineffective drugs and food additives; and

(13) advancing the exploration and peaceful uses of outer space.

(Pub. L. 94–282, title I, §101, May 11, 1976, 90 Stat. 459.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 2017 AMENDMENT

Pub. L. 114–329, title VI, §604(a), Jan. 6, 2017, 130 Stat. 3037, provided that: "This section [amending section 6612 of this title] may be cited as the 'United States Chief Technology Officer Act'."

SHORT TITLE

Pub. L. 94–282, §1, May 11, 1976, 90 Stat. 459, provided that: "This Act [enacting this chapter, amending section 1863 of this title, repealing sections 1, 2, 3, and 4 of Reorganization Plan Numbered 2 of 1962 (76 Stat. 1253), set out as a note under section 1861 of this title, and section 2 of Reorganization Plan Numbered 1 of 1973 (87 Stat. 1089), set out as a note under section 5195 of this title, and enacting provisions set out as notes under this section and sections 1862 and 6611 of this title] may be cited as the 'National Science and Technology Policy, Organization, and Priorities Act of 1976'."

Pub. L. 94–282, title II, §201, May 11, 1976, 90 Stat. 463, provided that: "This title [enacting subchapter II of this chapter] may be cited as the 'Presidential Science and Technology Advisory Organization Act of 1976'."

INDUSTRIES OF THE FUTURE

Pub. L. 116–283, div. H, title XCIV, §9412, Jan. 1, 2021, 134 Stat. 4818, provided that:

"(a) SHORT TITLE.—This section may be cited as the 'Industries of the Future Act of 2020'.

"(b) REPORT ON FEDERAL RESEARCH AND DEVELOPMENT FOCUSED ON INDUSTRIES OF THE FUTURE.—

"(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act [Jan. 1, 2021], the Director of the Office of Science and Technology Policy shall submit to Congress a report on research and development investments, infrastructure, and workforce development investments of the Federal Government that enable continued United States leadership in industries of the future.

"(2) CONTENTS.—The report submitted under paragraph (1) shall include the following:

"(A) A definition, for purposes of this section, of the term 'industries of the future' that includes emerging technologies.

"(B) An assessment of the current baseline of investments in civilian research and development investments of the Federal Government in the industries of the future.

"(C) A plan to double such baseline investments in artificial intelligence and quantum information science by fiscal year 2022.

"(D) A detailed plan to increase investments described in subparagraph (B) in industries of the future to $10,000,000,000 per year by fiscal year 2025.

"(E) A plan to leverage investments described in subparagraphs (B), (C), and (D) in industries of the future to elicit complimentary investments by non-Federal entities, including providing incentives for significant complementary investments by such entities and facilitating public-private partnerships.

"(F) Proposals for the Federal Government, including any necessary draft legislation, to implement such plans.

"(c) INDUSTRIES OF THE FUTURE COORDINATION COUNCIL.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The President shall establish or designate a council to advise the Director of the Office of Science and Technology Policy on matters relevant to the Director and the industries of the future.

"(B) DESIGNATION.—The council established or designated under subparagraph (A) shall be known as the 'Industries of the Future Coordination Council' (in this section the 'Council').

"(2) MEMBERSHIP.—

"(A) COMPOSITION.—The Council shall be composed of employees of the Federal Government who shall be appointed as follows:

"(i) One member appointed by the Director.

"(ii) A chairperson of the Select Committee on Artificial Intelligence of the National Science and Technology Council.

"(iii) A chairperson of the Subcommittee on Advanced Manufacturing of the National Science and Technology Council.

"(iv) A chairperson of the Subcommittee on Quantum Information Science of the National Science and Technology Council.

"(v) Such other members as the President considers appropriate.

"(B) CHAIRPERSON.—The member appointed to the Council under paragraph (A)(i) shall serve as the chairperson of the Council.

"(3) DUTIES.—The duties of the Council are as follows:

"(A) To provide the Director with advice on ways in which in [sic] the Federal Government can ensure the United States continues to lead the world in developing emerging technologies that improve the quality of life of the people of the United States, increase economic competitiveness of the United States, and strengthen the national security of the United States, including identification of the following:

"(i) Federal investments required in fundamental research and development, infrastructure, technology transfer, and workforce development of the United States workers who will support the industries of the future.

"(ii) Actions necessary to create and further develop the workforce that will support the industries of the future.

"(iii) Actions required to leverage the strength of the research and development ecosystem of the United States, which includes academia, industry, and nonprofit organizations, to support industries of the future.

"(iv) Ways that the Federal Government can consider leveraging existing partnerships and creating new partnerships and other multisector collaborations to advance the industries of the future.

"(v) Actions required to accelerate the translation of federally funded research and development to practice and meaningful benefits for society while mitigating any risks.

"(B) To provide the Director with advice on matters relevant to the report required under subsection (b).

"(4) COORDINATION.—The Council shall coordinate with and utilize relevant existing National Science and Technology Council committees to the maximum extent feasible in order to minimize duplication of effort.

"(5) APPLICABILITY OF FACA.—The Federal Advisory Committee Act ([former] 5 U.S.C. App.) [see 5 U.S.C. 1001 et seq.] shall not apply to the Council established under this subsection.

"(6) SUNSET.—The Council shall terminate on the date that is 6 years after the date of the enactment of this Act [Jan. 1, 2021]."

SECURING AMERICAN SCIENCE AND TECHNOLOGY

Pub. L. 116–92, div. A, title XVII, §1746, Dec. 20, 2019, 133 Stat. 1843, provided that:

"(a) INTERAGENCY WORKING GROUP.—

"(1) IN GENERAL.—The Director of the Office of Science and Technology Policy, acting through the National Science and Technology Council, in consultation with the National Security Advisor, shall establish or designate an interagency working group to coordinate activities to protect federally funded research and development from foreign interference, cyber attacks, theft, or espionage and to develop common definitions and best practices for Federal science agencies and grantees, while accounting for the importance of the open exchange of ideas and international talent required for scientific progress and American leadership in science and technology.

"(2) MEMBERSHIP.—

"(A) IN GENERAL.—The working group shall include at least one representative of—

"(i) the National Science Foundation;

"(ii) the Department of Energy;

"(iii) the National Aeronautics and Space Administration;

"(iv) the Department of Commerce;

"(v) the Department of Health and Human Services;
"(vi) the Department of Defense;
"(vii) the Department of Agriculture;
"(viii) the Department of Education;
"(ix) the Department of State;
"(x) the Department of the Treasury;
"(xi) the Department of Justice;
"(xii) the Department of Homeland Security;
"(xiii) the Central Intelligence Agency;
"(xiv) the Office of the Director of National Intelligence;
"(xv) the Office of Management and Budget;
"(xvi) the National Economic Council; and
"(xvii) such other Federal department or agency as the President considers appropriate.

"(B) CHAIR.—The working group shall be chaired by the Director of the Office of Science and Technology Policy (or the Director's designee).

"(3) RESPONSIBILITIES OF THE WORKING GROUP.—The working group established under paragraph (1) shall—

"(A) identify known and potential cyber, physical, and human intelligence threats and vulnerabilities within the United States scientific and technological enterprise;

"(B) coordinate efforts among agencies to share and update important information, including specific examples of foreign interference, cyber attacks, theft, or espionage directed at federally funded research and development or the integrity of the United States scientific enterprise;

"(C) identify and assess existing mechanisms for protection of federally funded research and development;

"(D) develop an inventory of—

"(i) terms and definitions used across Federal science agencies to delineate areas that may require additional protection; and

"(ii) policies and procedures at Federal science agencies regarding protection of federally funded research; and

"(E) develop and periodically update unclassified recommendations for policy guidance to assist Federal science agencies and grantees in defending against threats to federally funded research and development and the integrity of the United States scientific enterprise that—

"(i) includes—

"(I) descriptions of known and potential threats to federally funded research and development and the integrity of the United States scientific enterprise;

"(II) common definitions and terminology for categorization of research and technologies that are protected;

"(III) identified areas of research or technology that might require additional protection;

"(IV) recommendations for how control mechanisms can be utilized to protect federally funded research and development from foreign interference, cyber attacks, theft or espionage, including any recommendations for updates to existing control mechanisms;

"(V) recommendations for best practices for Federal science agencies, universities, and grantees to defend against threats to federally funded research and development, including coordination and harmonization of any relevant reporting requirements that Federal science agencies implement for grantees, and by providing such best practices with grantees and universities at the time of awarding such grants or entering into research contracts;

"(VI) a remediation plan for grantees and universities to mitigate the risks regarding such threats before research grants or contracts are cancelled because of such threats;

"(VII) recommendations for providing opportunities and facilities for academic researchers to perform controlled and classified research in support of Federal missions;

"(VIII) assessments of potential consequences that any proposed practices would have on international collaboration and United States leadership in science and technology; and

"(IX) a classified addendum as necessary to further inform Federal science agency decisionmaking; and

"(ii) accounts for the range of needs across different sectors of the United States science and technology enterprise.

"(4) POLICY GUIDANCE.—Not later than 270 days after the date of the enactment of this Act [Dec. 20, 2019], the Director of the Office of Science and Technology Policy, in consultation with the working group established under paragraph (1), shall—

"(A) develop and issue policy guidance to Federal science agencies with more than $100,000,000 in extramural research in fiscal year 2018 to protect against threats to federally funded research and the United States science enterprise, including foreign interference, cyber attacks, theft, or espionage; and

"(B) encourage consistency in the policies developed by Federal science agencies with more than $100,000,000 in extramural research in fiscal year 2018, as appropriate, and factoring in the potential range of applications across different areas of science and technology.

"(5) COORDINATION WITH NATIONAL ACADEMIES ROUNDTABLE.—The Director of the Office of Science and Technology Policy shall coordinate with the Academies to ensure that at least one member of the interagency working group is also a member of the roundtable under subsection (b).

"(6) INTERIM REPORT.—Not later than six months after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall provide a report to the relevant committees that includes the inventory required under paragraph (3)(D), and an update on progress toward developing the policy guidance required under paragraphs (3)(E) and (4), as well as any additional activities undertaken by the working group in that time.

"(7) BIENNIAL REPORTING.—Two years after the date of enactment of this Act, and at least every two years thereafter, the Director of the Office of Science and Technology Policy shall provide a summary report to the relevant committees on the activities of the working group and the most current version of the policy guidance required under paragraph (4).

"(8) TERMINATION.—The working group established or designated under paragraph (1) shall terminate on the date that is ten years after the date on which such working group is established or designated.

"(b) NATIONAL ACADEMIES SCIENCE, TECHNOLOGY AND SECURITY ROUNDTABLE.—

"(1) IN GENERAL.—The National Science Foundation, the Department of Energy, and the Department of Defense, and any other agencies as determined by the Director of the Office of Science and Technology Policy, shall enter into a joint agreement with the Academies to create a new 'National Science, Technology, and Security Roundtable' (hereinafter in this subsection referred to as the 'roundtable').

"(2) PARTICIPANTS.—The roundtable shall include senior representatives and practitioners from Federal science, intelligence, and national security agencies, law enforcement, as well as key stakeholders in the United States scientific enterprise including institutions of higher education, Federal research laboratories, industry, and non-profit research organizations.

"(3) PURPOSE.—The purpose of the roundtable is to facilitate among participants—

"(A) exploration of critical issues related to protecting United States national and economic security while ensuring the open exchange of ideas and international talent required for scientific progress and American leadership in science and technology;

"(B) identification and consideration of security threats and risks involving federally funded research and development, including foreign interference, cyber attacks, theft, or espionage;

"(C) identification of effective approaches for communicating the threats and risks identified in subparagraph (b) to the academic and scientific community, including through the sharing of unclassified data and relevant case studies;

"(D) sharing of best practices for addressing and mitigating the threats and risks identified in subparagraph (B); and

"(E) examination of potential near- and long-term responses by the Government and the academic and scientific community to mitigate and address the risks associated with foreign threats.

"(4) REPORT AND BRIEFING.—The joint agreement under paragraph (1) shall specify that—

"(A) the roundtable shall periodically organize workshops and issue publicly available reports on the topics described in paragraph (3) and the activities of the roundtable;

"(B) not later than March 1, 2020, the Academies shall provide a briefing to the relevant committees on the progress and activities of the roundtable; and

"(C) the Academies shall issue a final report on its activities to the relevant committees before the end of fiscal year 2024.

"(5) TERMINATION.—The roundtable shall terminate on September 30, 2024.

"(c) DEFINITIONS.—In this section:

"(1) The term 'Academies' means the National Academies of Science, Engineering and Medicine.

"(2) The term 'Federal science agency' means any Federal agency with at least $100,000,000 in basic and applied research obligations in fiscal year 2018.

"(3) The term 'grantee' means an entity that is—

"(A) a recipient or subrecipient of a Federal grant or cooperative agreement; and

"(B) an institution of higher education or a non-profit organization.

"(4) The term 'relevant committees' means—

"(A) the Committee on Science, Space, and Technology of the House of Representatives;

"(B) the Committee on Commerce, Science, and Transportation of the Senate;

"(C) the Committee on Armed Services of the House of Representatives;

"(D) the Committee on Armed Services of the Senate; and

"(E) the Committee on Homeland Security and Governmental Affairs of the Senate."

PHYSICAL SCIENCES COORDINATION

Pub. L. 114–329, title I, §106, Jan. 6, 2017, 130 Stat. 2985, provided that:

"(a) HIGH-ENERGY PHYSICS.—

"(1) IN GENERAL.—The Physical Science Subcommittee of the National Science and Technology Council (referred to in this section as 'Subcommittee') shall continue to coordinate Federal efforts related to high-energy physics research to maximize the efficiency and effectiveness of United States investment in high-energy physics.

"(2) PURPOSES.—The purposes of the Subcommittee include—

"(A) to advise and assist the Committee on Science and the National Science and Technology Council on United States policies, procedures, and plans in the physical sciences, including high-energy physics; and

"(B) to identify emerging opportunities, stimulate international cooperation, and foster the development of the physical sciences in the United States, including—

"(i) in high-energy physics research, including related underground science and engineering research;

"(ii) in physical infrastructure and facilities;

"(iii) in information and analysis; and

"(iv) in coordination activities.

"(3) RESPONSIBILITIES.—In regard to coordinating Federal efforts related to high-energy physics research, the Subcommittee shall, taking into account the findings and recommendations of relevant advisory committees—

"(A) provide recommendations on planning for construction and stewardship of large facilities participating in high-energy physics;

"(B) provide recommendations on research coordination and collaboration among the programs and activities of Federal agencies related to underground science, neutrino research, dark energy, and dark matter research;

"(C) establish goals and priorities for high-energy physics, related underground science, and research and development that will strengthen United States competitiveness in high-energy physics;

"(D) propose methods for engagement with international, Federal, and State agencies and Federal laboratories not represented on the National Science and Technology Council to identify and reduce regulatory, logistical, and fiscal barriers that inhibit United States leadership in high-energy physics and related underground science; and

"(E) develop, and update as necessary, a strategic plan to guide Federal programs and activities in support of high-energy physics research, including—

"(i) the efforts taken in support of paragraph (2) since the last strategic plan;

"(ii) an evaluation of the current research needs for maintaining United States leadership in high-energy physics; and

"(iii) an identification of future priorities in the area of high-energy physics.

"(b) RADIATION BIOLOGY.—

"(1) IN GENERAL.—The Subcommittee shall continue to coordinate Federal efforts related to radiation biology research to maximize the efficiency and effectiveness of United States investment in radiation biology.

"(2) RESPONSIBILITIES FOR RADIATION BIOLOGY.—In regard to coordinating Federal efforts related to radiation biology research, the Subcommittee shall—

"(A) advise and assist the National Science and Technology Council on policies and initiatives in radiation biology, including enhancing scientific knowledge of the effects of low dose radiation on biological systems to improve radiation risk management methods;

"(B) identify opportunities to stimulate international cooperation and leverage research and knowledge from sources outside of the United States;

"(C) ensure coordination between the Department of Energy Office of Science, [National Science] Foundation, National Aeronautics and Space Administration, National Institutes of Health,

Environmental Protection Agency, Department of Defense, Nuclear Regulatory Commission, and Department of Homeland Security;

"(D) identify ongoing scientific challenges for understanding the long-term effects of ionizing radiation on biological systems; and

"(E) formulate overall scientific goals for the future of low-dose radiation research in the United States.

"(c) FUSION ENERGY SCIENCES.—

"(1) IN GENERAL.—The Subcommittee shall continue to coordinate Federal efforts related to fusion energy research to maximize the efficiency and effectiveness of United States investment in fusion energy sciences.

"(2) RESPONSIBILITIES FOR FUSION ENERGY SCIENCES.—In regard to coordinating Federal efforts related to fusion energy sciences, the Subcommittee shall—

"(A) advise and assist the National Science and Technology Council on policies and initiatives in fusion energy sciences, including enhancing scientific knowledge of fusion energy science, plasma physics, and related materials sciences;

"(B) identify opportunities to stimulate international cooperation and leverage research and knowledge from sources outside of the United States, including the ITER project;

"(C) ensure coordination between the Department of Energy Office of Science, National Nuclear Security Administration, Advanced Research Projects Agency-Energy, National Aeronautics and Space Administration, [National Science] Foundation, and Department of Defense regarding fusion energy sciences and plasma physics; and

"(D) formulate overall scientific goals for the future of fusion energy sciences and plasma physics."

EXECUTIVE DOCUMENTS

EX. ORD. NO. 12039. TRANSFER OF CERTAIN SCIENCE AND TECHNOLOGY POLICY FUNCTIONS

Ex. Ord. No. 12039, Feb. 24, 1978, 43 F.R. 8095, as amended by Ex. Ord. No. 12399, Dec. 31, 1982, 48 F.R. 379, provided:

By virtue of the authority vested in me by the Constitution and laws of the United States of America, including Section 7 of Reorganization Plan No. 1 of 1977 (42 FR 56101 (October 21, 1977)) [set out in Appendix of Title 5, Government Organization and Employees], Section 301 of Title 3 of the United States Code, and Section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c) [31 U.S.C. 1531], and as President of the United States of America, in order to provide for the transfer of certain science and technology functions, it is hereby ordered as follows:

SECTION 1. (a) The transfer, provided by Section 5A of Reorganization Plan No. 1 of 1977 (42 FR 56101) [set out in Appendix of Title 5, Government Organization and Employees], of certain functions under the National Science and Technology Policy, Organization, and Priorities Act of 1976, hereinafter referred to as the Act (90 Stat. 459, 42 U.S.C. 6601 et seq.), from the Office of Science and Technology Policy and its Director to the Director of the National Science Foundation is hereby effective.

(b) The abolition of the Intergovernmental Science, Engineering, and Technology Advisory Panel, the President's Committee on Science and Technology, and the Federal Coordinating Council for Science, Engineering and Technology (established in accordance with Titles II, III, and IV of the Act) [sections 6611 et seq., 6631 et seq., and 6651 of this title] and the transfer of their functions (Sections 205(b)(1), 303(a) and (b)(1), and 401 of the Act, 42 U.S.C. 6614(b)(1), 6633 (a) and (b)(1), and 6651(e)) to the President of the United States of America, provided by Section 5A of Reorganization Plan No. 1 of 1977 [set out in Appendix of Title 5, Government Organization and Employees], are hereby effective.

SEC. 2. (a) The intergovernmental science, engineering, and technology functions under Section 205(b)(1) of the Act (42 U.S.C. 6614(b)(1)), which were transferred to the President (see Section 1(b) of this Order), are delegated to the Director of the Office of Science and Technology Policy; *Except that*, the responsibility for fostering any policies to facilitate the transfer and utilization of research and development results is delegated to the Director of the Office of Management and Budget.

(b) The functions vested by subsection (a) of this Section in the Director of the Office of Management and Budget shall be performed in accord with the Director's responsibilities under the Intergovernmental Cooperation Act of 1968 (82 Stat. 1098, 42 U.S.C. 4201 et seq.) [31 U.S.C. 6501 et seq.]. The Director of the

Office of Science and Technology Policy shall advise the Director of the Office of Management and Budget with respect to the needs of State, regional, and local governments which may be assisted by the utilization of science, engineering, and technology research and development results.

(c) The functions vested by subsection (a) of this Section in the Director of the Office of Science and Technology Policy shall be performed in coordination with the Director of the Office of Management and Budget and with others as designated by the President.

(d) [Revoked by Ex. Ord. No. 12399, Dec. 31, 1982, 48 F.R. 379.]

SEC. 3. The Federal science, engineering, and technology functions under Section 303 (a) and (b)(1) of the Act (42 U.S.C. 6633 (a) and (b)(1)), which were transferred to the President (see Section 1(b) of this Order), are delegated to the Director of the Office of Science and Technology Policy: *Except that*, those functions concerned with reorganization, including Federal–State liaison, are delegated to the Director of the Office of Management and Budget, who shall be provided advice and assistance thereon by the Director of the Office of Science and Technology Policy.

SEC. 4. The science, engineering, and technology and related activities functions under Section 401(e) of the Act (42 U.S.C. 6651(e)), which were transferred to the President (see Section 1(b) of this Order), are delegated to the Director of the Office of Science and Technology Policy.

SEC. 5. There is hereby established the Federal Coordinating Council for Science, Engineering, and Technology. The Council shall be composed of the Director of the Office of Science and Technology Policy, who shall be Chairman, and representatives of such other Executive agencies designated by the Chairman. The head of an agency so designated shall designate an appropriate individual to serve on the Council. The Council shall advise and assist the Director of the Office of Science and Technology Policy in the performance of those functions delegated under Section 4 of this Order.

SEC. 6. The records, property, personnel, and unexpended balances of appropriations, available or to be made available, which relate to the functions transferred, reassigned, or redelegated by this Order are hereby transferred to the Director of the Office of Management and Budget, the Director of the Office of Science and Technology Policy, or the Director of the National Science Foundation, as appropriate.

SEC. 7. The Director of the Office of Management and Budget shall make such determinations, issue such orders, and take all actions necessary or appropriate to effectuate the transfers or reassignments provided by this Order, including the transfer of funds, records, property, and personnel.

SEC. 8. This Order shall be effective on February 26, 1978.

EXECUTIVE ORDER NO. 12700

Ex. Ord. No. 12700, Jan. 19, 1990, 55 F.R. 2219, as amended by Ex. Ord. No. 12768, June 28, 1991, 56 F.R. 30302, which established the President's Council of Advisors on Science and Technology and provided for its functions, administration, and termination on June 30, 1993, was revoked by section 4(c) of Ex. Ord. No. 12882, §4(c), Nov. 23, 1993, 58 F.R. 62493. Ex. Ord. No. 12869, Sept. 30, 1993, §2, 58 F.R. 51751, formerly set out as a note under section 1013 of Title 5, Government Organization and Employees, which reestablished the President's Council of Advisors on Science and Technology in accordance with the provisions of Ex. Ord. No. 12700 and extended its term until Sept. 30, 1995, was also revoked by Ex. Ord. 12882, §4(c).

EX. ORD. NO. 12881. ESTABLISHMENT OF NATIONAL SCIENCE AND TECHNOLOGY COUNCIL

Ex. Ord. No. 12881, Nov. 23, 1993, 58 F.R. 62491; Ex. Ord. No. 13284, §9, Jan. 23, 2003, 68 F.R. 4076, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, it is hereby ordered as follows:

SECTION 1. *Establishment.* There is established the National Science and Technology Council ("the Council").

SEC. 2. *Membership*. The Council shall comprise the:

(a) President, who shall serve as Chairman of the Council;
(b) Vice President;
(c) Secretary of Commerce;
(d) Secretary of Defense;
(e) Secretary of Energy;
(f) Secretary of Health and Human Services;
(g) Secretary of State;
(h) Secretary of the Interior;
(i) Secretary of Homeland Security;

(j) Administrator, National Aeronautics and Space Administration;
(k) Director, National Science Foundation;
(l) Director of the Office of Management and Budget;
(m) Administrator, Environmental Protection Agency;
(n) Assistant to the President for Science and Technology;
(o) National Security Adviser;
(p) Assistant to the President for Economic Policy;
(q) Assistant to the President for Domestic Policy; and
(r) Such other officials of executive departments and agencies as the President may, from time to time, designate.

SEC. 3. *Meetings of the Council*. The President or, upon his direction, the Assistant to the President for Science and Technology ("the Assistant"), may convene meetings of the Council. The President shall preside over the meetings of the Council, provided that in his absence the Vice President, and in his absence the Assistant, will preside.

SEC. 4. *Functions*. (a) The principal functions of the Council are, to the extent permitted by law: (1) to coordinate the science and technology policy-making process; (2) to ensure science and technology policy decisions and programs are consistent with the President's stated goals; (3) to help integrate the President's science and technology policy agenda across the Federal Government; (4) to ensure science and technology are considered in development and implementation of Federal policies and programs; and (5) to further international cooperation in science and technology. The Assistant may take such actions, including drafting a Charter, as may be necessary or appropriate to implement such functions.

(b) All executive departments and agencies, whether or not represented on the Council, shall coordinate science and technology policy through the Council and shall share information on research and development budget requests with the Council.

(c) The Council shall develop for submission to the Director of the Office of Management and Budget recommendations on research and development budgets that reflect national goals. In addition, the Council shall provide advice to the Director of the Office of Management and Budget concerning the agencies' research and development budget submissions.

(d) The Assistant will, when appropriate, work in conjunction with the Assistant to the President for Economic Policy, the Assistant to the President for Domestic Policy, the Director of the Office of Management and Budget, and the National Security Adviser.

SEC. 5. *Administration*. (a) The Council will oversee the duties of the Federal Coordinating Council for Science, Engineering, and Technology, the National Space Council, and the National Critical Materials Council.

(b) The Council may function through established or ad hoc committees, task forces, or interagency groups.

(c) To the extent practicable and permitted by law, executive departments and agencies shall make resources, including, but not limited to, personnel, office support, and printing, available to the Council as requested by the Assistant.

(d) All executive departments and agencies shall cooperate with the Council and provide such assistance, information, and advice to the Council as the Council may request, to the extent permitted by law.

EXECUTIVE ORDER NO. 12882

Ex. Ord. No. 12882, Nov. 23, 1993, 58 F.R. 62493, as amended by Ex. Ord. No. 12907, Apr. 14, 1994, 59 F.R. 18291, which established the President's Committee of Advisors on Science and Technology, was revoked by Ex. Ord. No. 13226, §4(c), Sept. 30, 2001, 66 F.R. 50524, formerly set out below.

EXECUTIVE ORDER NO. 12975

Ex. Ord. No. 12975, Oct. 3, 1995, 60 F.R. 52063, as amended by Ex. Ord. No. 13018, Sept. 16, 1996, 61 F.R. 49045; Ex. Ord. No. 13046, May 16, 1997, 62 F.R. 27685; Ex. Ord. No. 13137, Sept. 15, 1999, 64 F.R. 50733, which provided for the protection of human research subjects and created the National Bioethics Advisory Commission, was revoked by Ex. Ord. No. 13316, §3(b), Sept. 17, 2003, 68 F.R. 55256, eff. Sept. 30, 2003.

EXECUTIVE ORDER NO. 13226

Ex. Ord. No. 13226, Sept. 30, 2001, 66 F.R. 50523, as amended by Ex. Ord. No. 13305, May 28, 2003, 68 F.R. 32323; Ex. Ord. No. 13349, July 23, 2004, 69 F.R. 44891; Ex. Ord. No. 13385, §8, Sept. 29, 2005, 70 F.R. 57991, which established the President's Council of Advisors on Science and Technology, was revoked by Ex. Ord. No. 13539, §6, Apr. 21, 2010, 75 F.R. 21975, formerly set out below.

EXTENSION OF TERM OF PRESIDENT'S COUNCIL OF ADVISORS ON SCIENCE AND TECHNOLOGY

Term of President's Council of Advisors on Science and Technology extended until Sept. 30, 2011, by Ex. Ord. No. 13511, Sept. 29, 2009, 74 F.R. 50909, formerly set out as a note under section 1013 of Title 5, Government Organization and Employees.

Previous extensions of term of President's Council of Advisors on Science and Technology were contained in the following prior Executive Orders:

Ex. Ord. No. 13446, Sept. 28, 2007, 72 F.R. 56175, extended term until Sept. 30, 2009.

Ex. Ord. No. 13385, Sept. 29, 2005, 70 F.R. 57989, extended term until Sept. 30, 2007.

EXECUTIVE ORDER NO. 13237

Ex. Ord. No. 13237, Nov. 28, 2001, 66 F.R. 59851, which created the President's Council on Bioethics, was superseded by Ex. Ord. No. 13521, §6(a), Nov. 24, 2009, 74 F.R. 62672, set out below.

EXTENSION OF TERM OF PRESIDENT'S COUNCIL ON BIOETHICS

Term of President's Council on Bioethics extended until Sept. 30, 2009, by Ex. Ord. No. 13446, Sept. 28, 2007, 72 F.R. 56175, formerly set out as a note under section 1013 of Title 5, Government Organization and Employees.

Previous extensions of term of President's Council on Bioethics were contained in the following prior Executive Orders:

Ex. Ord. No. 13385, Sept. 29, 2005, 70 F.R. 57989, extended term until Sept. 30, 2007.

Ex. Ord. No. 13316, Sept. 17, 2003, 68 F.R. 55255, extended term until Sept. 30, 2005.

EX. ORD. NO. 13521. ESTABLISHING THE PRESIDENTIAL COMMISSION FOR THE STUDY OF BIOETHICAL ISSUES

Ex. Ord. No. 13521, Nov. 24, 2009, 74 F.R. 62671, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Establishment.* There is established within the Department of Health and Human Services the Presidential Commission for the Study of Bioethical Issues (Commission).

SEC. 2. *Mission.*

(a) The Commission shall advise the President on bioethical issues that may emerge as a consequence of advances in biomedicine and related areas of science and technology. The Commission shall pursue its work with the goal of identifying and promoting policies and practices that ensure scientific research, healthcare delivery, and technological innovation are conducted in an ethically responsible manner. To achieve this goal, the Commission shall:

(i) identify and examine specific bioethical, legal, and social issues related to the potential impacts of advances in biomedical and behavioral research, healthcare delivery, or other areas of science and technology;

(ii) recommend any legal, regulatory, or policy actions it deems appropriate to address these issues; and

(iii) critically examine diverse perspectives and explore possibilities for useful international collaboration on these issues.

(b) In support of its mission, the Commission may examine issues linked to specific technologies, including but not limited to the creation of stem cells by novel means; intellectual property issues involving genetic sequencing, biomarkers, and other screening tests used for risk assessment; and the application of neuro- and robotic sciences. It may also examine broader issues not linked to specific technologies, including but not limited to the protection of human research participants; scientific integrity and conflicts of interest in research; and the intersection of science and human rights.

(c) The Commission shall not be responsible for the review and approval of specific projects.

(d) The Commission may accept suggestions of issues for consideration from executive departments and agencies and the public as it deems appropriate in support of its mission.

(e) In establishing priorities for its activities, the Commission shall consider, among other things, the significance of particular issues; the need for legal, regulatory, and policy guidance with respect to such issues; the connection of the issues to the goal of Federal advancement of science and technology; and the availability of other appropriate entities or fora for deliberating on the issues.

(f) The Commission is authorized to conduct original empirical and conceptual research, commission papers and studies, hold hearings, and establish committees and subcommittees, as necessary. The Commission is authorized to develop reports or other materials.

SEC. 3. *Membership.*

(a) The Commission shall be an expert panel composed of not more than 13 members appointed by the President, drawn from the fields of bioethics, science, medicine, technology, engineering, law, philosophy, theology, or other areas of the humanities or social sciences, at least one and not more than three of whom may be bioethicists or scientists drawn from the executive branch, as designated by the President.

(b) The President shall designate a Chair and Vice Chair from among the members of the Commission. The Chair shall convene and preside at meetings of the Commission, determine its agenda, and direct its work. The Vice Chair shall perform the duties of the Chair in the absence or disability of the Chair and shall perform such other functions as the Chair may from time to time assign.

(c) Members shall serve for a term of 2 years and shall be eligible for reappointment. Members may continue to serve after the expiration of their terms until the appointment of a successor.

SEC. 4. *Administration.*

(a) The Department of Health and Human Services shall provide funding and administrative support for the Commission to the extent permitted by law and within existing appropriations.

(b) All executive departments and agencies and all entities within the Executive Office of the President shall provide information and assistance to the Commission as the Chair may request for purposes of carrying out the Commission's functions, to the extent permitted by law.

(c) The Commission shall have a staff headed by an Executive Director, who shall be appointed by the Secretary of Health and Human Services in consultation with the Chair and Vice Chair.

(d) Members of the Commission shall serve without compensation, but shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in Government service (5 U.S.C. 5701–5707), consistent with the availability of funds.

SEC. 5. *Termination*. The Commission shall terminate 2 years after the date of this order unless extended by the President.

SEC. 6. *General Provisions.*

(a) This order supersedes Executive Order 13237 of November 28, 2001.

(b) Insofar as the Federal Advisory Committee Act, as amended ([former] 5 U.S.C. App.) [see 5 U.S.C. 1001 et seq.], may apply to the Commission, any functions of the President under that Act, except that of reporting to the Congress, shall be performed by the Secretary of Health and Human Services in accordance with the guidelines that have been issued by the Administrator of General Services.

(c) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to an executive department, agency, or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(d) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(e) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

EXTENSION OF TERM OF PRESIDENTIAL COMMISSION FOR THE STUDY OF BIOETHICAL ISSUES

Term of Presidential Commission for the Study of Bioethical Issues extended until Sept. 30, 2017, by Ex. Ord. No. 13708, Sept. 30, 2015, 80 F.R. 60271, formerly set out as a note under section 1013 of Title 5, Government Organization and Employees.

Previous extensions of term of Presidential Commission for the Study of Bioethical Issues were contained in the following prior Executive Orders:

Ex. Ord. No. 13652, Sept. 30, 2013, 78 F.R. 61817, extended term until Sept. 30, 2015.

Ex. Ord. No. 13591, Nov. 23, 2011, 76 F.R. 74623, extended term until Sept. 30, 2013.

EXECUTIVE ORDER NO. 13539

Ex. Ord. No. 13539, Apr. 21, 2010, 75 F.R. 21973, as amended by Ex. Ord. No. 13596, §2, Dec. 19, 2011, 76 F.R. 80725, which established the President's Council of Advisors on Science and Technology, was revoked by Ex. Ord. No. 13895, §7, Oct. 22, 2019, 84 F.R. 57311, formerly set out below.

EXTENSION OF TERM OF PRESIDENT'S COUNCIL OF ADVISORS ON SCIENCE AND TECHNOLOGY

Term of President's Council of Advisors on Science and Technology (established by Ex. Ord. No. 13539)

extended until Sept. 30, 2021, by Ex. Ord. No. 13889, Sept. 27, 2019, 84 F.R. 52743, formerly set out as a note under section 1013 of Title 5, Government Organization and Employees.

Previous extensions of term of President's Council of Advisors on Science and Technology were contained in the following prior Executive Orders:

Ex. Ord. No. 13811, Sept. 29, 2017, 82 F.R. 46363, extended term until Sept. 30, 2019.

Ex. Ord. No. 13708, Sept. 30, 2015, 80 F.R. 60271, extended term until Sept. 30, 2017.

Ex. Ord. No. 13652, Sept. 30, 2013, 78 F.R. 61817, extended term until Sept. 30, 2015.

Ex. Ord. No. 13591, Nov. 23, 2011, 76 F.R. 74623, extended term until Sept. 30, 2013.

EX. ORD. NO. 13859. MAINTAINING AMERICAN LEADERSHIP IN ARTIFICIAL INTELLIGENCE

Ex. Ord. No. 13859, Feb. 11, 2019, 84 F.R. 3967, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Policy and Principles.* Artificial Intelligence (AI) promises to drive growth of the United States economy, enhance our economic and national security, and improve our quality of life. The United States is the world leader in AI research and development (R&D) and deployment. Continued American leadership in AI is of paramount importance to maintaining the economic and national security of the United States and to shaping the global evolution of AI in a manner consistent with our Nation's values, policies, and priorities. The Federal Government plays an important role in facilitating AI R&D, promoting the trust of the American people in the development and deployment of AI-related technologies, training a workforce capable of using AI in their occupations, and protecting the American AI technology base from attempted acquisition by strategic competitors and adversarial nations. Maintaining American leadership in AI requires a concerted effort to promote advancements in technology and innovation, while protecting American technology, economic and national security, civil liberties, privacy, and American values and enhancing international and industry collaboration with foreign partners and allies. It is the policy of the United States Government to sustain and enhance the scientific, technological, and economic leadership position of the United States in AI R&D and deployment through a coordinated Federal Government strategy, the American AI Initiative (Initiative), guided by five principles:

(a) The United States must drive technological breakthroughs in AI across the Federal Government, industry, and academia in order to promote scientific discovery, economic competitiveness, and national security.

(b) The United States must drive development of appropriate technical standards and reduce barriers to the safe testing and deployment of AI technologies in order to enable the creation of new AI-related industries and the adoption of AI by today's industries.

(c) The United States must train current and future generations of American workers with the skills to develop and apply AI technologies to prepare them for today's economy and jobs of the future.

(d) The United States must foster public trust and confidence in AI technologies and protect civil liberties, privacy, and American values in their application in order to fully realize the potential of AI technologies for the American people.

(e) The United States must promote an international environment that supports American AI research and innovation and opens markets for American AI industries, while protecting our technological advantage in AI and protecting our critical AI technologies from acquisition by strategic competitors and adversarial nations.

SEC. 2. *Objectives.* Artificial Intelligence will affect the missions of nearly all executive departments and agencies (agencies). Agencies determined to be implementing agencies pursuant to section 3 of this order shall pursue six strategic objectives in furtherance of both promoting and protecting American advancements in AI:

(a) Promote sustained investment in AI R&D in collaboration with industry, academia, international partners and allies, and other non-Federal entities to generate technological breakthroughs in AI and related technologies and to rapidly transition those breakthroughs into capabilities that contribute to our economic and national security.

(b) Enhance access to high-quality and fully traceable Federal data, models, and computing resources to increase the value of such resources for AI R&D, while maintaining safety, security, privacy, and confidentiality protections consistent with applicable laws and policies.

(c) Reduce barriers to the use of AI technologies to promote their innovative application while protecting American technology, economic and national security, civil liberties, privacy, and values.

(d) Ensure that technical standards minimize vulnerability to attacks from malicious actors and reflect Federal priorities for innovation, public trust, and public confidence in systems that use AI technologies; and develop international standards to promote and protect those priorities.

(e) Train the next generation of American AI researchers and users through apprenticeships; skills programs; and education in science, technology, engineering, and mathematics (STEM), with an emphasis on computer science, to ensure that American workers, including Federal workers, are capable of taking full advantage of the opportunities of AI.

(f) Develop and implement an action plan, in accordance with the National Security Presidential Memorandum of February 11, 2019 (Protecting the United States Advantage in Artificial Intelligence and Related Critical Technologies) (the NSPM) to protect the advantage of the United States in AI and technology critical to United States economic and national security interests against strategic competitors and foreign adversaries.

SEC. 3. *Roles and Responsibilities*. The Initiative shall be coordinated through the National Science and Technology Council (NSTC) Select Committee on Artificial Intelligence (Select Committee). Actions shall be implemented by agencies that conduct foundational AI R&D, develop and deploy applications of AI technologies, provide educational grants, and regulate and provide guidance for applications of AI technologies, as determined by the co-chairs of the NSTC Select Committee (implementing agencies).

SEC. 4. *Federal Investment in AI Research and Development.*

(a) Heads of implementing agencies that also perform or fund R&D (AI R&D agencies), shall consider AI as an agency R&D priority, as appropriate to their respective agencies' missions, consistent with applicable law and in accordance with the Office of Management and Budget (OMB) and the Office of Science and Technology Policy (OSTP) R&D priorities memoranda. Heads of such agencies shall take this priority into account when developing budget proposals and planning for the use of funds in Fiscal Year 2020 and in future years. Heads of these agencies shall also consider appropriate administrative actions to increase focus on AI for 2019.

(b) Heads of AI R&D agencies shall budget an amount for AI R&D that is appropriate for this prioritization.

(i) Following the submission of the President's Budget request to the Congress, heads of such agencies shall communicate plans for achieving this prioritization to the OMB Director and the OSTP Director each fiscal year through the Networking and Information Technology Research and Development (NITRD) Program.

(ii) Within 90 days of the enactment of appropriations for their respective agencies, heads of such agencies shall identify each year, consistent with applicable law, the programs to which the AI R&D priority will apply and estimate the total amount of such funds that will be spent on each such program. This information shall be communicated to the OMB Director and OSTP Director each fiscal year through the NITRD Program.

(c) To the extent appropriate and consistent with applicable law, heads of AI R&D agencies shall explore opportunities for collaboration with non-Federal entities, including: the private sector; academia; non-profit organizations; State, local, tribal, and territorial governments; and foreign partners and allies, so all collaborators can benefit from each other's investment and expertise in AI R&D.

SEC. 5. *Data and Computing Resources for AI Research and Development.*

(a) Heads of all agencies shall review their Federal data and models to identify opportunities to increase access and use by the greater non-Federal AI research community in a manner that benefits that community, while protecting safety, security, privacy, and confidentiality. Specifically, agencies shall improve data and model inventory documentation to enable discovery and usability, and shall prioritize improvements to access and quality of AI data and models based on the AI research community's user feedback.

(i) Within 90 days of the date of this order [Feb. 11, 2019], the OMB Director shall publish a notice in the Federal Register inviting the public to identify additional requests for access or quality improvements for Federal data and models that would improve AI R&D and testing. Additionally, within 90 days of the date of this order, OMB, in conjunction with the Select Committee, shall investigate barriers to access or quality limitations of Federal data and models that impede AI R&D and testing. Collectively, these actions by OMB will help to identify datasets that will facilitate non-Federal AI R&D and testing.

(ii) Within 120 days of the date of this order, OMB, including through its interagency councils and the Select Committee, shall update implementation guidance for Enterprise Data Inventories and Source Code Inventories to support discovery and usability in AI R&D.

(iii) Within 180 days of the date of this order, and in accordance with the implementation of the Cross-Agency Priority Goal: Leveraging Federal Data as a Strategic Asset, from the March 2018 President's Management Agenda, agencies shall consider methods of improving the quality, usability, and appropriate access to priority data identified by the AI research community. Agencies shall also identify any associated resource implications.

(iv) In identifying data and models for consideration for increased public access, agencies, in coordination with the Senior Agency Officials for Privacy established pursuant to Executive Order 13719 of February 9, 2016 (Establishment of the Federal Privacy Council) [42 U.S.C. 2000ee–2 note], the heads of Federal

statistical entities, Federal program managers, and other relevant personnel shall identify any barriers to, or requirements associated with, increased access to and use of such data and models, including:

(A) privacy and civil liberty protections for individuals who may be affected by increased access and use, as well as confidentiality protections for individuals and other data providers;

(B) safety and security concerns, including those related to the association or compilation of data and models;

(C) data documentation and formatting, including the need for interoperable and machine-readable data formats;

(D) changes necessary to ensure appropriate data and system governance; and

(E) any other relevant considerations.

(v) In accordance with the President's Management Agenda and the Cross-Agency Priority Goal: Leveraging Data as a Strategic Asset, agencies shall identify opportunities to use new technologies and best practices to increase access to and usability of open data and models, and explore appropriate controls on access to sensitive or restricted data and models, consistent with applicable laws and policies, privacy and confidentiality protections, and civil liberty protections.

(b) The Secretaries of Defense, Commerce, Health and Human Services, and Energy, the Administrator of the National Aeronautics and Space Administration, and the Director of the National Science Foundation shall, to the extent appropriate and consistent with applicable law, prioritize the allocation of high-performance computing resources for AI-related applications through:

(i) increased assignment of discretionary allocation of resources and resource reserves; or

(ii) any other appropriate mechanisms.

(c) Within 180 days of the date of this order, the Select Committee, in coordination with the General Services Administration (GSA), shall submit a report to the President making recommendations on better enabling the use of cloud computing resources for federally funded AI R&D.

(d) The Select Committee shall provide technical expertise to the American Technology Council on matters regarding AI and the modernization of Federal technology, data, and the delivery of digital services, as appropriate.

SEC. 6. *Guidance for Regulation of AI Applications.*

(a) Within 180 days of the date of this order, the OMB Director, in coordination with the OSTP Director, the Director of the Domestic Policy Council, and the Director of the National Economic Council, and in consultation with any other relevant agencies and key stakeholders as the OMB Director shall determine, shall issue a memorandum to the heads of all agencies that shall:

(i) inform the development of regulatory and non-regulatory approaches by such agencies regarding technologies and industrial sectors that are either empowered or enabled by AI, and that advance American innovation while upholding civil liberties, privacy, and American values; and

(ii) consider ways to reduce barriers to the use of AI technologies in order to promote their innovative application while protecting civil liberties, privacy, American values, and United States economic and national security.

(b) To help ensure public trust in the development and implementation of AI applications, OMB shall issue a draft version of the memorandum for public comment before it is finalized.

(c) Within 180 days of the date of the memorandum described in subsection (a) of this section, the heads of implementing agencies that also have regulatory authorities shall review their authorities relevant to applications of AI and shall submit to OMB plans to achieve consistency with the memorandum.

(d) Within 180 days of the date of this order, the Secretary of Commerce, through the Director of the National Institute of Standards and Technology (NIST), shall issue a plan for Federal engagement in the development of technical standards and related tools in support of reliable, robust, and trustworthy systems that use AI technologies. NIST shall lead the development of this plan with participation from relevant agencies as the Secretary of Commerce shall determine.

(i) Consistent with OMB Circular A–119, this plan shall include:

(A) Federal priority needs for standardization of AI systems development and deployment;

(B) identification of standards development entities in which Federal agencies should seek membership with the goal of establishing or supporting United States technical leadership roles; and

(C) opportunities for and challenges to United States leadership in standardization related to AI technologies.

(ii) This plan shall be developed in consultation with the Select Committee, as needed, and in consultation with the private sector, academia, non-governmental entities, and other stakeholders, as appropriate.

SEC. 7. *AI and the American Workforce.*

(a) Heads of implementing agencies that also provide educational grants shall, to the extent consistent with

applicable law, consider AI as a priority area within existing Federal fellowship and service programs.

(i) Eligible programs for prioritization shall give preference to American citizens, to the extent permitted by law, and shall include:

(A) high school, undergraduate, and graduate fellowship; alternative education; and training programs;

(B) programs to recognize and fund early-career university faculty who conduct AI R&D, including through Presidential awards and recognitions;

(C) scholarship for service programs;

(D) direct commissioning programs of the United States Armed Forces; and

(E) programs that support the development of instructional programs and curricula that encourage the integration of AI technologies into courses in order to facilitate personalized and adaptive learning experiences for formal and informal education and training.

(ii) Agencies shall annually communicate plans for achieving this prioritization to the co-chairs of the Select Committee.

(b) Within 90 days of the date of this order, the Select Committee shall provide recommendations to the NSTC Committee on STEM Education regarding AI-related educational and workforce development considerations that focus on American citizens.

(c) The Select Committee shall provide technical expertise to the National Council for the American Worker on matters regarding AI and the American workforce, as appropriate.

SEC. 8. *Action Plan for Protection of the United States Advantage in AI Technologies.*

(a) As directed by the NSPM, the Assistant to the President for National Security Affairs, in coordination with the OSTP Director and the recipients of the NSPM, shall organize the development of an action plan to protect the United States advantage in AI and AI technology critical to United States economic and national security interests against strategic competitors and adversarial nations.

(b) The action plan shall be provided to the President within 120 days of the date of this order, and may be classified in full or in part, as appropriate.

(c) Upon approval by the President, the action plan shall be implemented by all agencies who are recipients of the NSPM, for all AI-related activities, including those conducted pursuant to this order.

SEC. 9. *Definitions.* As used in this order:

(a) the term "artificial intelligence" means the full extent of Federal investments in AI, to include: R&D of core AI techniques and technologies; AI prototype systems; application and adaptation of AI techniques; architectural and systems support for AI; and cyberinfrastructure, data sets, and standards for AI; and

(b) the term "open data" shall, in accordance with OMB Circular A–130 and memorandum M–13–13, mean "publicly available data structured in a way that enables the data to be fully discoverable and usable by end users."

SEC. 10. *General Provisions.*

(a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of OMB relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

EXECUTIVE ORDER NO. 13895

Ex. Ord. No. 13895, Oct. 22, 2019, 84 F.R. 57309, which established the President's Council of Advisors on Science and Technology, was revoked by Ex. Ord. No. 14007, §6, Jan. 27, 2021, 86 F.R. 7616, formerly set out below.

EXECUTIVE ORDER NO. 14007

Ex. Ord. No. 14007, Jan. 27, 2021, 86 F.R. 7615, as amended by Ex. Ord. No. 14044, Sept. 13, 2021, 86 F.R. 51579, which established the President's Council of Advisors on Science and Technology, was revoked by Ex. Ord. No. 14148, §2(r), Jan. 20, 2025, 90 F.R. 8238, Ex. Ord. No. 14154, §4(a)(iv), Jan. 20, 2025, 90 F.R. 8354, and Ex. Ord. No. 14177, §6, Jan. 23, 2025, 90 F.R. 8644.

EXTENSION OF TERM OF PRESIDENT'S COUNCIL OF ADVISORS ON SCIENCE AND TECHNOLOGY

Term of President's Council of Advisors on Science and Technology (established by Ex. Ord. No. 14007) extended until Sept. 30, 2025, by Ex. Ord. No. 14109, Sept. 29, 2023, 88 F.R. 68447, set out as a note under section 1013 of Title 5, Government Organization and Employees.

Previous extension of term of President's Council of Advisors on Science and Technology (established by Ex. Ord. No. 14007) was contained in the following prior Executive Order:

Ex. Ord. No. 14048, Sept. 30, 2021, 86 F.R. 55465, extended term until Sept. 30, 2023.

EX. ORD. NO. 14177. PRESIDENT'S COUNCIL OF ADVISORS ON SCIENCE AND TECHNOLOGY

Ex. Ord. No. 14177, Jan. 23, 2025, 90 F.R. 8643, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to establish an advisory council on science and technology, it is hereby ordered:

SECTION 1. *Purpose*. The American story is one of boundless creativity and bold ambition, driven by an indomitable pioneering spirit that propels exploration and discovery. It is this spirit that illuminated the world with Edison's lightbulb, carried the Wright brothers into the skies, and sent Armstrong to the moon. Today, a new frontier of scientific discovery lies before us, defined by transformative technologies such as artificial intelligence, quantum computing, and advanced biotechnology. Breakthroughs in these fields have the potential to reshape the global balance of power, spark entirely new industries, and revolutionize the way we live and work. As our global competitors race to exploit these technologies, it is a national security imperative for the United States to achieve and maintain unquestioned and unchallenged global technological dominance. To secure our future, we must harness the full power of American innovation by empowering entrepreneurs, unleashing private-sector creativity, and reinvigorating our research institutions.

At the heart of scientific progress lies the pursuit of truth. But this foundational principle, which has driven every major breakthrough in our history, is increasingly under threat. Today, across science, medicine, and technology, ideological dogmas have surfaced that elevate group identity above individual achievement, enforce conformity at the expense of innovative ideas, and inject politics into the heart of the scientific method. These agendas have not only distorted truth but have eroded public trust, undermined the integrity of research, stifled innovation, and weakened America's competitive edge. This order establishes the President's Council of Advisors on Science and Technology to unite the brightest minds from academia, industry, and government to guide our Nation through this critical moment by charting a path forward for American leadership in science and technology.

SEC. 2. *Establishment*. (a) There is hereby established the President's Council of Advisors on Science and Technology (PCAST).

(b) The PCAST shall be composed of not more than 24 members. The Assistant to the President for Science and Technology (APST) and the Special Advisor for AI & Crypto shall be members of the PCAST. If also serving as the Director of the Office of Science and Technology Policy, the APST may designate the U.S. Chief Technology Officer as a member. The remaining members shall be distinguished individuals and representatives from sectors outside of the Federal Government appointed by the President. These non-Federal members shall have diverse perspectives and expertise in science, technology, education, and innovation.

(c) The APST and the Special Advisor for AI & Crypto shall serve as Co-Chairs of the PCAST. The Co-Chairs may designate up to two Vice Chairs of the PCAST from among the non-Federal members of the PCAST, to support the Co-Chairs in the leadership and organization of the PCAST.

SEC. 3. *Functions*. (a) The PCAST shall advise the President on matters involving science, technology, education, and innovation policy. The Council shall also provide the President with scientific and technical information that is needed to inform public policy relating to the American economy, the American worker, national and homeland security, and other topics.

(b) The PCAST shall meet regularly and shall:

(i) respond to requests from the President or the Co-Chairs for information, analysis, evaluation, or advice;

(ii) solicit information and ideas from a broad range of stakeholders, including the research community; the private sector; universities; national laboratories; State, local, and Tribal governments; foundations; and nonprofit organizations;

(iii) serve as the advisory committee identified in section 101(b) of the High-Performance Computing Act of 1991 (Public Law 102–194), as amended (15 U.S.C. 5511(b)), in which capacity the PCAST shall be known as the President's Innovation and Technology Advisory Committee; and

(iv) serve as the advisory panel identified in section 4 of the 21st Century Nanotechnology Research and Development Act (Public Law 108–153), as amended (15 U.S.C. 7503), in which capacity the PCAST shall be known as the National Nanotechnology Advisory Panel.

(c) The PCAST shall provide advice from the non-Federal sector to the National Science and Technology

Council (NSTC) in response to requests from the NSTC.

SEC. 4. *Administration*. (a) The heads of executive departments and agencies shall, to the extent permitted by law, provide the PCAST with information concerning scientific and technological matters when requested by the PCAST Co-Chairs and as required for the purpose of carrying out the PCAST's functions.

(b) In consultation with the Co-Chairs, the PCAST is authorized to create standing subcommittees and ad hoc groups, including technical advisory groups, to assist the PCAST and provide preliminary information directly to the PCAST.

(c) In order to allow the PCAST to provide advice and analysis regarding classified matters, the Co-Chairs may request that members of the PCAST, its standing subcommittees, or ad hoc groups who do not hold a current clearance for access to classified information receive security clearance and access determinations pursuant to Executive Order 12968 of August 2, 1995 (Access to Classified Information) [50 U.S.C. 3161 note], as amended, or any successor order.

(d) The Department of Energy shall provide such funding and administrative and technical support as the PCAST may require, to the extent permitted by law and as authorized by existing appropriations.

(e) Members of the PCAST shall serve without any compensation for their work on the PCAST, but may receive travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the government service (5 U.S.C. 5701–5707).

(f) Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App.) [now 5 U.S.C. 1001 et seq.], may apply to the PCAST, any functions of the President under that Act, except that of reporting to the Congress, shall be performed by the Secretary of Energy, in accordance with the guidelines and procedures established by the Administrator of General Services.

SEC. 5. *Termination*. The PCAST shall terminate 2 years from the date of this order [Jan. 23, 2025] unless extended by the President.

SEC. 6. *Revocation*. Executive Order 14007 of January 27, 2021 (President's Council of Advisors on Science and Technology) [formerly set out above], as amended by Executive Order 14109 of September 29, 2023 (Continuance of Certain Federal Advisory Committees and Amendments to Other Executive Orders), is hereby revoked.

SEC. 7. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

EX. ORD. NO. 14303. RESTORING GOLD STANDARD SCIENCE

Ex. Ord. No. 14303, May 23, 2025, 90 F.R. 22601, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 7301 of title 5, United States Code, it is hereby ordered:

SECTION 1. *Policy and Purpose*. Over the last 5 years, confidence that scientists act in the best interests of the public has fallen significantly. A majority of researchers in science, technology, engineering, and mathematics believe science is facing a reproducibility crisis. The falsification of data by leading researchers has led to high-profile retractions of federally funded research.

Unfortunately, the Federal Government has contributed to this loss of trust. In several notable cases, executive departments and agencies (agencies) have used or promoted scientific information in a highly misleading manner. For example, under the prior Administration, the Centers for Disease Control and Prevention issued COVID-19 guidance on reopening schools that incorporated edits by the American Federation of Teachers and was understood to discourage in-person learning. This guidance's restrictive and burdensome reopening conditions led many schools to remain at least partially closed, resulting in substantial negative effects on educational outcomes—even though the best available scientific evidence showed that children were unlikely to transmit or suffer serious illness or death from the virus, and that opening schools with reasonable mitigation measures would have only minor effects on transmission.

The National Marine Fisheries Service justified a biological opinion by adopting an admitted "worst-case scenario" projection of the North Atlantic right whale population that it believed was "very likely" wrong. The agency's proposed actions could have destroyed the historic Maine lobster fishery. The D.C. Circuit Court of

Appeals subsequently overturned that opinion because the agency's decision to seek out the worst-case scenario skewed its approach to the evidence.

Similarly, agencies have used Representative Concentration Pathway (RCP) scenario 8.5 to assess the potential effects of climate change in a "higher" warming scenario. RCP 8.5 is a worst-case scenario based on highly unlikely assumptions like end-of-century coal use exceeding estimates of recoverable coal reserves. Scientists have warned that presenting RCP 8.5 as a likely outcome is misleading.

Actions taken by the prior Administration further politicized science, for example, by encouraging agencies to incorporate diversity, equity, and inclusion considerations into all aspects of science planning, execution, and communication. Scientific integrity in the production and use of science by the Federal Government is critical to maintaining the trust of the American people and ensuring confidence in government decisions informed by science.

My Administration is committed to restoring a gold standard for science to ensure that federally funded research is transparent, rigorous, and impactful, and that Federal decisions are informed by the most credible, reliable, and impartial scientific evidence available. We must restore the American people's faith in the scientific enterprise and institutions that create and apply scientific knowledge in service of the public good. Reproducibility, rigor, and unbiased peer review must be maintained. This order restores the scientific integrity policies of my first Administration and ensures that agencies practice data transparency, acknowledge relevant scientific uncertainties, are transparent about the assumptions and likelihood of scenarios used, approach scientific findings objectively, and communicate scientific data accurately. Agency use of Gold Standard Science, as set forth in this order, will spur innovation, translate discovery to success, and ensure continued American strength and global leadership in technology.

SEC. 2. *Definitions*. For the purposes of this order:

(a) "Employee" has the meaning given that term in 5 U.S.C. 2105.

(b) "Scientific information" means factual inputs, data, models, analyses, technical information, or scientific assessments related to such disciplines as the behavioral and social sciences, public health and medical sciences, life and earth sciences, engineering, physical sciences, or probability and statistics. This includes any communication or representation of knowledge such as facts or data, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms.

(c) "Scientific misconduct" means fabrication, falsification, or plagiarism in proposing, performing, reviewing, or reporting the results of scientific research, but does not include honest error or differences of opinion. For the purposes of this definition:

(i) "fabrication" is making up data or results and recording or reporting them;

(ii) "falsification" is manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record; and

(iii) "plagiarism" is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.

(d) "Senior appointee" means an individual appointed by the President (or an individual performing the functions and duties of an individual appointed by the President) or a non-career member of the Senior Executive Service.

(e) "Weight of scientific evidence" means an approach to scientific evaluation in which each piece of relevant information is considered based on its quality and relevance, and then transparently integrated with other relevant information to inform the scientific evaluation prior to making a judgment about the scientific evaluation. Quality and relevance determinations, at a minimum, should include consideration of study design, fitness for purpose, replicability, peer review, and transparency and reliability of data.

SEC. 3. *Restoring Gold Standard Science*. (a) Within 30 days of the date of this order [May 23, 2025], the Director of the Office of Science and Technology Policy (OSTP Director) shall, in consultation with the heads of relevant agencies, issue guidance for agencies on implementation of "Gold Standard Science" in the conduct and management of their respective scientific activities. For the purposes of this order, Gold Standard Science means science conducted in a manner that is:

(i) reproducible;

(ii) transparent;

(iii) communicative of error and uncertainty;

(iv) collaborative and interdisciplinary;

(v) skeptical of its findings and assumptions;

(vi) structured for falsifiability of hypotheses;

(vii) subject to unbiased peer review;

(viii) accepting of negative results as positive outcomes; and

(ix) without conflicts of interest.

(b) Upon publication of the guidance prescribed in subsection (a), each agency head, as necessary and appropriate and in consultation with the Director of the Office of Management and Budget (OMB Director) and the OSTP Director, shall promptly update applicable agency policies governing the production and use of scientific information, including scientific integrity policies, to implement the OSTP Director's guidance on Gold Standard Science and ensure that agency scientific activities are conducted in accordance with this order.

(c) Each agency head shall, to the extent practicable, incorporate the OSTP Director's guidance on Gold Standard Science and the requirements of this order into the processes by which their agency conducts, manages, interprets, communicates, and uses scientific or technological information prior to the finalization of the updated policies under this section.

(d) Within 60 days of the publication of the guidance prescribed in section 3(a), agency heads shall report to the OSTP Director on the actions taken to implement Gold Standard Science at their agency.

SEC. 4. *Improving the Use, Interpretation, and Communication of Scientific Data*. No later than 30 days after the date of this order, agency heads and employees shall adhere to the following rules governing the use, interpretation, and communication of scientific data, unless otherwise provided by law:

(a) Employees shall not engage in scientific misconduct nor knowingly rely on information resulting from scientific misconduct.

(b) Except as prohibited by law, and consistent with relevant policies that protect national security or sensitive personal or confidential business information, agency heads shall in a timely manner and, to the extent practicable and within the agency's authority:

(i) subject to paragraph (ii), make publicly available the following information within the agency's possession:

(A) the data, analyses, and conclusions associated with scientific and technological information produced or used by the agency that the agency reasonably assesses will have a clear and substantial effect on important public policies or important private sector decisions (influential scientific information), including data cited in peer-reviewed literature; and

(B) the models and analyses (including, as applicable, the source code for such models) the agency used to generate such influential scientific information. Employees may not invoke exemption 5 to the Freedom of Information Act (5 U.S.C. 552(b)(5)) to prevent disclosure of such models unless authorized in writing to do so by the agency head following prior notice to the OSTP Director.

(ii) risk models used to guide agency enforcement actions or select enforcement targets are not information that must be disclosed under this subsection.

(c) When using scientific information in agency decision-making, employees shall transparently acknowledge and document uncertainties, including how uncertainty propagates throughout any models used in the analysis.

(d) Where employees produce or use scientific information to inform policy or legal determinations they must use science that comports with the legal standards applicable to those determinations, including when agencies evaluate the realistic or reasonably foreseeable effects of an action.

(e) Employees shall be transparent about the likelihood of the assumptions and scenarios used. Highly unlikely and overly precautionary assumptions and scenarios should only be relied upon in agency decision-making where required by law or otherwise pertinent to the agency's action.

(f) When scientific or technological information is used to inform agency evaluations and subsequent decision-making, employees shall apply a "weight of scientific evidence" approach.

(g) Employees' communication of scientific information shall be consistent with the results of the relevant analysis and evaluation and, to the extent that uncertainty is present, the degree of uncertainty should be communicated. Communications involving a scientific model or information derived from a scientific model should include reference to any material assumptions that inform the model's outputs.

(h) Once the guidance on Gold Standard Science is established and promulgated pursuant to section 3 of this order, it shall, among other things, form the basis for employees' evaluation of all scientific and technological information called for in this order except where otherwise required by law.

SEC. 5. *Interim Scientific Integrity Policies*. (a) Until the issuance of updated agency scientific integrity policies pursuant to section 3 of this order, and except where required by law:

(i) scientific integrity policies in each agency shall be governed by the scientific integrity policies that existed within the executive branch on January 19, 2021, except that in the event of a conflict between such policies and the policies and requirements of this order, the policies and requirements of this order control; and

(ii) agency heads shall take all necessary actions to reevaluate and, where necessary, revise or rescind scientific integrity policies or procedures, or amendments to such policies or procedures, issued between

January 20, 2021, and January 20, 2025.

(iii) each agency head shall promptly revoke any organizational or operational changes, designations, or documents that were issued or enacted pursuant to the Presidential Memorandum of January 27, 2021 (Restoring Trust in Government Through Scientific Integrity and Evidence-Based Policymaking) [former 42 U.S.C. 6601 note], which was revoked pursuant to Executive Order 14154 and shall conduct applicable agency operations in the manner and revert applicable agency organization to the same form as would have existed in the absence of such changes, designations, or documents.

(b) In updating applicable scientific integrity policies pursuant to section 3 of this order, agencies should ensure they:

(i) encourage the open exchange of ideas;

(ii) provide for consideration of different or dissenting viewpoints; and

(iii) protect employees from efforts to prevent or deter consideration of alternative scientific opinions.

(c) Agencies, unless prohibited by law, shall review agency actions taken between January 20, 2021, and January 20, 2025, including regulations, guidance documents, policies, and scientific evaluations and take all appropriate steps, consistent with law, to ensure alignment with the policies and requirements of this order.

SEC. 6. *Scope and Applicability*. (a) The policies and rules set forth in this order apply to all employees involved in the generation, use, interpretation, or communication of scientific information, regardless of job classification, and to all agency decision-making, except where precluded by law.

(b) Agency heads and employees shall, to the extent practicable and consistent with applicable law, require agency contractors to adhere to these policies and rules as though they were agency employees.

(c) The policies and rules set forth in this order govern the use of science that informs agency decisions but they are not applicable to non-scientific aspects of agency decision-making.

SEC. 7. *Enforcement and Oversigh*t. (a) Each agency head shall establish internal processes to evaluate alleged violations of the requirements of this order and other applicable agency policies governing the generation, use, interpretation, and communication of scientific information. Such processes shall be the responsibility, and administered under the direction, of a senior appointee designated by the agency head and shall provide for taking appropriate measures to correct scientific information in response to violations, consistent with the requirements and procedures of section 515 of the statute commonly known as the Information Quality Act, Public Law 106–554, appendix C (114 Stat. 2763A–153) [Pub. L. 106–554, §1(a)(3) [title V, §515]; 44 U.S.C. 3516 note]. The designated senior appointee may also forward potential violations to the relevant human resources officials for discipline to the extent the potential violation also violates applicable agency policies and procedures. The designated senior appointee may consult appropriate officials with scientific expertise when establishing such processes.

(b) The processes created under this section are, unless otherwise required by applicable law, the sole and exclusive means of evaluating and, as applicable, addressing alleged violations of this order and other agency policies governing the use, interpretation, and communication of scientific information.

SEC. 8. *Waivers*. (a) An agency head may request in writing that the OMB Director, in consultation with the OSTP Director, waive any of the requirements of this order for good cause shown. Such request must explain how the requested waiver is consistent with the policies and purposes of this order.

(b) Notwithstanding any other provision of this order, the policies and requirements of this order shall apply to agency actions that pertain to foreign or military affairs, or to a national security or homeland security function of the United States, only to the extent that the applicable agency head, in his or her sole and exclusive discretion, determines they should apply.

SEC. 9. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Office of Management and Budget shall provide funding for publication of this order in the Federal Register.

DONALD J. TRUMP.

STRENGTHENED PROTECTIONS FOR HUMAN SUBJECTS OF CLASSIFIED RESEARCH

Memorandum of President of the United States, Mar. 27, 1997, 62 F.R. 26369, provided:

Memorandum for the Secretary of Defense, the Attorney General, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Secretary of Energy, the Secretary of Education, the Secretary of Veterans Affairs, the Director of Central Intelligence, the Administrator of the Environmental Protection Agency, the Administrator of the Agency for International Development, the Administrator of the National Aeronautics and Space Administration, the Director of the National Science Foundation, the Chair of the Nuclear Regulatory Commission, the Director of the Office of Science and Technology Policy, [and] the Chair of the Consumer Product Safety Commission

I have worked hard to restore trust and ensure openness in government. This memorandum will further our progress toward these goals by strengthening the Federal Government's protections for human subjects of classified research.

In January 1994, I established the Advisory Committee on Human Radiation Experiments (the "Advisory Committee") to examine reports that the government had funded and conducted unethical human radiation experiments during the Cold War [see Ex. Ord. No. 12891, formerly set out as a note under section 2210 of this title]. I directed the Advisory Committee to uncover the truth, recommend steps to right past wrongs, and propose ways to prevent unethical human subjects research from occurring in the future. In its October 1995 final report, the Advisory Committee recommended, among other things, that the government modify its policy governing classified research on human subjects ("Recommendations for Balancing National Security Interests and the Rights of the Public," Recommendation 15, Final Report, Advisory Committee on Human Radiation Experiments). This memorandum sets forth policy changes in response to those recommendations.

The Advisory Committee acknowledged that it is in the Nation's interest to continue to allow the government to conduct classified research involving human subjects where such research serves important national security interests. The Advisory Committee found, however, that classified human subjects research should be a "rare event" and that the "subjects of such research, as well as the interests of the public in openness in science and in government, deserve special protections." The Advisory Committee was concerned about "exceptions to informed consent requirements and the absence of any special review and approval process for human research that is to be classified." The Advisory Committee recommended that in all classified research projects the agency conducting or sponsoring the research meet the following requirements:

—obtain informed consent from all human subjects;

—inform subjects of the identity of the sponsoring agency;

—inform subjects that the project involves classified research;

—obtain approval by an "independent panel of nongovernmental experts and citizen representatives, all with the necessary security clearances" that reviews scientific merit, risk-benefit tradeoffs, and ensures subjects have enough information to make informed decisions to give valid consent; and

—maintain permanent records of the panel's deliberations and consent procedures.

This memorandum implements these recommendations with some modifications. For classified research, it prohibits waiver of informed consent and requires researchers to disclose that the project is classified. For all but minimal risk studies, it requires researchers to inform subjects of the sponsoring agency. It also requires permanent recordkeeping.

The memorandum also responds to the Advisory Committee's call for a special review process for classified human subjects research. It requires that institutional review boards for secret projects include a nongovernmental member, and establishes an appeals process so that any member of a review board who believes a project should not go forward can appeal the boards' decision to approve it.

Finally, this memorandum sets forth additional steps to ensure that classified human research is rare. It requires the heads of Federal agencies to disclose annually the number of secret human research projects undertaken by their agency. It also prohibits any agency from conducting secret human research without first promulgating a final rule applying the Federal Policy for the Protection of Human Subjects, as modified in this memorandum, to the agency.

These steps, set forth in detail below, will preserve the government's ability to conduct any necessary classified research involving human subjects while ensuring adequate protection of research participants.

1. *Modifications to the Federal Policy for the Protection of Human Subjects as it Affects Classified Research.* All agencies that may conduct or support classified research that is subject to the 1991 Federal Policy for the Protection of Human Subjects ("Common Rule") (56 Fed. Reg. 28010–28018) shall promptly jointly publish in the Federal Register the following proposed revisions to the Common Rule as it affects classified research. The Office for Protection from Research Risks in the Department of Health and Human Services shall be the lead agency and, in consultation with the Office of Management and Budget, shall coordinate the joint rulemaking.

(a) The agencies shall jointly propose to prohibit waiver of informed consent for classified research.

(b) The agencies shall jointly propose to prohibit the use of expedited review procedures under the Common Rule for classified research.

(c) The joint proposal should request comment on whether all research exemptions under the Common Rule should be maintained for classified research.

(d) The agencies shall jointly propose to require that in classified research involving human subjects, two additional elements of information be provided to potential subjects when consent is sought from subjects:

(i) the identity of the sponsoring Federal agency. Exceptions are allowed if the head of the sponsoring agency determines that providing this information could compromise intelligence sources or methods and that the research involves no more than minimal risk to subjects. The determination about sources and methods is to be made in consultation with the Director of Central Intelligence and the Assistant to the President for National Security Affairs. The determination about risk is to be made in consultation with the Director of the White House Office of Science and Technology Policy.

(ii) a statement that the project is "classified" and an explanation of what classified means.

(e) The agencies shall jointly propose to modify the institutional review board ("IRB") approval process for classified human subjects research as follows:

(i) The Common Rule currently requires that each IRB "include at least one member who is not otherwise affiliated with the institution and who is not part of the immediate family of a person who is affiliated with the institution." For classified research, the agencies shall define "not otherwise affiliated with the institution," as a nongovernmental member with the appropriate security clearance.

(ii) Under the Common Rule, research projects are approved by the IRB if a "majority of those (IRB) members present at a meeting" approved the project. For classified research, the agencies shall propose to permit any member of the IRB who does not believe a specific project should be approved by the IRB to appeal a majority decision to approve the project to the head of the sponsoring agency. If the agency head affirms the IRB's decision to approve the project, the dissenting IRB member may appeal the IRB's decisions to the Director of OSTP. The Director of OSTP shall review the IRB's decision and approve or disapprove the project, or, at the Director's discretion, convene an IRB made up of nongovernmental officials, each with the appropriate security clearances, to approve or disapprove the project.

(iii) IRBs for classified research shall determine whether potential subjects need access to classified information to make a valid informed consent decision.

2. *Final Rules*. Agencies shall, within 1 year, after considering any comments, promulgate final rules on the protection of human subjects of classified research.

3. *Agency Head Approval of Classified Research Projects*. Agencies may not conduct any classified human research project subject to the Common Rule unless the agency head has personally approved the specific project.

4. *Annual Public Disclosure of the Number of Classified Research Projects*. Each agency head shall inform the Director of OSTP by September 30 of each year of the number of classified research projects involving human subjects underway on that date, the number completed in the previous 12-month period, and the number of human subjects in each project. The Director of OSTP shall report the total number of classified research projects and participating subjects to the President and shall then report to the congressional armed services and intelligence committees and further shall publish the numbers in the Federal Register.

5. *Definitions*. For purposes of this memorandum, the terms "research" and "human subject" shall have the meaning set forth in the Common Rule. "Classified human research" means research involving "classified information" as defined in [former] Executive Order 12958.

6. *No Classified Human Research Without Common Rule*. Beginning one year after the date of this memorandum, no agency shall conduct or support classified human research without having proposed and promulgated the Common Rule, including the changes set forth in this memorandum and any subsequent amendments.

7. *Judicial Review*. This memorandum is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any other persons.

8. The Secretary of Health and Human Services shall publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

RESTORING TRUST IN GOVERNMENT THROUGH SCIENTIFIC INTEGRITY AND EVIDENCE-BASED POLICYMAKING

Memorandum of President of the United States, Jan. 27, 2021, 86 F.R. 8845, provided:

Memorandum for the Heads of Executive Departments and Agencies

It is the policy of my Administration to make evidence-based decisions guided by the best available science and data. Scientific and technological information, data, and evidence are central to the development and iterative improvement of sound policies, and to the delivery of equitable programs, across every area of government. Scientific findings should never be distorted or influenced by political considerations. When scientific or technological information is considered in policy decisions, it should be subjected to well-established scientific processes, including peer review where feasible and appropriate, with appropriate protections for privacy. Improper political interference in the work of Federal scientists or other scientists who support the work of the Federal Government and in the communication of scientific facts undermines the welfare of the Nation, contributes to systemic inequities and injustices, and violates the trust that the public places in government to best serve its collective interests.

This memorandum reaffirms and builds on the Presidential Memorandum of March 9, 2009 (Scientific Integrity) [74 F.R. 10671], and the Director of the Office of Science and Technology Policy's Memorandum of December 17, 2010 (Scientific Integrity).

By the authority vested in me as President by the Constitution and the laws of the United States of America, I direct as follows:

SECTION 1. *Role of the Director of the Office of Science and Technology Policy*. The Director of the Office of Science and Technology Policy (Director) shall ensure the highest level of integrity in all aspects of executive branch involvement with scientific and technological processes. This responsibility shall include ensuring that executive departments and agencies (agencies) establish and enforce scientific-integrity policies that ban improper political interference in the conduct of scientific research and in the collection of scientific or technological data, and that prevent the suppression or distortion of scientific or technological findings, data, information, conclusions, or technical results. In implementing this memorandum, the Director shall, as appropriate, convene and confer with the heads of agencies and with personnel within the offices of the Executive Office of the President, including the Office of Management and Budget.

SEC. 2. *Task Force on Scientific Integrity*. (a) The Director shall convene an interagency task force (the "Task Force") of the National Science and Technology Council (NSTC) to conduct a thorough review of the effectiveness of agency scientific-integrity policies developed since the issuance of the Presidential Memorandum of March 9, 2009.

(b) The Task Force shall complete its review within 120 days of the date of the appointment of its members, and shall take the following actions when completing its review.

(i) The Task Force shall ensure its review considers whether existing Federal scientific-integrity policies prevent improper political interference in the conduct of scientific research and the collection of scientific or technological data; prevent the suppression or distortion of scientific or technological findings, data, information, conclusions, or technical results; support scientists and researchers of all genders, races, ethnicities, and backgrounds; and advance the equitable delivery of the Federal Government's programs.

(ii) The Task Force's review shall include an analysis of any instances in which existing scientific-integrity policies have not been followed or enforced, including whether such deviations from existing policies have resulted in improper political interference in the conduct of scientific research and the collection of scientific or technological data; led to the suppression or distortion of scientific or technological findings, data, information, conclusions, or technical results; disproportionately harmed Federal scientists and researchers from groups that are historically underrepresented in science, technology, and related fields; or impeded the equitable delivery of the Federal Government's programs. The scope of this review shall include the work of scientific and technological advisory committees, boards, and similar bodies. The existing policies examined by this review shall include those issued pursuant to the Presidential Memorandum of March 9, 2009, and the Director's Memorandum of December 17, 2010; any other scientific-integrity policies published on agency websites; and commonly accepted scientific-integrity practices.

(iii) The Task Force shall identify effective practices regarding engagement of Federal scientists, as well as contractors working on scientific matters for agencies, with news media and on social media; effective policies that protect scientific independence during clearance and review, and that avoid improper political interference in research or data collection; effective approaches for handling any disagreements about scientific methods and conclusions; effective reporting practices that promote transparency in the implementation of agency scientific-integrity policies and in the handling of any allegations of misconduct; effective practices for educating and informing employees and contractors of their rights and responsibilities related to agency scientific-integrity policies; promising opportunities to address gaps in current scientific-integrity policies related to emerging technologies, such as artificial intelligence and machine-learning, and evolving scientific practices, such as citizen science and community-engaged research; effective approaches to minimizing conflicts of interest in Federal Government science; and

policies that support the professional development of Federal scientists in accordance with, and building on, section IV of the Director's Memorandum of December 17, 2010.

(iv) To inform the review, the Task Force shall gather input from stakeholders and the public regarding scientific-integrity practices. The Task Force shall consider obtaining such input through various means, which may include holding a virtual stakeholder summit hosted by the Office of Science and Technology Policy (OSTP), issuing a public request for information, and conducting a virtual listening tour or open forums.

(v) Upon the conclusion of its review, the Director shall publish a report on the OSTP website synthesizing the Task Force's findings. The report shall include a description of agencies' strengths and weaknesses regarding scientific-integrity policies, as well as a description of best practices and lessons learned.

(c) Within 120 days of the publication of the Task Force's initial 120-day review of existing scientific-integrity policies, the Task Force shall develop a framework to inform and support the regular assessment and iterative improvement of agency scientific-integrity policies and practices, to support the Director and OSTP in ensuring that agencies adhere to the principles of scientific integrity. This framework shall include assessment criteria that OSTP and agencies can use to inform, review, and improve the design and implementation of agency scientific-integrity policies. The Director shall publish this framework on the OSTP website.

SEC. 3. *Agency Scientific-Integrity Policies*. (a) Heads of agencies shall ensure that all agency activities associated with scientific and technological processes are conducted in accordance with the 6 principles set forth in section 1 of the Presidential Memorandum of March 9, 2009, and the 4 foundations of scientific integrity in government set forth in part I of the Director's Memorandum of December 17, 2010.

(b) Heads of agencies shall ensure that their agency scientific-integrity policies reflect the findings in the Task Force report produced under section (2)(b)(v) of this memorandum and apply to all agency employees, regardless of the nature of their appointment, as well as contractors who perform scientific activities for agencies. Heads of agencies shall coordinate with the Director in the development, updating, and implementation of any agency-specific policies or procedures deemed necessary to ensure the integrity of scientific decision-making. The following time frames shall apply when completing the activities described in this subsection:

(i) The head of each agency with an existing scientific-integrity policy shall submit an updated policy to the Director within 180 days of the publication of the Task Force's report.

(ii) The head of each agency without an existing scientific-integrity policy shall submit a draft agency scientific-integrity policy to the Director within 180 days of the publication of the Task Force's report.

(iii) The Director shall expeditiously review scientific-integrity policies submitted by the agencies to ensure that the policies respond to the Task Force's analysis, adhere to the policy directives in this memorandum, and uphold the highest standards of scientific practice.

(iv) The Director shall notify agencies of any deficiencies in the scientific-integrity policies and collaborate with agencies to expeditiously correct those deficiencies.

(c) In implementing this section, heads of agencies shall:

(i) Provide the Director with any information the Director deems necessary to conduct the Director's duties under this memorandum;

(ii) Publish the agency's scientific-integrity policy on the agency's website, and disseminate information about the policy through the agency's social media channels;

(iii) Develop and publish procedures, as appropriate and consistent with applicable law, for implementing the agency's scientific-integrity policy, including establishing and publishing an administrative process for reporting, investigating, and appealing allegations of deviations from the agency's policy, and for resolving any disputes or disagreements about scientific methods and conclusions;

(iv) Review and, as needed, update within 60 days of the date of this memorandum [Jan. 27, 2021] any website content, and within 300 days of the date of this memorandum any agency reports, data, and other agency materials issued or published since January 20, 2017, that are inconsistent with the principles set forth in this memorandum and that remain in use by the agency or its stakeholders;

(v) Educate agency employees, as well as contractors who perform scientific activities for the agency, on their rights and responsibilities related to scientific integrity, including by conducting routine training on the agency's scientific-integrity policy for all employees, and by ensuring any new employees are made aware of their responsibilities under the agency's scientific-integrity policy shortly after they are hired; and

(vi) Publish, consistent with any requirements related to national security and privacy, as well as any other applicable law, an annual report on the agency's website that includes the number of administrative investigations and appeals involving alleged deviations from the agency's scientific-integrity policies, as

described in section (3)(c)(iii) of this memorandum, for the year covered by the report, and the number of investigations and appeals pending from years prior to the year covered by the report, if any.

SEC. 4. *Publication of Scientific-Integrity Policies and Ongoing Biennial Reporting*. (a) The Director shall publish on the OSTP website, and disseminate via social media, information about this memorandum, related OSTP and NSTC reports on scientific integrity, and links to the scientific-integrity policies posted on agency websites, to ensure such information and policies can be easily accessed by the public.

(b) The Director shall publish on the OSTP website, and disseminate via social media, a biennial report on the status of the implementation of this memorandum across the executive branch. This report shall include a review of the impact on scientific integrity of diversity, equity, and inclusion practices related to the Federal scientific and engineering workforce and scientific Federal advisory committees.

SEC. 5. *Evidence-Based Policymaking*. (a) Heads of agencies shall ensure that the scientific-integrity policies of their agencies consider, supplement, and support their plans for forming evidence-based policies, including the evidence-building plans required by 5 U.S.C. 312(a) and the annual evaluation plans required by 5 U.S.C. 312(b).

(b) Within 120 days of the date of this memorandum, after consultation with the Director, the Director of the Office of Management and Budget (OMB) shall issue guidance to improve agencies' evidence-building plans and annual evaluation plans. Specifically, the Director of OMB shall consider whether, consistent with, and building upon, Executive Order 13707 of September 15, 2015 (Using Behavioral Science Insights to Better Serve the American People) [5 U.S.C. 601 note], agencies' evidence-building plans and annual evaluation plans shall include a broad set of methodological approaches for the evidence-based and iterative development and the equitable delivery of policies, programs, and agency operations. Relevant approaches might include use of pilot projects, randomized control trials, quantitative-survey research and statistical analysis, qualitative research, ethnography, research based on data linkages in which records from two or more datasets that refer to the same entity are joined, well-established processes for community engagement and inclusion in research, and other approaches that may be informed by the social and behavioral sciences and data science.

(c) The statutory positions required to be designated by agencies by the Foundations for Evidence-Based Policymaking Act of 2018 (Public Law 115–435) [see Tables for classification], which include the Evaluation Officer, the Chief Data Officer, and a senior statistical official, shall incorporate scientific-integrity principles consistent with this memorandum into agencies' data governance and evaluation approaches. Similarly, the Chief Data Officers Council shall incorporate scientific-integrity principles consistent with this memorandum into its efforts to establish government-wide best practices for the use, protection, dissemination, and generation of data, and both the Chief Data Officers Council and the Evaluation Officer Council shall identify ways in which agencies can improve upon the production of evidence for use in policymaking.

(d) Consistent with the provisions of the Foundations for Evidence-Based Policymaking Act of 2018, heads of agencies shall, as appropriate and consistent with applicable law, expand open and secure access to Federal data routinely collected in the course of administering Federal, State, local, Tribal, or territorial government programs or fulfilling Federal, State, local, Tribal, or territorial government mandates, such as tax data, vital records, other statistical data, and Social Security Administration earnings and employment reports, to ensure governmental and non-governmental researchers can use Federal data to assess and evaluate the effectiveness and equitable delivery of policies and to suggest improvements. In implementing this provision, heads of agencies shall:

(i) Make these data available by default in a machine-readable format and in a manner that protects privacy and confidential or classified information, and any other information protected from disclosure by law;

(ii) Publish an agency data plan that provides a consistent framework for data stewardship, use, and access. If publishing such a plan is not feasible, then the head of the agency shall publish guidelines outlining how the data were collected, metadata on data use, any limitations on data use, and ways for researchers to provide feedback on data shared;

(iii) Follow the mandates of the Information Quality Act (section 515 of [H.R. 5658 of the 106th Congress, as enacted by section 1(a)(3) of] Public Law 106–554) [44 U.S.C. 3516 note] in assessing and making available to researchers information on the quality of the data being provided; and

(iv) Where possible, provide such data disaggregated by gender, race, ethnicity, age, income, and other demographic factors that support researchers in understanding the effects of policies and programs on equity and justice.

(e) The Director of OMB shall review whether guidance to agencies on implementation of the Information Quality Act needs to be updated and reissued.

(f) Heads of agencies shall review and expeditiously update any agency policies, processes, and practices

issued or published since January 20, 2017, that prevent the best available science and data from informing the agency's evidence-based and iterative development and equitable delivery of policies and programs.

SEC. 6. *Agency Chief Science Officers and Scientific Integrity Officials*. (a) Within 120 days of the date of this memorandum, the heads of agencies that fund, conduct, or oversee scientific research shall, to the extent consistent with applicable law, designate a senior agency employee for the role of chief science officer, science advisor, or chief scientist ("Chief Science Officer"), who shall:

(i) Serve as the principal advisor to the head of the agency on scientific issues and ensure that the agency's research programs are scientifically and technologically well-founded and conducted with integrity; and

(ii) Oversee the implementation and iterative improvement of policies and processes affecting the integrity of research funded, conducted, or overseen by the agency, as well as policies affecting the Federal and non-Federal scientists who support the research activities of the agency, including scientific-integrity policies consistent with the provisions of this memorandum.

(b) Because science, facts, and evidence are vital to addressing policy and programmatic issues across the Federal Government, the heads of all agencies (not only those that fund, conduct, or oversee scientific research) shall designate expeditiously a senior career employee as the agency's lead scientific-integrity official ("Scientific Integrity Official") to oversee implementation and iterative improvement of scientific-integrity policies and processes consistent with the provisions of this memorandum, including implementation of the administrative and dispute resolution processes described in section (3)(c)(iii) of this memorandum. For agencies with a Chief Science Officer, the Scientific Integrity Official shall report to the Chief Science Officer on all matters involving scientific-integrity policies.

(c) To the extent necessary to fully implement the provisions of this memorandum, heads of agencies may designate additional scientific-integrity points of contact in different offices and components, who shall coordinate with the agency's Scientific Integrity Official in implementing the agency's scientific-integrity policies and processes.

(d) Heads of agencies should ensure those designated to serve in the roles described in this section, along with their respective staffs, are selected based on their scientific and technological knowledge, skills, experience, and integrity, including experience conducting and overseeing scientific research and utilizing scientific and technological information and data in agency decision-making, prioritizing experience with evidence-based, equitable, inclusive, and participatory practices and structures for the conduct of scientific research and the communication of scientific results.

(e) The Director or a designee of the Director shall regularly convene Chief Science Officers and Scientific Integrity Officials to encourage the discussion and expansion of effective scientific-integrity policies and practices among agencies.

SEC. 7. *Scientific Advisory Committees*. (a) Within 90 days of the date of this memorandum, heads of agencies shall review their current and future needs for independent scientific and technological advice from Federal advisory committees, commissions, and boards. The review should include an evaluation of those advisory bodies established by law, and should consider both current and anticipated needs.

(b) This review shall assess which Federal scientific and technological advisory committees should be rechartered or recreated to ensure that relevant and highly qualified external experts, with proper safeguards against conflicts of interest, can contribute to critical Federal regulations and other agency actions and decision-making. The review shall also identify any agency policies, processes, or practices that may currently prevent or inhibit relevant and highly qualified external experts from serving on such committees.

(c) In conducting this review, heads of agencies shall take steps to review the membership of scientific and technological advisory committees and, as appropriate and consistent with applicable law, ensure that members and future nominees reflect the diversity of America in terms of gender, race, ethnicity, geography, and other characteristics; represent a variety of backgrounds, areas of expertise, and experiences; provide well-rounded and expert advice to agencies; and are selected based on their scientific and technological knowledge, skills, experience, and integrity, including prioritization of experience with evidence-based, equitable, inclusive, and participatory practices and structures for the conduct of scientific research and the communication of scientific results.

(d) Upon completion of their 90-day review, heads of agencies shall provide a summary report to the Director and the Director of OMB with recommendations on which Federal scientific and technological advisory committees should be rechartered or recreated in accordance with subsection (b) of this section; which scientific and technological advisory committees should be prioritized for membership appointments to ensure they provide well-rounded and expert advice reflecting diverse perspectives, in accordance with subsection (c) of this section; and which agency policies, processes, or practices, if any, should be updated to encourage relevant and highly qualified external experts to serve on such committees.

SEC. 8. *General Provisions*. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

J.R. BIDEN, JR.

§6602. Congressional declaration of policy

(a) Principles

In view of the foregoing, the Congress declares that the United States shall adhere to a national policy for science and technology which includes the following principles:

(1) The continuing development and implementation of strategies for determining and achieving the appropriate scope, level, direction, and extent of scientific and technological efforts based upon a continuous appraisal of the role of science and technology in achieving goals and formulating policies of the United States, and reflecting the views of State and local governments and representative public groups.

(2) The enlistment of science and technology to foster a healthy economy in which the directions of growth and innovation are compatible with the prudent and frugal use of resources and with the preservation of a benign environment.

(3) The conduct of science and technology operations so as to serve domestic needs while promoting foreign policy objectives.

(4) The recruitment, education, training, retraining, and beneficial use of adequate numbers of scientists, engineers, and technologists, and the promotion by the Federal Government of the effective and efficient utilization in the national interest of the Nation's human resources in science, engineering, and technology.

(5) The development and maintenance of a solid base for science and technology in the United States, including: (A) strong participation of and cooperative relationships with State and local governments and the private sector; (B) the maintenance and strengthening of diversified scientific and technological capabilities in government, industry, and the universities, and the encouragement of independent initiatives based on such capabilities, together with elimination of needless barriers to scientific and technological innovation; (C) effective management and dissemination of scientific and technological information; (D) establishment of essential scientific, technical and industrial standards and measurement and test methods; and (E) promotion of increased public understanding of science and technology.

(6) The recognition that, as changing circumstances require periodic revision and adaptation of this subchapter, the Federal Government is responsible for identifying and interpreting the changes in those circumstances as they occur, and for effecting subsequent changes in this subchapter as appropriate.

(b) Implementation

To implement the policy enunciated in subsection (a) of this section, the Congress declares that:

(1) The Federal Government should maintain central policy planning elements in the executive branch which assist Federal agencies in (A) identifying public problems and objectives, (B) mobilizing scientific and technological resources for essential national programs, (C) securing appropriate funding for programs so identified, (D) anticipating future concerns to which science and technology can contribute and devising strategies for the conduct of science and technology for such purposes, (E) reviewing systematically Federal science policy and programs and

recommending legislative amendment thereof when needed. Such elements should include an advisory mechanism within the Executive Office of the President so that the Chief Executive may have available independent, expert judgment and assistance on policy matters which require accurate assessments of the complex scientific and technological features involved.

(2) It is a responsibility of the Federal Government to promote prompt, effective, reliable, and systematic transfer of scientific and technological information by such appropriate methods as programs conducted by nongovernmental organizations, including industrial groups and technical societies. In particular, it is recognized as a responsibility of the Federal Government not only to coordinate and unify its own science and technology information systems, but to facilitate the close coupling of institutional scientific research with commercial application of the useful findings of science.

(3) It is further an appropriate Federal function to support scientific and technological efforts which are expected to provide results beneficial to the public but which the private sector may be unwilling or unable to support.

(4) Scientific and technological activities which may be properly supported exclusively by the Federal Government should be distinguished from those in which interests are shared with State and local governments and the private sector. Among these entities, cooperative relationships should be established which encourage the appropriate sharing of science and technology decisionmaking, funding support, and program planning and execution.

(5) The Federal Government should support and utilize engineering and its various disciplines and make maximum use of the engineering community, whenever appropriate, as an essential element in the Federal policymaking process.

(6) Comprehensive legislative support for the national science and technology effort requires that the Congress be regularly informed of the condition, health and vitality, and funding requirements of science and technology, the relation of science and technology to changing national goals, and the need for legislative modification of the Federal endeavor and structure at all levels as it relates to science and technology.

(c) Procedures

The Congress declares that, in order to expedite and facilitate the implementation of the policy enunciated in subsection (a) of this section, the following coordinate procedures are of paramount importance:

(1) Federal procurement policy should encourage the use of science and technology to foster frugal use of materials, energy, and appropriated funds; to assure quality environment; and to enhance product performance.

(2) Explicit criteria, including cost-benefit principles where practicable, should be developed to identify the kinds of applied research and technology programs that are appropriate for Federal funding support and to determine the extent of such support. Particular attention should be given to scientific and technological problems and opportunities offering promise of social advantage that are so long range, geographically widespread, or economically diffused that the Federal Government constitutes the appropriate source for undertaking their support.

(3) Federal promotion of science and technology should emphasize quality of research, recognize the singular importance of stability in scientific and technological institutions, and for urgent tasks, seek to assure timeliness of results. With particular reference to Federal support for basic research, funds should be allocated to encourage education in needed disciplines, to provide a base of scientific knowledge from which future essential technological development can be launched, and to add to the cultural heritage of the Nation.

(4) Federal patent policies should be developed, based on uniform principles, which have as their objective the preservation of incentives for technological innovation and the application of procedures which will continue to assure the full use of beneficial technology to serve the public.

(5) Closer relationships should be encouraged among practitioners of different scientific and technological disciplines, including the physical, social, and biomedical fields.

(6) Federal departments, agencies, and instrumentalities should assure efficient management of laboratory facilities and equipment in their custody, including acquisition of effective equipment,

disposal of inferior and obsolete properties, and cross-servicing to maximize the productivity of costly property of all kinds. Disposal policies should include attention to possibilities for further productive use.

(7) The full use of the contributions of science and technology to support State and local government goals should be encouraged.

(8) Formal recognition should be accorded those persons whose scientific and technological achievements have contributed significantly to the national welfare.

(9) The Federal Government should support applied scientific research, when appropriate, in proportion to the probability of its usefulness, insofar as this probability can be determined; but while maximizing the beneficial consequences of technology, the Government should act to minimize foreseeable injurious consequences.

(10) Federal departments, agencies, and instrumentalities should establish procedures to insure among them the systematic interchange of scientific data and technological findings developed under their programs.

(Pub. L. 94–282, title I, §102, May 11, 1976, 90 Stat. 460.)

§6603. Sense of Congress on innovation acceleration research

(a) Sense of Congress on support and promotion of innovation in the United States

It is the sense of Congress that each Federal research agency should strive to support and promote innovation in the United States through high-risk, high-reward basic research projects that—

(1) meet fundamental technological or scientific challenges;

(2) involve multidisciplinary work; and

(3) involve a high degree of novelty.

(b) Sense of Congress on setting annual funding goals for basic research

It is the sense of Congress that each Executive agency that funds research in science, technology, engineering, or mathematics should set a goal of allocating an appropriate percentage of the annual basic research budget of such agency to funding high-risk, high-reward basic research projects described in subsection (a).

(c) Definitions

In this section:

(1) Basic research

The term "basic research" has the meaning given such term in the Office of Management and Budget Circular No. A–11.

(2) Executive agency

The term "Executive agency" has the meaning given such term in section 105 of title 5.

(Pub. L. 110–69, title I, §1008, Aug. 9, 2007, 121 Stat. 581; Pub. L. 114–329, title II, §204(a)(2), Jan. 6, 2017, 130 Stat. 2998.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the America COMPETES Act, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Act, and not as part of the National Science and Technology Policy, Organization, and Priorities Act of 1976 which comprises this chapter.

AMENDMENTS

2017—Subsecs. (c), (d). Pub. L. 114–329 redesignated subsec. (d) as (c) and struck out former subsec. (c) which related to annual reports to Congress.

§6604. Interagency working group on research regulation

(a) Short title

This section may be cited as the "Research and Development Efficiency Act".

(b) Findings

Congress makes the following findings:

(1) Scientific and technological advancement have been the largest drivers of economic growth in the last 50 years, with the Federal Government being the largest investor in basic research.

(2) Substantial and increasing administrative burdens and costs in Federal research administration, particularly in the higher education sector where most federally funded research is performed, are eroding funds available to carry out basic scientific research.

(3) Federally funded grants are increasingly competitive, with the Foundation funding only approximately 1 in every 5 grant proposals.

(4) Progress has been made over the last decade in streamlining the pre-award grant application process through the Federal Government's Grants.gov website.

(5) Post-award administrative costs have increased as Federal research agencies have continued to impose agency-unique compliance and reporting requirements on researchers and research institutions.

(6) Researchers spend as much as 42 percent of their time complying with Federal regulations, including administrative tasks such as applying for grants or meeting reporting requirements.

(c) Sense of Congress

It is the sense of Congress that—

(1) administrative burdens faced by researchers may be reducing the return on investment of federally funded research and development; and

(2) it is a matter of critical importance to United States competitiveness that administrative costs of federally funded research be streamlined so that a higher proportion of federal funding is applied to direct research activities.

(d) Establishment

The Director of the Office of Management and Budget, in coordination with the Office of Science and Technology Policy, shall establish an interagency working group (referred to in this section as the "Working Group") for the purpose of reducing administrative burdens on federally funded researchers while protecting the public interest through the transparency of and accountability for federally funded activities.

(e) Responsibilities

(1) In general

The Working Group shall—

(A) regularly review relevant, administration-related regulations imposed on federally funded researchers;

(B) recommend those regulations or processes that may be eliminated, streamlined, or otherwise improved for the purpose described in subsection (d);

(C) recommend ways to minimize the regulatory burden on United States institutions of higher education performing federally funded research while maintaining accountability for federal funding; and

(D) recommend ways to identify and update specific regulations to refocus on performance-based goals rather than on process while achieving the outcome described in subparagraph (C).

(2) Grant review

(A) In general

The Working Group shall—

(i) conduct a comprehensive review of Federal science agency grant proposal documents; and

(ii) develop, to the extent practicable, a simplified, uniform grant format to be used by all Federal science agencies.

(B) Considerations

In developing the uniform grant format, the Working Group shall consider whether to implement—

(i) procedures for preliminary project proposals in advance of peer-review selection;

(ii) increased use of "Just-In-Time" procedures for documentation that does not bear directly on the scientific merit of a proposal;

(iii) simplified initial budget proposals in advance of peer review selection; and

(iv) detailed budget proposals for applicants that peer review selection identifies as likely to be funded.

(3) Centralized researcher profile database

(A) Establishment

The Working Group shall establish, to the extent practicable, a secure, centralized database for investigator biosketches, curriculum vitae, licenses, lists of publications, and other documents considered relevant by the Working Group.

(B) Considerations

In establishing the centralized profile database under subparagraph (A), the Working Group shall consider incorporating existing investigator databases.

(C) Grant proposals

To the extent practicable, all grant proposals shall utilize the centralized investigator profile database established under subparagraph (A).

(D) Requirements

Each investigator shall—

(i) be responsible for ensuring the investigator's profile is current and accurate; and

(ii) be assigned a unique identifier linked to the database and accessible to all Federal funding agencies.

(4) Centralized assurances repository

The Working Group shall—

(A) establish a central repository for all of the assurances required for Federal research grants; and

(B) provide guidance to institutions of higher education and Federal science agencies on the use of the centralized assurances repository.

(5) Comprehensive review

(A) In general

The Working Group shall—

(i) conduct a comprehensive review of the mandated progress reports for federally funded research; and

(ii) develop a strategy to simplify investigator progress reports.

(B) Considerations

In developing the strategy, the Working Group shall consider limiting progress reports to performance outcomes.

(f) Consultation

In carrying out its responsibilities under subsection (e)(1), the Working Group shall consult with

academic researchers outside the Federal Government, including—

(1) federally funded researchers;

(2) non-federally funded researchers;

(3) institutions of higher education and their representative associations;

(4) scientific and engineering disciplinary societies and associations;

(5) nonprofit research institutions;

(6) industry, including small businesses;

(7) federally funded research and development centers; and

(8) members of the public with a stake in ensuring effectiveness, efficiency, and accountability in the performance of scientific research.

(g) Reports

Not later than 1 year after January 6, 2017, and annually thereafter for 3 years, the Working Group shall submit to the appropriate committees of Congress a report on its responsibilities under this section, including a discussion of the considerations described in paragraphs (2)(B), (3)(B), and (5)(B) of subsection (e) and recommendations made under subsection (e)(1).

(Pub. L. 114–329, title II, §201, Jan. 6, 2017, 130 Stat. 2995.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as the Research and Development Efficiency Act and also as part of the American Innovation and Competitiveness Act, and not as part of the National Science and Technology Policy, Organization, and Priorities Act of 1976 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 2 of Pub. L. 114–329, set out as a note under section 1862s of this title.

§6605. Disclosure of funding sources in applications for Federal research and development awards

(a) Disclosure requirement

Each Federal research agency shall require, as part of any application for a research and development award from such agency—

(1) that each covered individual listed on the application—

(A) disclose the amount, type, and source of all current and pending research support received by, or expected to be received by, the individual as of the time of the disclosure;

(B) certify that the disclosure is current, accurate, and complete; and

(C) agree to update such disclosure at the request of the agency prior to the award of support and at any subsequent time the agency determines appropriate during the term of the award; and

(2) that any entity applying for such award certify that each covered individual who is employed by the entity and listed on the application has been made aware of the requirements under paragraph (1).

(b) Consistency

The Director of the Office of Science and Technology Policy, acting through the National Science and Technology Council and in accordance with the authority provided under section 1746(a) of the

National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 42 U.S.C. 6601 note) [1] shall ensure that the requirements issued by Federal research agencies under subsection (a) are consistent.

(c) Enforcement

(1) Rejection for violation of law or agency terms

A Federal research agency may reject an application for a research and development award if the current and pending research support disclosed by an individual under subsection (a) violates Federal law or agency terms and conditions.

(2) Enforcement for noncompliance

Subject to paragraph (3), in the event that a covered individual listed on an entity's application for a research and development award knowingly fails to disclose information under subsection (a), a Federal research agency may take one or more of the following actions:

(A) Reject the application.

(B) Suspend or terminate a research and development award made by that agency to the individual or entity.

(C) Temporarily or permanently discontinue any or all funding from that agency for the individual or entity.

(D) Temporarily or permanently suspend or debar the individual or entity in accordance with part 180 of title 2, Code of Federal Regulations, any successor regulation, or any other appropriate law or regulation, from receiving government funding.

(E) Refer the failure to disclose under subsection (a) to the Inspector General of the agency concerned for further investigation or to Federal law enforcement authorities to determine whether any criminal or civil laws were violated.

(F) Place the individual or entity in the Federal Awardee Performance and Integrity Information System for noncompliance to alert other agencies.

(G) Take such other actions against the individual or entity as are authorized under applicable law or regulations.

(3) Special rule for enforcement against entities

An enforcement action described in paragraph (2) may be taken against an entity only in a case in which—

(A) the entity did not meet the requirements of subsection (a)(2);

(B) the entity knew that a covered individual failed to disclose information under subsection (a)(1) and the entity did not take steps to remedy such nondisclosure before the application was submitted; or

(C) the head of the Federal research agency concerned determines that—

(i) the entity is owned, controlled, or substantially influenced by a covered individual; and

(ii) such individual knowingly failed to disclose information under subsection (a)(1).

(4) Notice

A Federal research agency that intends to take action under paragraph (1) or (2) shall, as practicable and in accordance with part 180 of title 2, Code of Federal Regulations, any successor regulation, or any other appropriate law or regulation, notify each individual or entity subject to such action about the specific reason for the action, and shall provide such individuals and entities with the opportunity to, and a process by which, to contest [2] the proposed action.

(5) Evidentiary standards

A Federal research agency seeking suspension or debarment under paragraph (2)(D) shall abide by the procedures and evidentiary standards set forth in part 180 of title 2, Code of Federal Regulations, any successor regulation, or any other appropriate law or regulation.

(d) Definitions

In this section:

(1) The term "covered individual" means an individual who—
(A) contributes in a substantive, meaningful way to the scientific development or execution of a research and development project proposed to be carried out with a research and development award from a Federal research agency; and
(B) is designated as a covered individual by the Federal research agency concerned.

(2) The term "current and pending research support"—
(A) means all resources made available, or expected to be made available, to an individual in support of the individual's research and development efforts, regardless of—
(i) whether the source of the resource is foreign or domestic;
(ii) whether the resource is made available through the entity applying for a research and development award or directly to the individual; or
(iii) whether the resource has monetary value; and

(B) includes in-kind contributions requiring a commitment of time and directly supporting the individual's research and development efforts, such as the provision of office or laboratory space, equipment, supplies, employees, or students.

(3) The term "entity" means an entity that has applied for or received a research and development award from a Federal research agency.
(4) The term "Federal research agency" means any Federal agency with an annual extramural research expenditure of over $100,000,000.
(5) The term "research and development award" means support provided to an individual or entity by a Federal research agency to carry out research and development activities, which may include support in the form of a grant, contract, cooperative agreement, or other such transaction. The term does not include a grant, contract, agreement or other transaction for the procurement of goods or services to meet the administrative needs of a Federal research agency.

(Pub. L. 116–283, div. A, title II, §223, Jan. 1, 2021, 134 Stat. 3470.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, and not as part of the National Science and Technology Policy, Organization, and Priorities Act of 1976 which comprises this chapter.

[1] *So in original. Probably should be followed by a comma.*

[2] *So in original. Probably should be "which to, contest".*

SUBCHAPTER II—OFFICE OF SCIENCE AND TECHNOLOGY POLICY

§6611. Establishment of Office

There is established in the Executive Office of the President an Office of Science and Technology Policy (hereinafter referred to in this subchapter as the "Office").

(Pub. L. 94–282, title II, §202, May 11, 1976, 90 Stat. 463.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

For short title of this subchapter as the "Presidential Science and Technology Advisory Organization Act of 1976", see section 201 of Pub. L. 94–282, set out as a Short Title note under section 6601 of this title.

HIGH-RESOLUTION INFORMATION SYSTEM ADVISORY BOARD

Pub. L. 102–245, title V, §501, Feb. 14, 1992, 106 Stat. 22, authorized the Director of the Office of Science and Technology Policy to establish within that office a High-Resolution Information Systems Advisory Board to monitor and, as appropriate, foster the development and competitiveness of United States-based high-resolution information systems industries, further provided that "high-resolution information systems" means equipment and techniques required to create, store, recover, and play back high-resolution images and accompanying sound, further provided for functions of the Board, including provision of guidance and advice relating to establishment of such industries as well as transfer of Federal technologies to the private sector, further provided for membership and procedures of the Board, including submission of annual report of its activities to the President and Congress, and further provided for limitation on functions of Board and appropriations through fiscal year 1993.

§6612. Director; Associate Directors

(a) In general

There shall be at the head of the Office a Director who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level II of the Executive Schedule in section 5313 of title 5.

(b) Associate Directors

The President is authorized to appoint not more than four Associate Directors, by and with the advice and consent of the Senate, who shall be compensated at a rate not to exceed that provided for level III of the Executive Schedule in section 5314 of such title. Associate Directors shall perform such functions as the Director may prescribe.

(c) Chief Technology Officer

Subject to subsection (b), the President is authorized to designate 1 of the Associate Directors under that subsection as a United States Chief Technology Officer.

(Pub. L. 94–282, title II, §203, May 11, 1976, 90 Stat. 463; Pub. L. 114–329, title VI, §604(b), Jan. 6, 2017, 130 Stat. 3037.)

EDITORIAL NOTES

AMENDMENTS

2017—Pub. L. 114–329, §604(b)(1), (2), designated first sentence of existing provisions as subsec. (a) and second and third sentences of existing provisions as subsec. (b) and inserted headings.

Subsec. (c). Pub. L. 114–329, §604(b)(3), added subsec. (c).

§6613. Functions of the Director

(a) The primary function of the Director is to provide, within the Executive Office of the President, advice on the scientific, engineering, and technological aspects of issues that require attention at the highest levels of Government.

(b) In addition to such other functions and activities as the President may assign, the Director shall—

(1) advise the President of scientific and technological considerations involved in areas of national concern including, but not limited to, the economy, national security, homeland security, health, foreign relations, the environment, and the technological recovery and use of resources;

(2) evaluate the scale, quality, and effectiveness of the Federal effort in science and technology and advise on appropriate actions;

(3) advise the President on scientific and technological considerations with regard to Federal budgets, assist the Office of Management and Budget with an annual review and analysis of funding proposed for research and development in budgets of all Federal agencies, and aid the Office of Management and Budget and the agencies throughout the budget development process; and

(4) assist the President in providing general leadership and coordination of the research and development programs of the Federal Government.

(Pub. L. 94–282, title II, §204, May 11, 1976, 90 Stat. 463; Pub. L. 107–296, title XVII, §1712(1), Nov. 25, 2002, 116 Stat. 2320.)

EDITORIAL NOTES

AMENDMENTS

2002—Subsec. (b)(1). Pub. L. 107–296 inserted "homeland security," after "national security,".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

§6614. Policy planning; analysis; advice; establishment of advisory panel

(a) The Office shall serve as a source of scientific and technological analysis and judgment for the President with respect to major policies, plans, and programs of the Federal Government. In carrying out the provisions of this section, the Director shall—

(1) seek to define coherent approaches for applying science and technology to critical and emerging national and international problems and for promoting coordination of the scientific and technological responsibilities and programs of the Federal departments and agencies in the resolution of such problems;

(2) assist and advise the President in the preparation of the Science and Technology Report, in accordance with section 6618 [1] of this title;

(3) gather timely and authoritative information concerning significant developments and trends in science, technology, and in national priorities, both current and prospective, to analyze and interpret such information for the purpose of determining whether such developments and trends are likely to affect achievement of the priority goals of the Nation as set forth in section 6601(b) of this title;

(4) encourage the development and maintenance of an adequate data base for human resources in science, engineering, and technology, including the development of appropriate models to forecast future manpower requirements, and assess the impact of major governmental and public programs on human resources and their utilization;

(5) initiate studies and analyses, including systems analyses and technology assessments, of alternatives available for the resolution of critical and emerging national and international problems amendable to the contributions of science and technology and, insofar as possible, determine and compare probable costs, benefits, and impacts of such alternatives;

(6) advise the President on the extent to which the various scientific and technological programs, policies, and activities of the Federal Government are likely to affect the achievement of the priority goals of the Nation as set forth in section 6601(b) of this title;

(7) provide the President with periodic reviews of Federal statutes and administrative regulations of the various departments and agencies which affect research and development

activities, both internally and in relation to the private sector, or which may interfere with desirable technological innovation, together with recommendations for their elimination, reform, or updating as appropriate;

(8) develop, review, revise, and recommend criteria for determining scientific and technological activities warranting Federal support, and recommend Federal policies designed to advance (A) the development and maintenance of broadly based scientific and technological capabilities, including human resources, at all levels of government, academia, and industry, and (B) the effective application of such capabilities to national needs;

(9) assess and advise on policies for international cooperation in science and technology which will advance the national and international objectives of the United States;

(10) identify and assess emerging and future areas in which science and technology can be used effectively in addressing national and international problems;

(11) report at least once each year to the President and the Congress on the overall activities and accomplishments of the Office, pursuant to section 6615 of this title;

(12) periodically survey the nature and needs of national science and technology policy and make recommendations to the President, for review and transmission to the Congress, for the timely and appropriate revision of such policy in accordance with section 6602(a)(6) of this title; and

(13) perform such other duties and functions and make and furnish such studies and reports thereon, and recommendations with respect to matters of policy and legislation as the President may request.

(b)(1) The Director shall establish an Intergovernmental Science, Engineering, and Technology Advisory Panel (hereinafter referred to as the "Panel"), whose purpose shall be to (A) identify and define civilian problems at State, regional, and local levels which science, engineering, and technology may assist in resolving or ameliorating; (B) recommend priorities for addressing such problems; and (C) advise and assist the Director in identifying and fostering policies to facilitate the transfer and utilization of research and development results so as to maximize their application to civilian needs.

(2) The Panel shall be composed of (A) the Director of the Office, or his representative; (B) at least ten members representing the interests of the States, appointed by the Director of the Office after consultation with State officials; (C) the Director of the National Science Foundation, or his representative; and (D) the Director of the Office of Pandemic Preparedness and Response Policy.

(3)(A) The Director of the Office, or his representative, shall serve as Chairman of the Panel.

(B) The Panel shall perform such functions as the Chairman may prescribe, and shall meet at the call of the Chairman.

(4) Each member of the Panel shall, while serving on business of the Panel, be entitled to receive compensation at a rate not to exceed the daily rate prescribed for GS–18 of the General Schedule under section 5332 of title 5, including traveltime, and, while so serving away from his home or regular place of business, he may be allowed travel expenses, including per diem in lieu of subsistence in the same manner as the expenses authorized by section 5703(b) [1] of title 5 for persons in government service employed intermittently.

(Pub. L. 94–282, title II, §205, May 11, 1976, 90 Stat. 464; Pub. L. 97–375, title II, §215(2), (4), Dec. 21, 1982, 96 Stat. 1826, 1827; Pub. L. 117–328, div. FF, title II, §2104(k)(3)(A), Dec. 29, 2022, 136 Stat. 5720.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 6618 of this title, referred to in subsec. (a)(2), was repealed by Pub. L. 97–375, title II, §215(1), Dec. 21, 1982, 96 Stat. 1826. See section 6615 of this title.

Section 5703 of title 5, referred to in subsec. (b)(4), was amended generally by Pub. L. 94–22, §4, May 19, 1975, 89 Stat. 85, and, as so amended, does not contain a subsec. (b).

AMENDMENTS

2022—Subsec. (b)(2). Pub. L. 117–328 added cl. (D).

1982—Subsec. (a)(11). Pub. L. 97–375, §215(2), (4), inserted "and the Congress" after "President", and substituted "section 6615" for "section 6618".

STATUTORY NOTES AND RELATED SUBSIDIARIES

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

COMPREHENSIVE ACCOUNTABILITY STUDY FOR FEDERALLY-FUNDED RESEARCH

Pub. L. 105–276, title IV, §430, Oct. 21, 1998, 112 Stat. 2512, provided that:

"(a) STUDY.—The Director of the Office of Science and Technology Policy, in consultation with the Director of the Office of Management and Budget, may enter into an agreement with the National Academy of Sciences for the Academy to conduct a comprehensive study to develop methods for evaluating federally-funded research and development programs. This study shall—

"(1) recommend processes to determine an acceptable level of success for federally-funded research and development programs by—

"(A) describing the research process in the various scientific and engineering disciplines;

"(B) describing in the different sciences what measures and what criteria each community uses to evaluate the success or failure of a program, and on what time scales these measures are considered reliable—both for exploratory long-range work and for short-range goals; and

"(C) recommending how these measures may be adapted for use by the Federal Government to evaluate federally-funded research and development programs;

"(2) assess the extent to which agencies incorporate independent merit-based evaluation into the formulation of the strategic plans of funding agencies and if the quantity or quality of this type of input is unsatisfactory;

"(3) recommend mechanisms for identifying federally-funded research and development programs which are unsuccessful or unproductive;

"(4) evaluate the extent to which independent, merit-based evaluation of federally-funded research and development programs and projects achieves the goal of eliminating unsuccessful or unproductive programs and projects; and

"(5) investigate and report on the validity of using quantitative performance goals for aspects of programs which relate to administrative management of the program and for which such goals would be appropriate, including aspects related to—

"(A) administrative burden on contractors and recipients of financial assistance awards;

"(B) administrative burdens on external participants in independent, merit-based evaluations;

"(C) cost and schedule control for construction projects funded by the program;

"(D) the ratio of overhead costs of the program relative to the amounts expended through the program for equipment and direct funding of research; and

"(E) the timeliness of program responses to requests for funding, participation, or equipment use.

"(b) INDEPENDENT MERIT-BASED EVALUATION DEFINED.—The term 'independent merit-based evaluation' means review of the scientific or technical quality of research or development, conducted by experts who are chosen for their knowledge of scientific and technical fields relevant to the evaluation and who—

"(1) in the case of the review of a program activity, do not derive long-term support from the program activity; or

"(2) in the case of the review of a project proposal, are not seeking funds in competition with the proposal."

COMPUTER NETWORK STUDY

Pub. L. 99–383, §10, Aug. 21, 1986, 100 Stat. 816, provided that:

"(a) The Office of Science and Technology Policy (hereinafter referred to as the 'Office') shall undertake a study of critical problems and current and future options regarding communications networks for research computers, including supercomputers, at universities and Federal research facilities in the United States. The

study shall include an analysis of—

"(1) the networking needs of the Nation's academic and Federal research computer programs, including supercomputer programs, over the period which is fifteen years after the date of enactment of this Act [Aug. 21, 1986], including requirements in terms of volume of data, reliability of transmission, software compatibility, graphics capability, and transmission security;

"(2) the benefits and opportunities that an improved computer network would offer for electronic mail, file transfer, and remote access and communications for universities and Federal research facilities in the United States; and

"(3) the networking options available for linking academic and other federally supported research computers, including supercomputers, with a particular emphasis on the advantages and disadvantages, if any, of fiber optic systems.

"(b) The Office shall submit to the Congress—

"(1) within one year after the date of enactment of this Act [Aug. 21, 1986], a report on findings from the study undertaken pursuant to subsection (a) with respect to needs and options regarding communications networks for university and Federal research supercomputers within the United States; and

"(2) within two years after the date of enactment of this Act [Aug. 21, 1986], a report on findings from the study undertaken pursuant to subsection (a) with respect to needs and options regarding communications networks for all research computers at universities and Federal research facilities in the United States."

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions vested in Office of Science and Technology Policy and Director thereof pursuant to subsec. (a)(2) of this section and sections 6615 and 6618 of this title transferred to Director of National Science Foundation by section 5A of Reorg. Plan No. 1 of 1977, set out in the Appendix to Title 5, Government Organization and Employees, effective Feb. 26, 1978, as provided by section 1(a) of Ex. Ord. No. 12039, Feb. 24, 1978, 43 F.R. 8095, set out under section 6601 of this title.

ABOLITION OF INTERGOVERNMENTAL SCIENCE, ENGINEERING, AND TECHNOLOGY ADVISORY PANEL; TRANSFER OF FUNCTIONS

The Intergovernmental Science, Engineering, and Technology Advisory Panel, established pursuant to this section, was abolished and its functions transferred to the President by Reorg. Plan No. 1 of 1977, §5A, 42 F.R. 56101, 91 Stat. 1634, set out in the Appendix to Title 5, effective Feb. 26, 1978, as provided by section 1(b) of Ex. Ord. No. 12039, Feb. 24, 1978, 43 F.R. 8095, set out under section 6601 of this title.

[1] *See References in Text note below.*

§6615. National science and technology strategy

(a) In general

Not later than December 31 of the year immediately after the calendar year in which a review under section 6615b of this title is completed, the Director of the Office of Science and Technology Policy shall, in coordination with the National Science and Technology Council, develop and submit to Congress a comprehensive national science and technology strategy of the United States to meet national research and development objectives for the following 4-year period (in this section referred to as "the national science and technology strategy").

(b) Requirements

In developing each national science and technology strategy described in subsection (a), the Director of the Office of Science and Technology Policy shall—

(1) consider—

(A) the recommendations and priorities developed by the review under section 6615b of this title;

(B) the most recently published interim or final national security strategy report submitted pursuant to section 3043 of title 50;

(C) other relevant national plans, reports, and strategies; and

(D) the strategic plans of relevant Federal departments and agencies; and

(2) include a description of—

(A) strategic objectives and research priorities necessary to maintain and advance—

(i) the leadership of the United States in science and technology, including in the key technology focus areas, including near-term, medium-term, and long-term economic competitiveness; and

(ii) the leadership of the United States in technologies required to address societal and national challenges, including a transition to a circular economy;

(B) programs, policies, and activities that the President recommends across all Federal departments and agencies to achieve the strategic objectives and research priorities described in subparagraph (A);

(C) plans to promote sustainability practices and strategies for increasing jobs in the United States;

(D) global trends in science and technology, including potential threats to the leadership of the United States in science and technology and opportunities for international collaboration in science and technology; and

(E) plans to foster the development of international partnerships to reinforce domestic policy actions, build new markets, engage in collaborative research, and create an international environment that reflects United States values and protects United States interests.

(c) Consultation

The Director of the Office of Science and Technology Policy shall consult as necessary with the Office of Management and Budget and other appropriate elements of the Executive Office of the President to ensure that the recommendations and priorities delineated in the science and technology strategy are incorporated in the development of annual budget requests.

(d) Bi-annual briefing to Congress

The Director of the Office of Science and Technology Policy shall provide on a bi-annual basis, after each release of the national science and technology strategy, a briefing to the relevant congressional committees, which may include updates on the following:

(1) The status and development of the national science and technology strategy, including any significant changes.

(2) The implementation of the national science and technology strategy.

(3) Any other information about the national science and technology strategy, as determined by the Director of the Office of Science and Technology Policy.

(e) Publication

The Director of the Office of Science and Technology Policy shall, consistent with the protection of national security and other sensitive matters to the maximum extent practicable, make each national science and technology strategy publicly available on an internet website of the Office. Each report may include a classified annex if the Director of the Office of Science and Technology Policy determines such is appropriate.

(f) Termination

This section terminates on the date that is ten years after August 9, 2022.

(Pub. L. 94–282, title II, §206, May 11, 1976, 90 Stat. 466; Pub. L. 97–375, title II, §215(3), Dec. 21, 1982, 96 Stat. 1826; Pub. L. 117–167, div. B, title VI, §10611, Aug. 9, 2022, 136 Stat. 1634.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 6618 of this title, Pub. L. 94–282, title II, §209, May 11, 1976, 90 Stat. 468, prior to repeal by Pub. L. 97–375, title II, §215(1), Dec. 21, 1982, 96 Stat. 1826.

AMENDMENTS

2022—Pub. L. 117–167 amended section generally. Prior to amendment, section related to biennial science and technology report and outlook.

1982—Pub. L. 97–375 substituted provisions requiring the President to submit to Congress in odd numbered years a science and technology report and outlook for provisions which required the Office of Science and Technology Policy to create a five-year science and technology outlook, dealing with current and emerging problems and with opportunities for and constraints on new and existing capabilities, to be revised annually, composed with the consultation of officials of departments and agencies having related programs and responsibilities, and with officials of the Office of Management and Budget and other appropriate elements of the Executive Office of the President.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (a) of this section relating to submission of biennial report 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 16th item on page 42 of House Document No. 103–7.

§6615b. Quadrennial science and technology review

(a) Requirements

(1) Quadrennial reviews required

Not later than December 31, 2023, and every four years thereafter, the Director of the Office of Science and Technology Policy shall complete a review of the science and technology enterprise of the United States (in this section referred to as the "quadrennial science and technology review").

(2) Scope

The quadrennial science and technology review shall be a comprehensive examination of the science and technology strategy of the United States, including recommendations for maintaining global leadership in science and technology and advancing science and technology to address the societal and national challenges and guidance regarding the coordination of programs, assets, capabilities, budget, policies, and authorities across all Federal research and development programs.

(3) Consultation

The Director of the Office of Science and Technology Policy shall conduct each quadrennial science and technology review in consultation with the following:

(A) The National Science and Technology Council.

(B) The President's Council of Advisors on Science and Technology.

(C) The National Science Board.

(D) The National Security Council.

(E) The heads of other relevant Federal agencies.

(F) Other relevant governmental and nongovernmental entities, including representatives from industry, institutions of higher education, nonprofit organizations, Members of Congress, and other policy experts.

(4) Coordination

The Director of the Office of Science and Technology Policy shall ensure that each quadrennial

science and technology review is coordinated with other relevant statutorily required reviews, and to the maximum extent practicable incorporates information and recommendations from existing reviews to avoid duplication.

(b) Contents

In each quadrennial science and technology review, the Director of the Office of Science and Technology Policy shall—

(1) provide an integrated view of, and recommendations for, science and technology policy across the Federal Government, while considering economic and national security and other societal and national challenges;

(2) assess and recommend priorities for research, development, and demonstration programs to maintain United States leadership in science and technology, including in manufacturing and industrial innovation;

(3) assess and recommend priorities for research, development, and demonstration programs to address societal and national challenges;

(4) assess the global competition in science and technology and identify potential threats to the leadership of the United States in science and technology and opportunities for international collaboration;

(5) assess and make recommendations on the science, technology, engineering, mathematics, and computer science workforce of the United States;

(6) assess and make recommendations to improve regional innovation across the United States;

(7) identify and assess sectors critical for the long-term resilience of United States innovation leadership across design, manufacturing, supply chains, and markets;

(8) assess and make recommendations to improve translation of basic and applied research and the enhancement of technology transfer of federally funded research;

(9) identify, assess, and make recommendations to address science and technology gaps that would not be met without Federal investment;

(10) review administrative and legislative policies and funding opportunities that affect private sector science and technology activities, and identify and make recommendations regarding policies that maintain and grow the participation and competitiveness of small- and medium-sized businesses;

(11) assess and identify the infrastructure and tools needed to maintain the leadership of the United States in science and technology and address other societal and national challenges; and

(12) review administrative or legislative policies that affect the science and technology enterprise and identify and make recommendations regarding policies that hinder research and development in the United States.

(c) Reporting

(1) In general

Not later than December 31 of the year in which a quadrennial science and technology review is conducted, the Director of the Office of Science and Technology Policy shall submit to Congress a report relating to such review.

(2) Publication

The Director of the Office of Science and Technology Policy shall, consistent with the protection of national security and other sensitive matters to the maximum extent practicable, make each report submitted under paragraph (1) publicly available on an internet website of the Office of Science and Technology Policy. Each report may include a classified annex if the Director of the Office of Science and Technology Policy determines such appropriate.

(d) Termination

This section shall terminate on the date that is ten years after August 9, 2022.

(Pub. L. 94–282, title II, §206B, as added Pub. L. 117–167, div. B, title VI, §10613, Aug. 9, 2022, 136 Stat. 1640.)

§6616. Additional functions of Director

(a) Service as Chairman of Federal Coordinating Council for Science, Engineering, and Technology and as member of Domestic Council

The Director shall, in addition to the other duties and functions set forth in this subchapter—

(1) serve as Chairman of the Federal Coordinating Council for Science, Engineering, and Technology established under subchapter IV; and

(2) serve as a member of the Domestic Council.

(b) Advice to National Security Council

For the purpose of assuring the optimum contribution of science and technology to the national security, the Director, at the request of the National Security Council, shall advise the National Security Council in such matters concerning science and technology as relate to national security.

(c) Officers and employees; services; contracts; payments

In carrying out his functions under this chapter, the Director is authorized to—

(1) appoint such officers and employees as he may deem necessary to perform the functions now or hereafter vested in him and to prescribe their duties;

(2) obtain services as authorized by section 3109 of title 5 at rates not to exceed the rate prescribed for grade GS–18 of the General Schedule by section 5332 of title 5; and

(3) enter into contracts and other arrangements for studies, analyses, and other services with public agencies and with private persons, organizations, or institutions, and make such payments as he deems necessary to carry out the provisions of this chapter without legal consideration, without performance bonds, and without regard to section 6101 of title 41.

(Pub. L. 94–282, title II, §207, May 11, 1976, 90 Stat. 466.)

EDITORIAL NOTES

CODIFICATION

In subsec. (c)(3), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes (41 U.S.C. 5)" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

STATUTORY NOTES AND RELATED SUBSIDIARIES

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

EXECUTIVE DOCUMENTS

ABOLITION OF THE FEDERAL COORDINATING COUNCIL FOR SCIENCE, ENGINEERING, AND TECHNOLOGY; TRANSFER OF FUNCTIONS

See note set out under section 6651 of this title.

§6617. Coordination with other organizations

(a) Consultation and cooperation with Federal departments and agencies; utilization of consultants; establishment of advisory panels; consultation with State and local agencies, professional groups, and representatives of industry, etc.; hearings; utilization of services,

personnel, equipment, etc., of public and private agencies and organizations, and individuals

In exercising his functions under this chapter, the Director shall—

(1) work in close consultation and cooperation with the Domestic Council, the National Security Council, the Office of Homeland Security, the Council on Environmental Quality, the Council of Economic Advisers, the Office of Management and Budget, the National Science Board, and the Federal departments and agencies;

(2) utilize the services of consultants, establish such advisory panels, and, to the extent practicable, consult with State and local governmental agencies, with appropriate professional groups, and with such representatives of industry, the universities, agriculture, labor, consumers, conservation organizations, and such other public interest groups, organizations, and individuals as he deems advisable;

(3) hold such hearings in various parts of the Nation as he deems necessary, to determine the views of the agencies, groups, and organizations referred to in paragraph (2) of this subsection and of the general public, concerning national needs and trends in science and technology; and

(4) utilize with their consent to the fullest extent possible the services, personnel, equipment, facilities, and information (including statistical information) of public and private agencies and organizations, and individuals, in order to avoid duplication of effort and expense, and may transfer funds made available pursuant to this chapter to other Federal agencies as reimbursement for the utilization of such personnel, services, facilities, equipment, and information.

(b) Information from Executive departments, agencies, and instrumentalities

Each department, agency, and instrumentality of the Executive Branch of the Government, including any independent agency, is authorized to furnish the Director such information as the Director deems necessary to carry out his functions under this chapter.

(c) Assistance from Administrator of National Aeronautics and Space Administration

Upon request, the Administrator of the National Aeronautics and Space Administration is authorized to assist the Director with respect to carrying out his activities conducted under paragraph (5) of section 6614(a) of this title.

(Pub. L. 94–282, title II, §208, May 11, 1976, 90 Stat. 467; Pub. L. 107–296, title XVII, §1712(2), Nov. 25, 2002, 116 Stat. 2320.)

EDITORIAL NOTES

AMENDMENTS

2002—Subsec. (a)(1). Pub. L. 107–296 inserted "the Office of Homeland Security," after "the National Security Council,".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

§6618. Major science and technology proposals

The Director shall identify and provide an annual report to Congress on each major multinational science and technology project, in which the United States is not a participant, which has a total estimated cost greater than $1,000,000,000.

(Pub. L. 94–282, title II, §209, as added Pub. L. 102–245, title V, §502, Feb. 14, 1992, 106 Stat. 24.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 6618, Pub. L. 94–282, title II, §209, May 11, 1976, 90 Stat. 468, directed President to transmit annually to Congress a report on science and technology to be prepared by Office of Science and Technology Policy, and directed Director of Office to make the report available as a public document, prior to repeal by Pub. L. 97–375, title II, §215(1), Dec. 21, 1982, 96 Stat. 1826. See section 6615 of this title.

§6619. National coordination of research infrastructure

(a) Identification and prioritization of deficiencies in Federal research facilities

Each year the Director of the Office of Science and Technology Policy shall, through the National Science and Technology Council, identify and prioritize the deficiencies in research facilities and major instrumentation located at Federal laboratories and national user facilities at academic institutions that are widely accessible for use by researchers in the United States. In prioritizing such deficiencies, the Director shall consider research needs in areas relevant to the specific mission requirements of Federal agencies.

(b) Planning for acquisition, refurbishment, and maintenance of research facilities and major instrumentation

The Director shall, through the National Science and Technology Council, coordinate the planning by Federal agencies for the acquisition, refurbishment, and maintenance of research facilities and major instrumentation to address the deficiencies identified under subsection (a).

(c) Report

The Director shall submit to Congress each year, together with documents submitted to Congress in support of the budget of the President for the fiscal year beginning in such year (as submitted pursuant to section 1105 of title 31), a report, current as of the fiscal year ending in the year before such report is submitted, setting forth the following:

(1) A description of the deficiencies in research infrastructure identified in accordance with subsection (a).

(2) A list of projects and budget proposals of Federal research facilities, set forth by agency, for major instrumentation acquisitions that are included in the budget proposal of the President.

(3) An explanation of how the projects and instrumentation acquisitions described in paragraph (2) relate to the deficiencies and priorities identified pursuant to subsection (a).

(Pub. L. 110–69, title I, §1007, Aug. 9, 2007, 121 Stat. 580.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the America COMPETES Act, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Act, and not as part of the National Science and Technology Policy, Organization, and Priorities Act of 1976 which comprises this chapter.

§6620. Release of scientific research results

(a) Principles

Not later than 90 days after August 9, 2007, the Director of the Office of Science and Technology Policy, in consultation with the Director of the Office of Management and Budget and the heads of all Federal civilian agencies that conduct scientific research, shall develop and issue an overarching set of principles to ensure the communication and open exchange of data and results to other agencies, policymakers, and the public of research conducted by a scientist employed by a Federal civilian agency and to prevent the intentional or unintentional suppression or distortion of such

research findings. The principles shall encourage the open exchange of data and results of research undertaken by a scientist employed by such an agency and shall be consistent with existing Federal laws, including chapter 18 of title 35 (commonly known as the "Bayh-Dole Act"). The principles shall also take into consideration the policies of peer-reviewed scientific journals in which Federal scientists may currently publish results.

(b) Implementation

Not later than 180 days after August 9, 2007, the Director of the Office of Science and Technology Policy shall ensure that all civilian Federal agencies that conduct scientific research develop specific policies and procedures regarding the public release of data and results of research conducted by a scientist employed by such an agency consistent with the principles established under subsection (a). Such polices [1] and procedures shall—

(1) specifically address what is and what is not permitted or recommended under such policies and procedures;

(2) be specifically designed for each such agency;

(3) be applied uniformly throughout each such agency; and

(4) be widely communicated and readily accessible to all employees of each such agency and the public.

(Pub. L. 110–69, title I, §1009, Aug. 9, 2007, 121 Stat. 581.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the America COMPETES Act, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Act, and not as part of the National Science and Technology Policy, Organization, and Priorities Act of 1976 which comprises this chapter.

[1] *So in original. Probably should be "policies".*

§6621. Coordination of Federal STEM education

(a) Establishment

The Director shall establish a committee under the National Science and Technology Council, including the Office of Management and Budget, with the responsibility to coordinate Federal programs and activities in support of STEM education, including at the National Science Foundation, the Department of Energy, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the Department of Education, and all other Federal agencies that have programs and activities in support of STEM education.

(b) Responsibilities

The committee established under subsection (a) shall—

(1) coordinate the STEM education activities and programs of the Federal agencies;

(2) coordinate STEM education activities and programs with the Office of Management and Budget;

(3) encourage the teaching of innovation and entrepreneurship as part of STEM education activities;

(4) review STEM education activities and programs to ensure they are not duplicative of similar efforts within the Federal government;

(5) develop, implement through the participating agencies, and update once every 5 years a 5-year STEM education strategic plan, which shall—

(A) specify and prioritize annual and long-term objectives;

(B) specify the common metrics that will be used to assess progress toward achieving the objectives;

(C) describe the approaches that will be taken by each participating agency to assess the effectiveness of its STEM education programs and activities; and

(D) with respect to subparagraph (A), describe the role of each agency in supporting programs and activities designed to achieve the objectives;

(6) establish, periodically update, and maintain an inventory of federally sponsored STEM education programs and activities, including documentation of assessments of the effectiveness of such programs and activities and rates of participation by women, underrepresented minorities, and persons in rural areas in such programs and activities;

(7) collaborate with the STEM Education Advisory Panel established under section 303 of the American Innovation and Competitiveness Act and other outside stakeholders to ensure the engagement of the STEM education community;

(8) review the measures used by a Federal agency to evaluate its STEM education activities and programs;

(9) request and review feedback from States on how the States are utilizing Federal STEM education programs and activities; and

(10) recommend the reform, termination, or consolidation of Federal STEM education activities and programs, taking into consideration the recommendations of the STEM Education Advisory Panel.

(c) Responsibilities of OSTP

The Director shall encourage and monitor the efforts of the participating agencies to ensure that the strategic plan under subsection (b)(5) is developed and executed effectively and that the objectives of the strategic plan are met.

(d) Reports

The Director shall transmit a report annually to Congress at the time of the President's budget request describing the plan required under subsection (b)(5). The annual report shall include—

(1) a description of the STEM education programs and activities for the previous and current fiscal years, and the proposed programs and activities under the President's budget request, of each participating Federal agency;

(2) the levels of funding for each participating Federal agency for the programs and activities described under paragraph (1) for the previous fiscal year and under the President's budget request;

(3) an evaluation of the levels of duplication and fragmentation of the programs and activities described under paragraph (1);

(4) except for the initial annual report, a description of the progress made in carrying out the implementation plan, including a description of the outcome of any program assessments completed in the previous year, and any changes made to that plan since the previous annual report;

(5) a description of how the participating Federal agencies will disseminate information about federally supported resources for STEM education practitioners, including teacher professional development programs, to States and to STEM education practitioners, including to teachers and administrators in schools that meet the criteria described in subsection (c)(1)(A) and (B) of section 7381j of this title;

(6) a description of all consolidations and terminations of Federal STEM education programs and activities implemented in the previous fiscal year, including an explanation for the consolidations and terminations;

(7) recommendations for reforms, consolidations, and terminations of STEM education programs or activities in the upcoming fiscal year;

(8) a description of any significant new STEM education public-private partnerships [1]

(9) an account of Federal research agency investments in HBCUs, TCUs, and MSIs, including,

to the degree practicable, data on the level of participation of HBCUs, TCUs, and MSIs as prime recipients, contractors, subrecipients, or subcontractors of an award, or reasonable estimates thereof; and

(10) a description of material changes to the implementation of section 10522 of the Research and Development, Competition, and Innovation Act.

(Pub. L. 111–358, title I, §101, Jan. 4, 2011, 124 Stat. 3984; Pub. L. 114–329, title III, §304, Jan. 6, 2017, 130 Stat. 3006; Pub. L. 117–167, div. B, title V, §10522(e), Aug. 9, 2022, 136 Stat. 1621.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 303 of the American Innovation and Competitiveness Act, referred to in subsec. (b)(7), is section 303 of Pub. L. 114–329, which is set out as a note under this section.

Section 10522 of the Research and Development, Competition, and Innovation Act, referred to in subsec. (d)(10), is section 10522 of div. B of Pub. L. 117–167, which enacted section 19181 of this title and amended this section.

CODIFICATION

Section was enacted as part of the America COMPETES Reauthorization Act of 2010, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Reauthorization Act of 2010, and not as part of the National Science and Technology Policy, Organization, and Priorities Act of 1976 which comprises this chapter.

AMENDMENTS

2022—Subsec. (d)(9), (10). Pub. L. 117–167 added pars. (9) and (10).

2017—Subsec. (b)(7) to (10). Pub. L. 114–329, §304(a), added pars. (7) to (10).

Subsec. (c). Pub. L. 114–329, §304(b)(2), redesignated subsec. (b) relating to responsibilities of OSTP as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 114–329, §304(b)(1), redesignated subsec. (c) as (d) and substituted "Reports" for "Report" in heading.

Subsec. (d)(6) to (8). Pub. L. 114–329, §304(b)(3), added pars. (6) to (8).

STATUTORY NOTES AND RELATED SUBSIDIARIES

STEM EDUCATION ADVISORY PANEL

Pub. L. 114–329, title III, §303, Jan. 6, 2017, 130 Stat. 3004, authorized, not later than 180 days after Jan. 6, 2017, the Director of the National Science Foundation, Secretary of Education, Administrator of the National Aeronautics and Space Administration, and Administrator of the National Oceanic and Atmospheric Administration to jointly establish the STEM Education Advisory Panel to advise the Committee on STEM Education of the National Science and Technology Council on matters relating to STEM education, and provided that the Panel would terminate on the date that was 5 years after the date that it had been established (Oct. 18, 2017).

DEFINITIONS

Pub. L. 114–59, §2, Oct. 7, 2015, 129 Stat. 540, provided that: "For purposes of carrying out STEM education activities at the National Science Foundation, the Department of Energy, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the National Institute of Standards and Technology, and the Environmental Protection Agency, the term 'STEM education' means education in the subjects of science, technology, engineering, and mathematics, including computer science."

Pub. L. 111–358, §2, Jan. 4, 2011, 124 Stat. 3984, provided that: "In this Act [see Tables for classification]:

"(1) DIRECTOR.—In title I [enacting this section, sections 6622 to 6624 of this title, and section 3719 of Title 15, Commerce and Trade, and amending section 20144 of Title 51, National and Commercial Space Programs], the term 'Director' means the Director of the Office of Science and Technology Policy.

"(2) STEM.—The term 'STEM' means the academic and professional disciplines of science, technology, engineering, and mathematics."

[1] *So in original. Probably should be followed by a semicolon.*

§6622. Coordination of advanced manufacturing research and development

(a) Interagency Committee

The Director shall establish or designate a Committee on Technology under the National Science and Technology Council. The Committee shall be responsible for planning and coordinating Federal programs and activities in advanced manufacturing research and development. In furtherance of the Committee's work, the Committee shall consult with the National Economic Council.

(b) Responsibilities of Committee

The Committee shall—

(1) coordinate the advanced manufacturing research and development programs and activities of the Federal agencies;

(2) establish goals and priorities for advanced manufacturing research and development that will strengthen United States manufacturing;

(3) work with industry organizations, Federal agencies, and Federally Funded Research and Development Centers not represented on the Committee, to identify and reduce regulatory, logistical, and fiscal barriers within the Federal government and State governments that inhibit United States manufacturing;

(4) facilitate the transfer of intellectual property and technology based on federally supported university research into commercialization and manufacturing;

(5) identify technological, market, or business challenges that may best be addressed by public-private partnerships, and are likely to attract both participation and primary funding from industry;

(6) encourage the formation of public-private partnerships to respond to those challenges for transition to United States manufacturing; and

(7) develop and update a national strategic plan for advanced manufacturing in accordance with subsection (c).

(c) National strategic plan for advanced manufacturing

(1) In general

The President shall submit to Congress, and publish on an Internet website that is accessible to the public, the strategic plan developed under paragraph (2).

(2) Development

The Committee shall develop, and update as required under paragraph (4), in coordination with the National Economic Council, a strategic plan to improve Government coordination and provide long-term guidance for Federal programs and activities in support of United States manufacturing competitiveness, including advanced manufacturing research and development.

(3) Contents

The strategic plan described in paragraph (2) shall—

(A) specify and prioritize near-term and long-term objectives, including research and development objectives, the anticipated time frame for achieving the objectives, and the metrics for use in assessing progress toward the objectives;

(B) describe the progress made in achieving the objectives from prior strategic plans, including a discussion of why specific objectives were not met;

(C) specify the role, including the programs and activities, of each relevant Federal agency in meeting the objectives of the strategic plan;

(D) describe how the Federal agencies and Federally funded research and development centers supporting advanced manufacturing research and development will foster the transfer of research and development results into new manufacturing technologies and United States-based

manufacturing of new products and processes for the benefit of society to ensure national, energy, and economic security;

(E) describe how such Federal agencies and centers will strengthen all levels of manufacturing education and training programs to ensure an adequate, well-trained workforce;

(F) describe how such Federal agencies and centers will assist small and medium-sized manufacturers in developing and implementing new products and processes;

(G) analyze factors that impact innovation and competitiveness for United States advanced manufacturing, including—

(i) technology transfer and commercialization activities;

(ii) the adequacy of the national security industrial base;

(iii) the capabilities of the domestic manufacturing workforce;

(iv) export opportunities and trade policies;

(v) financing, investment, and taxation policies and practices;

(vi) emerging technologies and markets;

(vii) advanced manufacturing research and development undertaken by competing nations; and

(viii) the capabilities of the manufacturing workforce of competing nations; and

(H) elicit and consider the recommendations of a wide range of stakeholders, including representatives from diverse manufacturing companies, academia, and other relevant organizations and institutions.

(4) Updates

Not later than May 1, 2018, and not less frequently than once every 4 years thereafter, the President shall submit to Congress, and publish on an Internet website that is accessible to the public, an update of the strategic plan submitted under paragraph (1). Such updates shall be developed in accordance with the procedures set forth under this subsection.

(5) Requirement to consider strategy in the budget

In preparing the budget for a fiscal year under section 1105(a) of title 31, the President shall include information regarding the consistency of the budget with the goals and recommendations included in the strategic plan developed under this subsection applying to that fiscal year.

(6) AMP steering committee input

The Advanced Manufacturing Partnership Steering Committee of the President's Council of Advisors on Science and Technology shall provide input, perspective, and recommendations to assist in the development and updates of the strategic plan under this subsection.

(Pub. L. 111–358, title I, §102, Jan. 4, 2011, 124 Stat. 3985; Pub. L. 113–235, div. B, title VII, §704, Dec. 16, 2014, 128 Stat. 2229.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the America COMPETES Reauthorization Act of 2010, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Reauthorization Act of 2010, and not as part of the National Science and Technology Policy, Organization, and Priorities Act of 1976 which comprises this chapter.

AMENDMENTS

2014—Subsec. (a). Pub. L. 113–235, §704(1), inserted at end "In furtherance of the Committee's work, the Committee shall consult with the National Economic Council."

Subsec. (b)(7). Pub. L. 113–235, §704(2), added par. (7) and struck out former par. (7), which related to development and updating strategic plan to guide Federal programs and activities in support of advanced manufacturing research and development.

Subsec. (c). Pub. L. 113–235, §704(3), added subsec. (c) and struck out former subsec. (c). Prior to

amendment, text read as follows: "Not later than 1 year after January 4, 2011, the Director shall transmit the strategic plan developed under subsection (b)(7) to the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Science and Technology, and shall transmit subsequent updates to those committees as appropriate."

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Science and Technology of House of Representatives changed to Committee on Science, Space, and Technology of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

DEFINITION

For definition of "Director" as used in this section, see section 2 of Pub. L. 111–358, set out as a note under section 6621 of this title.

§6623. Interagency public access committee

(a) Establishment

The Director shall establish a working group under the National Science and Technology Council with the responsibility to coordinate Federal science agency research and policies related to the dissemination and long-term stewardship of the results of unclassified research, including digital data and peer-reviewed scholarly publications, supported wholly, or in part, by funding from the Federal science agencies.

(b) Responsibilities

The working group shall—

(1) identify the specific objectives and public interests that need to be addressed by any policies coordinated under (a);

(2) take into account inherent variability among Federal science agencies and scientific disciplines in the nature of research, types of data, and dissemination models;

(3) coordinate the development or designation of standards for research data, the structure of full text and metadata, navigation tools, and other applications to maximize interoperability across Federal science agencies, across science and engineering disciplines, and between research data and scholarly publications, taking into account existing consensus standards, including international standards;

(4) coordinate Federal science agency programs and activities that support research and education on tools and systems required to ensure preservation and stewardship of all forms of digital research data, including scholarly publications;

(5) work with international science and technology counterparts to maximize interoperability between United States based unclassified research databases and international databases and repositories;

(6) solicit input and recommendations from, and collaborate with, non-Federal stakeholders, including the public, universities, nonprofit and for-profit publishers, libraries, federally funded and non federally [1] funded research scientists, and other organizations and institutions with a stake in long term preservation and access to the results of federally funded research;

(7) establish priorities for coordinating the development of any Federal science agency policies related to public access to the results of federally funded research to maximize the benefits of such policies with respect to their potential economic or other impact on the science and engineering enterprise and the stakeholders thereof;

(8) take into consideration the distinction between scholarly publications and digital data;

(9) take into consideration the role that scientific publishers play in the peer review process in ensuring the integrity of the record of scientific research, including the investments and added

value that they make; and

(10) examine Federal agency practices and procedures for providing research reports to the agencies charged with locating and preserving unclassified research.

(c) Patent or copyright law

Nothing in this section shall be construed to undermine any right under the provisions of title 17 or 35.

(d) Application with existing law

Nothing defined in section (b) shall be construed to affect existing law with respect to Federal science agencies' policies related to public access.

(e) Report to Congress

Not later than 1 year after January 4, 2011, the Director shall transmit a report to Congress describing—

(1) the specific objectives and public interest identified under (b)(1);

(2) any priorities established under subsection (b)(7);

(3) the impact the policies described under (a) have had on the science and engineering enterprise and the stakeholders, including the financial impact on research budgets;

(4) the status of any Federal science agency policies related to public access to the results of federally funded research; and

(5) how any policies developed or being developed by Federal science agencies, as described in subsection (a), incorporate input from the non-Federal stakeholders described in subsection (b)(6).

(f) Federal science agency defined

For the purposes of this section, the term "Federal science agency" means any Federal agency with an annual extramural research expenditure of over $100,000,000.

(Pub. L. 111–358, title I, §103, Jan. 4, 2011, 124 Stat. 3986.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the America COMPETES Reauthorization Act of 2010, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Reauthorization Act of 2010, and not as part of the National Science and Technology Policy, Organization, and Priorities Act of 1976 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITION

For definition of "Director" as used in this section, see section 2 of Pub. L. 111–358, set out as a note under section 6621 of this title.

[1] So in original. Probably should be "non-federally".

§6624. Federal scientific collections

(a) Management of scientific collections

The Office of Science and Technology Policy shall develop policies for the management and use of Federal scientific collections to improve the quality, organization, access, including online access, and long-term preservation of such collections for the benefit of the scientific enterprise. In developing those policies the Office of Science and Technology Policy shall consult, as appropriate, with—

(1) Federal agencies with such collections; and

(2) representatives of other organizations, institutions, and other entities not a part of the Federal Government that have a stake in the preservation, maintenance, and accessibility of such collections, including State and local government agencies, institutions of higher education, museums, and other entities engaged in the acquisition, holding, management, or use of scientific collections.

(b) Clearinghouse

The Office of Science and Technology Policy, in consultation with relevant Federal agencies, shall ensure the development of an online clearinghouse for information on the contents of and access to Federal scientific collections.

(c) Disposal of collections

The policies developed under subsection (a) shall—

(1) require that, before disposing of a scientific collection, a Federal agency shall—

(A) conduct a review of the research value of the collection; and

(B) consult with researchers who have used the collection, and other potentially interested parties, concerning—

(i) the collection's value for research purposes; and

(ii) possible additional educational uses for the collection; and

(2) include procedures for Federal agencies to transfer scientific collections they no longer need to researchers at institutions or other entities qualified to manage the collections.

(d) Cost projections

The Office of Science and Technology Policy, in consultation with relevant Federal agencies, shall develop a common set of methodologies to be used by Federal agencies for the assessment and projection of costs associated with the management and preservation of their scientific collections.

(e) Scientific collection defined

In this section, the term "scientific collection" means a set of physical specimens, living or inanimate, created for the purpose of supporting science and serving as a long-term research asset, rather than for their market value as collectibles or their historical, artistic, or cultural significance, and, as appropriate and feasible, the associated specimen data and materials.

(Pub. L. 111–358, title I, §104, Jan. 4, 2011, 124 Stat. 3988.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the America COMPETES Reauthorization Act of 2010, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Reauthorization Act of 2010, and not as part of the National Science and Technology Policy, Organization, and Priorities Act of 1976 which comprises this chapter.

§6625. Coordination of international science and technology partnerships

(a) Short title

This section may be cited as the "International Science and Technology Cooperation Act of 2016".

(b) Establishment

The Director of the Office of Science and Technology Policy shall establish a body under the National Science and Technology Council with the responsibility to identify and coordinate

international science and technology cooperation that can strengthen the United States science and technology enterprise, improve economic and national security, and support United States foreign policy goals.

(c) NSTC body leadership

The body established under subsection (b) shall be co-chaired by senior level officials from the Office of Science and Technology Policy and the Department of State.

(d) Responsibilities

The body established under subsection (b) shall—

(1) plan and coordinate interagency international science and technology cooperative research and training activities and partnerships supported or managed by Federal agencies;

(2) work with other National Science and Technology Council committees to help plan and coordinate the international component of national science and technology priorities;

(3) establish Federal priorities and policies for aligning, as appropriate, international science and technology cooperative research and training activities and partnerships supported or managed by Federal agencies with the foreign policy goals of the United States;

(4) identify opportunities for new international science and technology cooperative research and training partnerships that advance both the science and technology and the foreign policy priorities of the United States;

(5) in carrying out paragraph (4), solicit input and recommendations from non-Federal science and technology stakeholders, including institutions of higher education, scientific and professional societies, industry, and other relevant organizations and institutions; and

(6) identify broad issues that influence the ability of United States scientists and engineers to collaborate with foreign counterparts, including barriers to collaboration and access to scientific information.

(e) Report to Congress

The Director of the Office of Science and Technology Policy shall submit to the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations of the Senate and the Committee on Science, Space, and Technology and the Committee on Foreign Affairs of the House of Representatives a biennial report on the requirements of this section.

(f) Website

The Director shall make each report available to the public on the Office of Science and Technology Policy website.

(g) Termination

The body established under subsection (b) shall terminate on the date that is 10 years after January 6, 2017.

(h) Additional reports to Congress

The Director of the Office of Science and Technology Policy shall submit, not later than 60 days after January 6, 2017, and annually thereafter, to the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations of the Senate and the Committee on Science, Space, and Technology and the Committee on Foreign Affairs of the House of Representatives a report that lists and describes the details of all foreign travel by Office of Science and Technology Policy staff and detailees.

(Pub. L. 114–329, title II, §208, Jan. 6, 2017, 130 Stat. 3002.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as the International Science and Technology Cooperation Act of 2016 and also as part of the American Innovation and Competitiveness Act, and not as part of the National Science and Technology Policy, Organization, and Priorities Act of 1976 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITION

For definition of "institutions of higher education" as used in this section, see section 2 of Pub. L. 114–329, set out as a note under section 1862s of this title.

§6626. Working group on inclusion in STEM fields

(a) Establishment

The Office of Science and Technology Policy, in collaboration with Federal departments and agencies, shall establish an interagency working group to compile and summarize available research and best practices on how to promote diversity and inclusions in STEM fields and examine whether barriers exist to promoting diversity and inclusion within Federal agencies employing scientists and engineers.

(b) Responsibilities

The working group shall be responsible for reviewing and assessing research, best practices, and policies across Federal science agencies related to the inclusion of individuals identified in sections 1885a and 1885b of this title in the Federal STEM workforce, including available research and best practices on how to promote diversity and inclusion in STEM fields, including—

(1) policies providing flexibility for scientists and engineers that are also caregivers, particularly on the timing of research grants;

(2) policies to address the proper handling of claims of sexual harassment;

(3) policies to minimize the effects of implicit bias and other systemic factors in hiring, promotion, evaluation and the workplace in general; and

(4) other evidence-based strategies that the working group considers effective for promoting diversity and inclusion in the STEM fields.

(c) Stakeholder input

In carrying out the responsibilities under section (b), the working group shall solicit and consider input and recommendations from non-Federal stakeholders, including—

(1) the Council of Advisors on Science and Technology;

(2) federally funded and non-federally funded researchers, institutions of higher education, scientific disciplinary societies, and associations;

(3) nonprofit research institutions;

(4) industry, including small businesses;

(5) federally funded research and development centers;

(6) non-governmental organizations; and

(7) such other members of the public interested in promoting a diverse and inclusive Federal STEM workforce.

(d) Public reports

Not later than 1 year after January 6, 2017, and periodically thereafter, the working group shall publish a report on the review and assessment under subsection (b), including a summary of available research and best practices, any recommendations for Federal actions to promote a diverse and inclusive Federal STEM workforce, and updates on the implementation of previous recommendations for Federal actions.

(e) Termination

The interagency working group established under subsection (a) shall terminate on the date that is 10 years after the date that it is established.

(Pub. L. 114–329, title III, §308, Jan. 6, 2017, 130 Stat. 3011.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the American Innovation and Competitiveness Act, and not as part of the National Science and Technology Policy, Organization, and Priorities Act of 1976 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 2 of Pub. L. 114–329, set out as a note under section 1862s of this title.

§6627. Federally-funded research with enhanced pathogens of pandemic potential

(a) Review and oversight of enhanced pathogens of pandemic potential

(1) In general

The Director of the Office of Science and Technology Policy (referred to in this section as the "Director"), in consultation with the heads of relevant Federal departments and agencies, shall—

(A) not later than 1 year after December 29, 2022—

(i) continue or conduct a review of existing Federal policies related to research proposed for Federal funding that may be reasonably anticipated to involve the creation, transfer, or use of enhanced pathogens of pandemic potential; and

(ii) establish or update a Federal policy for the consistent review and oversight of such proposed research that appropriately considers the risks associated with, and potential benefits of, such research; and

(B) not less than every 4 years thereafter, review and update such policy, as necessary and appropriate, to ensure that such policy fully accounts for relevant research that may be reasonably anticipated to involve the creation, transfer, or use of enhanced pathogens of pandemic potential, takes into consideration the benefits of such research, and supports the mitigation of related risks.

(2) Requirements

The policy established pursuant to paragraph (1) shall include—

(A) a clear scope to support the consistent identification of research proposals subject to such policy by relevant Federal departments and agencies;

(B) a framework for such reviews that accounts for safety, security, and ethical considerations related to the creation, transfer, or use of enhanced pathogens of pandemic potential;

(C) measures to enhance the transparency and public availability of information related to such research activities in a manner that does not compromise national security, the safety and security of such research activities, or any identifiable, sensitive information of relevant individuals; and

(D) consistent procedures across relevant Federal department and agencies to ensure that—

(i) proposed research that has been determined to have scientific and technical merit and may be subject to such policy is identified and referred for review;

(ii) subjected research activities conducted under an award, including activities undertaken by any subrecipients of such award, are monitored regularly throughout the project period to ensure compliance with such policy and the terms and conditions of such award; and

(iii) in the event that federally-funded research activities not subject to such policy produce

unanticipated results related to the creation, transfer, or use of enhanced pathogens of pandemic potential, such research activities are identified and appropriately reviewed under such policy.

(3) Clarification

Reviews required pursuant to this section shall be in addition to any applicable requirements for research project applications required under the Public Health Service Act [42 U.S.C. 201 et seq.], including reviews required under section 492 of such Act (42 U.S.C. 289a), as applicable, or other applicable laws.

(b) Implementation

(1) In general

The Director shall direct all heads of relevant Federal departments and agencies to update, modernize, or promulgate applicable implementing guidance to implement the requirements of this section.

(2) Updates

Consistent with the requirements under subsection (a)(1)(B), the Director shall require all heads of relevant Federal departments and agencies to update such policies consistent with any changes to the policy established pursuant to subsection (a)(1).

(c) Limitations on countries of concern conducting certain research

(1) In general

Beginning not later than 60 days after December 29, 2022, the Secretary of Health and Human Services shall not fund research conducted by a foreign entity at a facility located in a country of concern, in the estimation of the Director of National Intelligence or the head of another relevant Federal department or agency, as appropriate, in consultation with the Secretary of Health and Human Services, involving pathogens of pandemic potential or biological agents or toxins listed pursuant to section 351A(a)(1) of the Public Health Service Act (42 U.S.C. 262a(a)(1)).

(2) Conditions for lifting or suspending prohibition

The Secretary of Health and Human Services may lift or suspend the prohibition of funding under paragraph (1)—

(A) only after the review required under subsection (a)(1)(A)(i) is complete; and

(B) only if the Secretary notifies Congress not less than 15 days before such prohibition is lifted or suspended.

(Pub. L. 117–328, div. FF, title II, §2315, Dec. 29, 2022, 136 Stat. 5763.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Public Health Service Act, referred to in subsec. (a)(3), is act July 1, 1944, ch. 373, 58 Stat. 682, which is classified generally to chapter 6A (§201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

CODIFICATION

Section was enacted as part of the Prepare for and Respond to Existing Viruses, Emerging New Threats, and Pandemics Act, also known as the PREVENT Pandemics Act, and also as part of the Health Extenders, Improving Access to Medicare, Medicaid, and CHIP, and Strengthening Public Health Act of 2022, and not as part of the National Science and Technology Policy, Organization, and Priorities Act of 1976 which comprises this chapter.

EXECUTIVE DOCUMENTS

EX. ORD. NO. 14292. IMPROVING THE SAFETY AND SECURITY OF BIOLOGICAL RESEARCH

Ex. Ord. No. 14292, May 5, 2025, 90 F.R. 19611, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

SECTION 1. *Purpose*. Dangerous gain-of-function research on biological agents and pathogens has the potential to significantly endanger the lives of American citizens. If left unrestricted, its effects can include widespread mortality, an impaired public health system, disrupted American livelihoods, and diminished economic and national security.

The Biden Administration allowed dangerous gain-of-function research within the United States with insufficient levels of oversight. It also actively approved, through the National Institutes of Health, Federal life-science research funding in China and other countries where there is limited United States oversight or reasonable expectation of biosafety enforcement.

This recklessness, if unaddressed, may lead to the proliferation of research on pathogens (and potential pathogens) in settings without adequate safeguards, even after COVID-19 revealed the risk of such practices.

SEC. 2. *Policy*. It is the policy of the United States to ensure that United States federally funded research benefits American citizens without jeopardizing our Nation's security, strength, or prosperity. My Administration will balance the prevention of catastrophic consequences with maintaining readiness against biological threats and driving global leadership in biotechnology, biological countermeasures, biosecurity, and health research.

SEC. 3. *Stop Dangerous Gain-of-Function Research*. (a) The Director of the Office of Science and Technology Policy (OSTP), in coordination with the Director of the Office of Management and Budget and the Assistant to the President for National Security Affairs (APNSA), and in consultation with the Secretary of Health and Human Services and the heads of other relevant executive departments and agencies (agencies) identified by the Director of OSTP, shall establish guidance for the heads of relevant agencies, to the extent consistent with the terms and conditions of the funding, to immediately:

(i) end Federal funding of dangerous gain-of-function research conducted by foreign entities in countries of concern (e.g., China) pursuant to 42 U.S.C. 6627(c) [section 2315(c) of div. FF of Pub. L. 117–328], or in other countries where there is not adequate oversight to ensure that the countries are compliant with United States oversight standards and policies; and

(ii) end Federal funding of other life-science research that is occurring in countries of concern or foreign countries where there is not adequate oversight to ensure that the countries are compliant with United States oversight standards and policies and that could reasonably pose a threat to public health, public safety, and economic or national security, as determined by the heads of relevant agencies.

(b) The Director of OSTP, in coordination with the Director of the Office of Management and Budget and the APNSA, and in consultation with the Secretary of Health and Human Services and the heads of other relevant agencies, shall establish guidance for the Secretary of Health and Human Services and the heads of other relevant agencies with respect to suspension of federally funded dangerous gain-of-function research, pursuant to the terms and conditions of the relevant research funding, at least until the completion of the policy called for in section 4(a) of this order. Heads of agencies shall report any exception to a suspension to the Director of OSTP for review in consultation with the APNSA and the heads of relevant agencies.

SEC. 4. *Secure Future Research Through Commonsense Frameworks*. (a) Within 120 days of the date of this order [May 5, 2025], the Director of OSTP, pursuant to 42 U.S.C. 6627 and in coordination with the APNSA and the heads of relevant agencies, shall revise or replace the 2024 "United States Government Policy for Oversight of Dual Use Research of Concern and Pathogens with Enhanced Pandemic Potential" to:

(i) strengthen top-down independent oversight; increase accountability through enforcement, audits, and improved public transparency; and clearly define the scope of covered research while ensuring the United States remains the global leader in biotechnology, biological countermeasures, and health research;

(ii) incorporate enforcement mechanisms, including those described in section 7 of this order, into Federal funding agreements to ensure compliance with all Federal policies governing dangerous gain-of-function research; and

(iii) provide for review and revision at least every 4 years, or as appropriate.

(b) Within 90 days of the date of this order, the Director of OSTP, in coordination with the APNSA and the heads of relevant agencies, shall revise or replace the 2024 "Framework for Nucleic Acid Synthesis Screening" (Framework) to ensure it takes a commonsense approach and effectively encourages providers of synthetic nucleic acid sequences to implement comprehensive, scalable, and verifiable synthetic nucleic acid procurement screening mechanisms to minimize the risk of misuse. The heads of all agencies that fund life-science research shall ensure that synthetic nucleic acid procurement is conducted through providers or

manufacturers that adhere to the updated Framework. To ensure compliance, the updated Framework shall incorporate the enforcement mechanisms described in section 7 of this order. The Framework shall be reviewed and revised at least every 4 years, or as appropriate.

SEC. 5. *Manage Risks Associated with Non-federally Funded Research*. Within 180 days of the date of this order, the Director of OSTP, in coordination with the Director of the Office of Management and Budget, the APNSA, the Assistant to the President for Domestic Policy, and the heads of other relevant agencies, shall develop and implement a strategy to govern, limit, and track dangerous gain-of-function research across the United States that occurs without Federal funding and other life-science research that could cause significant societal consequences. This strategy shall include actions to achieve comprehensive, scalable, and verifiable nucleic acid synthesis screening in non-federally funded settings. Any gaps in authorities necessary to achieve the goals of this strategy shall be addressed in a legislative proposal to be sent to the President, through the Director of OSTP and the APNSA, within 180 days of the date of this order.

SEC. 6. *Increase Accountability and Public Transparency of Dangerous Gain-of-Function Research*. The Director of OSTP, in coordination with the APNSA and the heads of relevant agencies, shall ensure that the revised policy called for in section 4(a) of this order includes a mechanism whereby research institutions that receive Federal funding must report dangerous gain-of-function research, and to the maximum extent permitted by law, include research that is supported by non-Federal funding mechanisms. The reporting mechanism shall provide a publicly available source of information about research programs and awards identified pursuant to this section, including, where permitted by law, those that have been stopped or suspended pursuant to sections 3(a) and 3(b) of this order, and all future programs and awards that are covered by the updated policy developed in section 4(a) of this order. This reporting shall be conducted in a way that does not compromise national security or legitimate intellectual property interests of subject institutions.

SEC. 7. *Future Enforcement Terms*. The Secretary of Health and Human Services and the heads of other relevant agencies shall, consistent with existing laws and regulations, include in every life-science research contract or grant award:

(a) a term requiring the contractual counterparty or grant recipient to agree that its compliance in all respects with the terms of this order and any applicable regulations promulgated by the contracting or grant-offering agency is material to the Government's payment decisions for purposes of 31 U.S.C. 3729(b)(4);

(b) a term requiring such counterparty or recipient to certify that it does not operate, participate in, or fund any dangerous gain-of-function research or other life-science research in foreign countries that could cause significant societal consequences or generate unnecessary national security risks, and that does not comply with this order and the policies ordered herein;

(c) a term stating that a violation of the terms of this order or any applicable regulations promulgated by the contracting or grant-offering agency by any grant recipient may be considered a violation of such term by the recipient's employer or institution; and

(d) a term stating that any grant recipient, employer, or institution found to be in violation of the terms of this order or any applicable regulations promulgated by the contracting or grant-making agency may be subject to immediate revocation of ongoing Federal funding, and up to a 5-year period of ineligibility for Federal life-sciences grant funds offered by the Department of Health and Human Services and other relevant agencies.

SEC. 8. *Definitions*. For the purposes of this order, "dangerous gain-of-function research" means scientific research on an infectious agent or toxin with the potential to cause disease by enhancing its pathogenicity or increasing its transmissibility. Covered research activities are those that could result in significant societal consequences and that seek or achieve one or more of the following outcomes:

(a) enhancing the harmful consequences of the agent or toxin;

(b) disrupting beneficial immunological response or the effectiveness of an immunization against the agent or toxin;

(c) conferring to the agent or toxin resistance to clinically or agriculturally useful prophylactic or therapeutic interventions against that agent or toxin or facilitating their ability to evade detection methodologies;

(d) increasing the stability, transmissibility, or the ability to disseminate the agent or toxin;

(e) altering the host range or tropism of the agent or toxin;

(f) enhancing the susceptibility of a human host population to the agent or toxin; or

(g) generating or reconstituting an eradicated or extinct agent or toxin.

SEC. 9. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary,

administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Department of Health and Human Services shall provide funding for this order's publication in the Federal Register.

DONALD J. TRUMP.

SUBCHAPTER III—PRESIDENT'S COMMITTEE ON SCIENCE AND TECHNOLOGY

§6631. Establishment of Committee

The President shall establish within the Executive Office of the President a President's Committee on Science and Technology (hereinafter referred to as the "Committee").

(Pub. L. 94–282, title III, §301, May 11, 1976, 90 Stat. 468.)

EXECUTIVE DOCUMENTS

ABOLITION OF PRESIDENT'S COMMITTEE ON SCIENCE AND TECHNOLOGY; TRANSFER OF FUNCTIONS

The President's Committee on Science and Technology, established pursuant to this subchapter, was abolished and its functions transferred to the President, by Reorg. Plan No. 1 of 1977, §5A, 42 F.R. 56101, 91 Stat. 1634, set out in the Appendix to Title 5, Government Organization and Employees, effective Feb. 26, 1978, as provided by section 1(b) of Ex. Ord. No. 12039, Feb. 24, 1978, 43 F.R. 8095, set out under section 6601 of this title.

§6632. Membership of Committee

(a) Composition; appointment

The Committee shall consist of—

(1) the Director of the Office of Science and Technology Policy established under subchapter II of this chapter; and

(2) not less than eight nor more than fourteen other members appointed by the President not more than sixty days after the Director has assumed office (as provided in section 6612 of this title).

(b) Qualifications

Members of the Committee appointed by the President pursuant to subsection (a)(2) of this section shall—

(1) be qualified and distinguished in one or more of the following areas: science, engineering, technology, information dissemination, education, management, labor, or public affairs;

(2) be capable of critically assessing the policies, priorities, programs, and activities of the Nation, with respect to the findings, policies, and purposes set forth in subchapter I; and

(3) shall collectively constitute a balanced composition with respect to (A) fields of science and engineering, (B) academic, industrial, and government experience, and (C) business, labor, consumer, and public interest points of view.

(c) Chairman; Vice Chairman

The President shall appoint one member of the Committee to serve as Chairman and another member to serve as Vice Chairman for such periods as the President may determine.

(d) Compensation

Each member of the Committee who is not an officer of the Federal Government shall, while serving on business of the Committee, be entitled to receive compensation at a rate not to exceed the daily rate prescribed for GS–18 of the General Schedule under section 5332 of title 5, including traveltime, and while so serving away from his home or regular place of business he may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703(b) [1] of title 5 for persons in Government service employed intermittently. (Pub. L. 94–282, title III, §302, May 11, 1976, 90 Stat. 468.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 5703 of title 5, referred to in subsec. (d), was amended generally by Pub. L. 94–22, §4, May 19, 1975, 89 Stat. 95, and, as so amended, does not contain a subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

EXECUTIVE DOCUMENTS

ABOLITION OF PRESIDENT'S COMMITTEE ON SCIENCE AND TECHNOLOGY; TRANSFER OF FUNCTIONS

See note set out under section 6631 of this title.

[1] *See References in Text note below.*

§6633. Federal science, engineering, and technology survey; reports

(a) The Committee shall survey, examine, and analyze the overall context of the Federal science, engineering, and technology effort including missions, goals, personnel, funding, organization, facilities, and activities in general, taking adequate account of the interests of individuals and groups that may be affected by Federal scientific, engineering, and technical programs, including, as appropriate, consultation with such individuals and groups. In carrying out its functions under this section, the Committee shall, among other things, consider needs for—

(1) organizational reform, including institutional realinement designed to place Federal agencies whose missions are primarily or solely devoted to scientific and technological research and development, and those agencies primarily or solely concerned with fuels, energy, and materials, within a single cabinet-level department;

(2) improvements in existing systems for handling scientific and technical information on a Government-wide basis, including consideration of the appropriate role to be played by the private sector in the dissemination of such information;

(3) improved technology assessment in the executive branch of the Federal Government;

(4) improved methods for effecting technology innovation, transfer, and use;

(5) stimulating more effective Federal-State and Federal-industry liaison and cooperation in

science and technology, including the formation of Federal-State mechanisms for the mutual pursuit of this goal;

(6) reduction and simplification of Federal regulations and administrative practices and procedures which may have the effect of retarding technological innovation or opportunities for its utilization;

(7) a broader base for support of basic research;

(8) ways of strengthening the Nation's academic institutions' capabilities for research and education in science and technology;

(9) ways and means of effectively integrating scientific and technological factors into our national and international policies;

(10) technology designed to meet community and individual needs;

(11) maintenance of adequate scientific and technological manpower with regard to both quality and quantity;

(12) improved systems for planning and analysis of the Federal science and technology programs; and

(13) long-range study, analysis, and planning in regard to the application of science and technology to major national problems or concerns.

(b)(1) Within twelve months from the time the Committee is activated in accordance with section 6632(a) of this title, the Committee shall issue an interim report of its activities and operations to date. Not more than twenty-four months from the time the Committee is activated, the Committee shall submit a final report of its activities, findings, conclusions, and recommendations, including such supporting data and material as may be necessary, to the President.

(2) The President, within sixty days of receipt thereof, shall transmit each such report to each House of Congress together with such comments, observations, and recommendations thereon as he deems appropriate.

(Pub. L. 94–282, title III, §303, May 11, 1976, 90 Stat. 469.)

EXECUTIVE DOCUMENTS

ABOLITION OF PRESIDENT'S COMMITTEE ON SCIENCE AND TECHNOLOGY; TRANSFER OF FUNCTIONS

See note set out under section 6631 of this title.

§6634. Continuation of Committee

(a) Ninety days after submission of the final report prepared under section 6633 of this title, the Committee shall cease to exist, unless the President, before the expiration of the ninety-day period, makes a determination that it is advantageous for the Committee to continue in being.

(b) If the President determines that it is advantageous for the Committee to continue in being, (1) the Committee shall exercise such functions as are prescribed by the President; and (2) the members of the Committee shall serve at the pleasure of the President.

(Pub. L. 94–282, title III, §304, May 11, 1976, 90 Stat. 470.)

EXECUTIVE DOCUMENTS

ABOLITION OF PRESIDENT'S COMMITTEE ON SCIENCE AND TECHNOLOGY; TRANSFER OF FUNCTIONS

See note set out under section 6631 of this title.

§6635. Staff and consultant support

(a) In the performance of its functions under sections 6633 and 6634 of this title, the Committee is authorized—

(1) to select, appoint, employ, and fix the compensation of such specialists and other experts as may be necessary for the carrying out of its duties and functions, and to select, appoint, and employ, subject to the civil service laws, such other officers and employees as may be necessary for carrying out its duties and functions; and

(2) to provide for participation of such civilian and military personnel as may be detailed to the Committee pursuant to subsection (b) of this section for carrying out the functions of the Committee.

(b) Upon request of the Committee, the head of any Federal department, agency, or instrumentality is authorized (1) to furnish to the Committee such information as may be necessary for carrying out its functions and as may be available to or procurable by such department, agency, or instrumentality, and (2) to detail to temporary duty with the Committee on a reimbursable basis such personnel within his administrative jurisdiction as it may need or believe to be useful for carrying out its functions. Each such detail shall be without loss of seniority, pay, or other employee status, to civilian employees so detailed, and without loss of status, rank, office, or grade, or of any emolument, perquisite, right, privilege, or benefit incident thereto to military personnel so detailed. Each such detail shall be made pursuant to an agreement between the Chairman and the head of the relevant department, agency, or instrumentality, and shall be in accordance with the provisions of subchapter III of chapter 33, title 5.

(Pub. L. 94–282, title III, §305, May 11, 1976, 90 Stat. 470.)

EXECUTIVE DOCUMENTS

ABOLITION OF PRESIDENT'S COMMITTEE ON SCIENCE AND TECHNOLOGY; TRANSFER OF FUNCTIONS

See note set out under section 6631 of this title.

SUBCHAPTER IV—FEDERAL COORDINATING COUNCIL FOR SCIENCE, ENGINEERING, AND TECHNOLOGY

§6651. Establishment, membership, and functions of Council

(a) Designation

There is established the Federal Coordinating Council for Science, Engineering, and Technology (hereinafter referred to as the "Council").

(b) Composition

The Council shall be composed of the Director of the Office of Science and Technology Policy, the Director of the Office of Pandemic Preparedness and Response Policy, and one representative of each of the following Federal agencies: Department of Agriculture, Department of Commerce, Department of Defense, Department of Health and Human Services, Department of Housing and Urban Development, Department of the Interior, Department of State, Department of Transportation, Department of Veterans Affairs, National Aeronautics and Space Administration, National Science Foundation, Environmental Protection Agency, and Department of Energy. Each such representative shall be an official of policy rank designated by the head of the Federal agency concerned.

(c) Chairman

The Director of the Office of Science and Technology Policy shall serve as Chairman of the Council. The Chairman may designate another member of the Council to act temporarily in the

Chairman's absence as Chairman.

(d) Participation of unnamed Federal agencies in meetings; invitations to attend meetings

The Chairman may (1) request the head of any Federal agency not named in subsection (b) of this section to designate a representative to participate in meetings or parts of meetings of the Council concerned with matters of substantial interest to such agency, and (2) invite other persons to attend meetings of the Council.

(e) Consideration of problems and developments affecting more than one Federal agency; recommendations

The Council shall consider problems and developments in the fields of science, engineering, and technology and related activities affecting more than one Federal agency, and shall recommend policies and other measures designed to—

(1) provide more effective planning and administration of Federal scientific, engineering, and technological programs,

(2) identify research needs including areas requiring additional emphasis,

(3) achieve more effective utilization of the scientific, engineering, and technological resources and facilities of Federal agencies, including the elimination of unwarranted duplication, and

(4) further international cooperation in science, engineering, and technology.

(f) Other advisory duties

The Council shall perform such other related advisory duties as shall be assigned by the President or by the Chairman.

(g) Assistance to Council by agency represented thereon

For the purpose of carrying out the provisions of this section, each Federal agency represented on the Council shall furnish necessary assistance to the Council. Such assistance may include—

(1) detailing employees to the Council to perform such functions, consistent with the purposes of this section, as the Chairman may assign to them, and

(2) undertaking, upon request of the Chairman, such special studies for the Council as come within the functions herein assigned.

(h) Establishment of subcommittees and panels

For the purpose of conducting studies and making reports as directed by the Chairman, standing subcommittees and panels of the Council may be established.

(Pub. L. 94–282, title IV, §401, May 11, 1976, 90 Stat. 471; Pub. L. 95–91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607; Pub. L. 95–113, title XIV, §1406, Sept. 29, 1977, 91 Stat. 986; Pub. L. 97–98, title XIV, §1406(a), (b), Dec. 22, 1981, 95 Stat. 1298; Pub. L. 102–54, §13(q)(11), June 13, 1991, 105 Stat. 281; Pub. L. 104–127, title VIII, §851, Apr. 4, 1996, 110 Stat. 1171; Pub. L. 117–328, div. FF, title II, §2104(k)(3)(B), Dec. 29, 2022, 136 Stat. 5720.)

EDITORIAL NOTES

AMENDMENTS

2022—Subsec. (b). Pub. L. 117–328 inserted ", the Director of the Office of Pandemic Preparedness and Response Policy," after "Technology Policy".

1996—Subsec. (h). Pub. L. 104–127 struck out after first sentence "Among such standing subcommittees and panels of the Council shall be the Subcommittee on Food, Agricultural, and Forestry Research. This subcommittee shall review Federal research and development programs relevant to domestic and world food and fiber production and distribution, promote planning and coordination of this research in the Federal Government, and recommend policies and other measures concerning the food and agricultural sciences for the consideration of the Council. The subcommittee shall include, but not be limited to, representatives of each of the following departments or agencies; the Department of Agriculture, the Department of State, the Department of Defense, the Department of the Interior, the Department of Health and Human Services, the

National Oceanic and Atmospheric Administration, the Department of Energy, the National Science Foundation, the Environmental Protection Agency, and the Tennessee Valley Authority. The principal representatives of the Department of Agriculture shall serve as the chairman of the subcommittee."

1991—Subsec. (b). Pub. L. 102–54 substituted "Department of Veterans Affairs" for "Veterans' Administration".

1981—Subsec. (h). Pub. L. 97–98 substituted "Subcommittee on Food, Agricultural, and Forestry Research" for "Subcommittee on Food and Renewable Resources", "Department of Health and Human Services" for "Department of Health, Education, and Welfare", and "Department of Energy" for "Energy Research and Development Administration".

1977—Subsec. (h). Pub. L. 95–113 inserted provisions relating to Subcommittee on Food and Renewable Resources.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of Title 7, Agriculture.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of Title 7, Agriculture.

TRANSFER OF FUNCTIONS

"Department of Energy" substituted for "Energy Research and Development Administration" in subsec. (b) pursuant to sections 301(a), 703, and 707 of Pub. L. 95–91, which are classified to sections 7151(a), 7293, and 7297 of this title and which terminated Energy Research and Development Administration and transferred its functions (with certain exceptions) to Secretary of Energy.

EXECUTIVE DOCUMENTS

ABOLITION OF FEDERAL COORDINATING COUNCIL FOR SCIENCE, ENGINEERING, AND TECHNOLOGY; TRANSFER OF FUNCTIONS

The Federal Coordinating Council for Science, Engineering, and Technology, established pursuant to this section, was abolished and its functions transferred to the President by Reorg. Plan No. 1 of 1977, §5A, 42 F.R. 56101, 91 Stat. 1634, set out in the Appendix to Title 5, Government Organization and Employees, effective Feb. 26, 1978, as provided by section 1(b) of Ex. Ord. No. 12039, Feb. 24, 1978, 43 F.R. 8095, set out under section 6601 of this title.

SUBCHAPTER V—GENERAL PROVISIONS

§6671. Authorization of appropriations

(a) For the purpose of carrying out subchapter II of this chapter, there are authorized to be appropriated—

(1) $750,000 for the fiscal year ending June 30, 1976;

(2) $500,000 for the period beginning July 1, 1976, and ending September 30, 1976;

(3) $3,000,000 for the fiscal year ending September 30, 1977; and

(4) such sums as may be necessary for each of the succeeding fiscal years.

(b) For the purpose of carrying out subchapter III of this chapter, there are authorized to be appropriated—

(1) $750,000 for the fiscal year ending June 30, 1976;

(2) $500,000 for the period beginning July 1, 1976, and ending September 30, 1976;

(3) $1,000,000 for the fiscal year ending September 30, 1977; and
(4) such sums as may be necessary for each of the succeeding fiscal years.

(Pub. L. 94–282, title V, §501, May 11, 1976, 90 Stat. 472.)

SUBCHAPTER VI—NATIONAL CRITICAL TECHNOLOGIES PANEL

§§6681 to 6685. Omitted

EDITORIAL NOTES

CODIFICATION

Sections 6681 to 6685 were omitted pursuant to section 6685 which provided that sections 6681 to 6685 ceased to be effective Dec. 31, 2000, and that the National Critical Technologies Panel established by this subchapter terminated on that date.

Section 6681, Pub. L. 94–282, title VI, §601, as added Pub. L. 101–189, div. A, title VIII, §841(a)(1), Nov. 29, 1989, 103 Stat. 1511, established a National Critical Technologies Panel.

Section 6682, Pub. L. 94–282, title VI, §602, as added Pub. L. 101–189, div. A, title VIII, §841(a)(1), Nov. 29, 1989, 103 Stat. 1511, related to membership of the Panel.

Section 6683, Pub. L. 94–282, title VI, §603, as added Pub. L. 101–189, div. A, title VIII, §841(a)(1), Nov. 29, 1989, 103 Stat. 1511; amended Pub. L. 102–245, title V, §503, Feb. 14, 1992, 106 Stat. 24, required the Panel to submit to the President a biennial report on national critical technologies.

Section 6684, Pub. L. 94–282, title VI, §604, as added Pub. L. 101–189, div. A, title VIII, §841(a)(1), Nov. 29, 1989, 103 Stat. 1512, related to administration and funding of Panel.

Section 6685, Pub. L. 94–282, title VI, §605, as added Pub. L. 101–189, div. A, title VIII, §841(a)(1), Nov. 29, 1989, 103 Stat. 1512, provided that sections 6681 to 6685 ceased to be effective Dec. 31, 2000, and that the Panel terminated on that date.

§6686. Science and Technology Policy Institute

(a) Establishment

There shall be established a federally funded research and development center to be known as the "Science and Technology Policy Institute" (hereinafter in this section referred to as the "Institute").

(b) Incorporation

The Institute shall be—

(1) administered as a separate entity by an organization currently managing another federally funded research and development center; or

(2) incorporated as a nonprofit membership corporation.

(c) Duties

The duties of the Institute shall include the following:

(1) The assembly of timely and authoritative information regarding significant developments and trends in science and technology research and development in the United States and abroad, including information relating to the technologies identified in the most recent biennial report submitted to Congress by the President pursuant to section 6683(d) [1] of this title and developing and maintaining relevant informational and analytical tools.

(2) Analysis and interpretation of the information referred to in paragraph (1) with particular attention to the scope and content of the Federal science and technology research and development portfolio as it affects interagency and national issues.

(3) Initiation of studies and analysis of alternatives available for ensuring the long-term strength

of the United States in the development and application of science and technology, including appropriate roles for the Federal Government, State governments, private industry, and institutions of higher education in the development and application of science and technology.

(4) Provision, upon the request of the Director of the Office of Science and Technology Policy, of technical support and assistance—

(A) to the committees and panels of the President's Council of Advisers on Science and Technology that provide advice to the Executive branch on science and technology policy; and

(B) to the interagency committees and panels of the Federal Government concerned with science and technology.

(d) Consultation on Institute activities

In carrying out the duties referred to in subsection (c), personnel of the Institute shall—

(1) consult widely with representatives from private industry, institutions of higher education, and nonprofit institutions; and

(2) to the maximum extent practicable, incorporate information and perspectives derived from such consultations in carrying out such duties.

(e) Annual reports

The Institute shall submit to the President an annual report on the activities of the Institute under this section. Each report shall be in accordance with requirements prescribed by the President.

(f) Sponsorship

(1) The Director of the National Science Foundation shall be the sponsor of the Institute.

(2) The Director of the National Science Foundation, in consultation with the Director of Office of Science and Technology Policy, shall enter into a sponsoring agreement with respect to the Institute. The sponsoring agreement shall require that the Institute carry out such functions as the Director of Office of Science and Technology Policy may specify consistent with the duties referred to in subsection (c). The sponsoring agreement shall be consistent with the general requirements prescribed for such a sponsoring agreement by the Administrator for Federal Procurement Policy.

(Pub. L. 101–510, div. A, title VIII, §822, Nov. 5, 1990, 104 Stat. 1598; Pub. L. 102–25, title VII, §704(a)(5), Apr. 6, 1991, 105 Stat. 118; Pub. L. 102–190, div. A, title VIII, §822(c)(1), Dec. 5, 1991, 105 Stat. 1433; Pub. L. 103–160, div. A, title VIII, §803, Nov. 30, 1993, 107 Stat. 1701; Pub. L. 104–201, div. A, title X, §1073(e)(1)(C), Sept. 23, 1996, 110 Stat. 2658; Pub. L. 105–207, title II, §208(a), July 29, 1998, 112 Stat. 877.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 6683 of this title, referred to in subsec. (c)(1), was omitted from the Code.

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1991, and not as part of the National Science and Technology Policy, Organization, and Priorities Act of 1976 which comprises this chapter.

AMENDMENTS

1998—Pub. L. 105–207, §208(a)(1), substituted "Science and Technology Policy Institute" for "Critical Technologies Institute" in section catchline.

Subsec. (a). Pub. L. 105–207, §208(a)(1), substituted "Science and Technology Policy Institute" for "Critical Technologies Institute".

Subsec. (b). Pub. L. 105–207, §208(a)(2), substituted "The" for "As determined by the chairman of the committee referred to in subsection (c) of this section, the".

Subsec. (c). Pub. L. 105–207, §208(a)(3), redesignated subsec. (d) as (c) and struck out heading and text of former subsec. (c). Text read as follows:

"(1) The Institute shall have an Operating Committee composed of six members as follows:

"(A) The Director of the Office of Science and Technology Policy, who shall chair the committee.

"(B) The Director of the National Institutes of Health.

"(C) The Under Secretary of Commerce for Technology.

"(D) The Director of the Defense Advanced Research Projects Agency.

"(E) The Director of the National Science Foundation.

"(F) The Under Secretary of Energy having responsibility for science and technology matters.

"(2) The Operating Committee shall meet not less than four times each year."

Subsec. (c)(1). Pub. L. 105–207, §208(a)(4)(A)–(C), inserted "science and" after "developments and trends in", substituted "including" for "with particular emphasis on", and inserted before period at end "and developing and maintaining relevant informational and analytical tools".

Subsec. (c)(2). Pub. L. 105–207, §208(a)(4)(D), substituted "with particular attention to the scope and content of the Federal science and technology research and development portfolio as it affects interagency and national issues" for "to determine whether such developments and trends are likely to affect United States technology policies".

Subsec. (c)(3). Pub. L. 105–207, §208(a)(4)(E), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "Initiation of studies and analyses (including systems analyses and technology assessments) of alternatives available for ensuring long-term leadership by the United States in the development and application of the technologies referred to in paragraph (1), including appropriate roles for the Federal Government, State governments, private industry, and institutions of higher education in the development and application of such technologies."

Subsec. (c)(4). Pub. L. 105–207, §208(a)(4)(F), (G), inserted "science and" after "Executive branch on" in subpar. (A) and amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "to the committees and panels of the Federal Coordinating Council for Science, Engineering, and Technology that are responsible for planning and coordinating activities of the Federal Government to advance the development of critical technologies and sustain and strengthen the technology base of the United States."

Subsec. (d). Pub. L. 105–207, §208(a)(3), (5), redesignated subsec. (e) as (d) and substituted "subsection (c)" for "subsection (d)" in introductory provisions. Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 105–207, §208(a)(6), which directed the substitution of "Institute" for "Committee" each place appearing, was executed by making the substitution for "committee" in two places to reflect the probable intent of Congress.

Pub. L. 105–207, §208(a)(3), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 105–207, §208(a)(3), redesignated subsec. (g) as (f). Former subsec. (f) redesignated (e).

Subsec. (f)(2). Pub. L. 105–207, §208(a)(8), which directed the substitution of "Director of Office of Science and Technology Policy" for "Chairman of Committee" each place appearing, was executed by making the substitution for "chairman of the committee" in two places to reflect the probable intent of Congress.

Pub. L. 105–207, §208(a)(7), substituted "subsection (c)" for "subsection (d)".

Subsec. (g). Pub. L. 105–207, §208(a)(3), redesignated subsec. (g) as (f).

1996—Subsec. (c)(1)(D). Pub. L. 104–201 inserted "Defense" before "Advanced Research Projects Agency".

1993—Subsec. (c). Pub. L. 103–160 amended heading and text of subsec. (c) generally. Prior to amendment, text consisted of pars. (1) to (4) relating to the composition, designation of chairman, terms of service, and meetings of the Operating Committee.

1991—Pub. L. 102–190 amended section generally, substituting present provisions for provisions establishing "Critical Technologies Institute" and providing for incorporation, Board of Trustees, duties of Institute, sponsorship of Institute, deadline for certain actions, and funding.

Subsec. (g)(1). Pub. L. 102–25, §704(a)(5)(A), substituted "appropriated pursuant to this Act" for "available for the Department of Defense" and struck out "in the first fiscal year in which the Institute begins operations" after "activities of the Institute".

Subsec. (g)(2). Pub. L. 102–25, §704(a)(5)(B), struck out "for each fiscal year after the fiscal year referred to in paragraph (1)" after "for the Institute".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1991 AMENDMENTS

Pub. L. 102–190, title VIII, §822(c)(2), (3), Dec. 5, 1991, 105 Stat. 1435, provided that:

"(2) The amendment made by paragraph (1) [amending this section] shall take effect as of November 5, 1990.

"(3) The sponsoring agreement required by subsection (g) of section 822 of Public Law 101–510 [subsec.

(g) of this section], as amended by paragraph (1), shall be entered into not later than February 15, 1992."

Amendment by Pub. L. 102–25 applicable as if included in enactment of Pub. L. 101–510, see section 704(e) of Pub. L. 102–25, set out as a note under section 12321 of Title 10, Armed Forces.

AUTHORIZATION OF APPROPRIATIONS

Pub. L. 102–190, title VIII, §822(d)(2), Dec. 5, 1991, 105 Stat. 1435, provided that: "There is authorized to be appropriated for each fiscal year after fiscal year 1991 for the Institute such sums as may be necessary for the operation of the Institute."

REFERENCES TO CRITICAL TECHNOLOGIES INSTITUTE

Pub. L. 105–207, title II, §208(b), July 29, 1998, 112 Stat. 878, provided that: "All references in Federal law or regulations to the Critical Technologies Institute shall be considered to be references to the Science and Technology Policy Institute."

[1] *See References in Text note below.*

§6687. Critical technology strategies

(a) Requirement for critical technology strategies

(1) The President shall develop and revise as needed a multiyear strategy for federally supported research and development for each critical technology designated by the President. In designating critical technologies for the purpose of this section, the President shall begin with the national critical technologies listed in a biennial report on national critical technologies submitted to Congress by the President pursuant to section 6683(d) [1] of this title. A critical technology strategy may cover more than one critical technology.

(2) The President shall assign responsibilities and develop procedures for conducting executive branch activities to carry out this section.

(3) During the development of a critical technology strategy, the President shall provide for the following:

(A) The development of goals and objectives for the appropriate Federal role in the development of the critical technology or technologies that the President expects to be covered by the strategy.

(B) Close consultation with appropriate representatives of United States industries, members of industry associations, representatives of labor organizations in the United States, members of professional and technical societies in the United States and other persons who are qualified to provide advice and assistance in the development of such critical technology or technologies.

(C) The development of an organizational structure within the Federal Government that is appropriate for coordinating, managing, and reviewing the Federal Government's role in the implementation of the strategy, including allocating roles among Federal departments and agencies.

(D) The development of policies and procedures for synergistic government, industrial, and university participation in the implementation of the strategy.

(E) The development of Federal budget estimates for research and development regarding the critical technology or technologies covered by the strategy for the first five fiscal years covered by that strategy.

(b) Report

Not later than February 15 of each year, beginning in 1993, the President shall submit to Congress an annual report describing the implementation of subsection (a). The annual report shall include the following:

(1) For each critical technology designated by the President for the purpose of subsection (a), a description of the progress made in implementing subsection (a) during the fiscal year preceding the fiscal year in which the report is submitted.

(2) A description of each proposed program, if any, for further implementing subsection (a)

with respect to a critical technology through the date for the submission of the next annual report.

(3) A copy of each strategy, if any, completed or revised pursuant to subsection (a) during the fiscal year covered by the report.

(Pub. L. 102–190, div. A, title VIII, §822(a), (b), Dec. 5, 1991, 105 Stat. 1432, 1433.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 6683 of this title, referred to in subsec. (a)(1), was omitted from the Code.

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Years 1992 and 1993, and not as part of the National Science and Technology Policy, Organization, and Priorities Act of 1976 which comprises this chapter.

[1] *See References in Text note below.*

CHAPTER 80—PUBLIC WORKS EMPLOYMENT

SUBCHAPTER I—LOCAL PUBLIC WORKS

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SUBCHAPTER I—LOCAL PUBLIC WORKS

§6701. Definitions

As used in this subchapter, the term—

(1) "Secretary" means the Secretary of Commerce, acting through the Economic Development Administration.

(2) "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(3) "local government" means any city, county, town, parish, or other political subdivision of a State, and any Indian tribe.

(4) "public works project" includes a project for the transportation and provision of water to a drought-stricken area.

(Pub. L. 94–369, title I, §102, July 22, 1976, 90 Stat. 999; Pub. L. 95–28, title I, §102, May 13, 1977, 91 Stat. 116.)

EDITORIAL NOTES

AMENDMENTS

1977—Par. (2). Pub. L. 95–28, §102(a), inserted reference to Trust Territory of the Pacific Islands.
Par. (4). Pub. L. 95–28, §102(b), added par. (4).

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 1977 AMENDMENTS

Pub. L. 95–30, title VI, §601, May 23, 1977, 91 Stat. 164, provided that: "This title [enacting section 6736 of this title, amending sections 6722 to 6724, 6727, and 6735 of this title, and repealing section 6726 of this title] may be cited as the 'Intergovernmental Antirecession Assistance Act of 1977'."

Pub. L. 95–28, title I, §101, May 13, 1977, 91 Stat. 116, provided that: "This title [amending sections 6701, 6705 to 6708, and 6710 of this title and enacting provisions set out as notes under sections 6701 and 6710 of this title] may be cited as the 'Public Works Employment Act of 1977'."

SHORT TITLE

Pub. L. 94–369, §1, July 22, 1976, 90 Stat. 999, provided: "That this Act [enacting this chapter and provision set out as a note under section 1287 of Title 33, Navigation and Navigable Waters] may be cited as the 'Public Works Employment Act of 1976'."

Pub. L. 94–369, title I, §101, July 22, 1976, 90 Stat. 999, provided that: "This title [enacting this subchapter] may be cited as the 'Local Public Works Capital Development and Investment Act of 1976'."

PUBLIC WORKS INVESTMENT STUDY; PRELIMINARY REPORT; FINAL REPORT WITHIN 18 MONTHS AFTER MAY 13, 1977

Pub. L. 95–28, title I, §110, May 13, 1977, 91 Stat. 119, directed Secretary of Commerce to study public works investment in United States and implications for future of recent trends in such investment and submit a report with respect to its findings and recommendations no later than 18 months after May 13, 1977.

EXECUTIVE DOCUMENTS

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§6702. Direct grants; Federal share

(a) The Secretary is authorized to make grants to any State or local government for construction (including demolition and other site preparation activities), renovation, repair, or other improvement of local public works projects including but not limited to those public works projects of State and local governments for which Federal financial assistance is authorized under provisions of law other than this chapter. In addition the Secretary is authorized to make grants to any State or local government for the completion of plans, specifications, and estimates for local public works projects where either architectural design or preliminary engineering or related planning has already been undertaken and where additional architectural and engineering work or related planning is required to permit construction of the project under this chapter.

(b) The Federal share of any project for which a grant is made under this section shall be 100 per centum of the cost of the project.

(Pub. L. 94–369, title I, §103, July 22, 1976, 90 Stat. 999.)

§6703. Grants supplementing Federal contributions under other Federal laws; Federal share

In addition to the grants otherwise authorized by this chapter, the Secretary is authorized to make a grant for the purpose of increasing the Federal contribution to a public works project for which Federal financial assistance is authorized under provisions of law other than this chapter. Any grant made for a public works project under this section shall be in such amount as may be necessary to make the Federal share of the cost of such project 100 per centum. No grant shall be made for a project under this section unless the Federal financial assistance for such project authorized under provisions of law other than this chapter is immediately available for such project and construction of such project has not yet been initiated because of lack of funding for the non-Federal share.

(Pub. L. 94–369, title I, §104, July 22, 1976, 90 Stat. 999.)

§6704. Grants providing State or local contributions required under State or local law

In addition to the grants otherwise authorized by this chapter, the Secretary is authorized to make a grant for the purpose of providing all or any portion of the required State or local share of the cost of any public works project for which financial assistance is authorized under any provision of State or local law requiring such contribution. Any grant made for a public works project under this section shall be made in such amount as may be necessary to provide the requested State or local share of the cost of such project. A grant shall be made under this section for either the State or local share of the cost of the project, but not both shares. No grant shall be made for a project under this section unless the share of the financial assistance for such project (other than the share with respect to which a grant is requested under this section) is immediately available for such project and construction of such project has not yet been initiated.

(Pub. L. 94–369, title I, §105, July 22, 1976, 90 Stat. 999.)

§6705. Limitations on use of grants

(a) Projects relating to natural watercourse or canals

No grant shall be made under section 6702, 6703, or 6704 of this title for any project having as its principal purpose the channelization, damming, diversion, or dredging of any natural watercourse, or the construction or enlargement of any canal (other than a canal or raceway designated for maintenance as an historic site) and having as its permanent effect the channelization, damming, diversion, or dredging of such watercourse or construction or enlargement of any canal (other than a canal or raceway designated for maintenance as an historic site).

(b) Acquisition of interest in real property

No part of any grant made under section 6702, 6703, or 6704 of this title shall be used for the acquisition of any interest in real property.

(c) Maintenance costs

Nothing in this chapter shall be construed to authorize the payment of maintenance costs in connection with any projects constructed (in whole or in part) with Federal financial assistance under this chapter.

(d) Commencement of on-site labor within 90 days of project approval as prerequisite

Grants made by the Secretary under this chapter shall be made only for projects for which the applicant gives satisfactory assurances, in such manner and form as may be required by the Secretary and in accordance with such terms and conditions as the Secretary may prescribe, that, if funds are available, on-site labor can begin within ninety days of project approval.

(e) Performance of projects by State or local governments prohibited; competitive bidding; illegal aliens

(1) No part of the construction (including demolition and other site preparation activities), renovation, repair, or other improvement of any public works project for which a grant is made under this chapter after May 13, 1977, shall be performed directly by any department, agency, or instrumentality of any State or local government. Construction of each such project shall be performed by contract awarded by competitive bidding, unless the Secretary shall affirmatively find that, under the circumstances relating to such project, some other method is in the public interest. Contracts for the construction of each project shall be awarded only on the basis of the lowest responsive bid submitted by a bidder meeting established criteria of responsibility. No requirement or obligation shall be imposed as a condition precedent to the award of a contract to such bidder for a project, or to the Secretary's concurrence in the award of a contract to such bidder, unless such requirement or obligation is otherwise lawful and is specifically set forth in the advertised specifications.

(2) No grant shall be made under this chapter for any local public works project unless the State or local government applying for such grant submits with its application a certification acceptable to the Secretary that no contract will be awarded in connection with such project to any bidder who will employ on such project any alien in the United States in violation of the Immigration and Nationality Act [8 U.S.C. 1101 et seq.] or any other law, convention, or treaty of the United States relating to the immigration, exclusion, deportation, or expulsion of aliens.

(f) Use of products made in United States; minority business enterprises

(1)(A) Notwithstanding any other provision of law, no grant shall be made under this chapter for any local public works project unless only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, and supplies mined, produced, or manufactured, as the case may be, in the United States, will be used in such project.

(B) Subparagraph (A) of this paragraph shall not apply in any case where the Secretary determines it to be inconsistent with the public interest, or the cost to be unreasonable, or if articles, materials, or supplies of the class or kind to be used or the articles, materials, or supplies from which they are manufactured are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

(2) Except to the extent that the Secretary determines otherwise, no grant shall be made under this chapter for any local public works project unless the applicant gives satisfactory assurance to the Secretary that at least 10 per centum of the amount of each grant shall be expended for minority business enterprises. For purposes of this paragraph, the term "minority business enterprise" means a business at least 50 per centum of which is owned by minority group members or, in case of a publicly owned business, at least 51 per centum of the stock of which is owned by minority group members. For the purposes of the preceding sentence, minority group members are citizens of the

United States who are Asian American, Native Hawaiian, Pacific Islanders, African American, Hispanic, Native American, or Alaska Natives.

(g) Accessibility standards for handicapped and elderly

No grant shall be made under this chapter for any project for which the applicant does not give assurances satisfactory to the Secretary that the project will be designed and constructed in accordance with the standards for accessibility for public buildings and facilities to the handicapped and elderly under the Act entitled "An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped", approved August 12, 1968 (42 U.S.C. 4151 et seq.). The Architectural and Transportation Barriers Compliance Board established by the Rehabilitation Act of 1973 (P.L. 93–112) [29 U.S.C. 701 et seq.] is authorized to insure that any construction and renovation done pursuant to any grant made under this chapter complies with the accessibility standards for public bunldings [1] and facilities issued under the Act of August 12, 1968.

(Pub. L. 94–369, title I, §106, July 22, 1976, 90 Stat. 1000; Pub. L. 95–28, title I, §103, May 13, 1977, 91 Stat. 116; Pub. L. 114–157, §1(b), May 20, 2016, 130 Stat. 393.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in subsec. (e)(2), is act June 27, 1952, ch. 477, 66 Stat. 163, which is classified principally to chapter 12 (§1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

Act of August 12, 1968, entitled "An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped", referred to in subsec. (g), is Pub. L. 90–480, Aug. 12, 1968, 82 Stat. 718, popularly known as the Architectural Barriers Act of 1968, which is classified generally to chapter 51 (§4151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4151 of this title and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (g), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

AMENDMENTS

2016—Subsec. (f)(2). Pub. L. 114–157 substituted "Asian American, Native Hawaiian, Pacific Islanders, African American, Hispanic, Native American, or Alaska Natives" for "Negroes, Spanish-speaking, Orientals, Indians, Eskimos, and Aleuts".

1977—Subsecs. (e) to (g). Pub. L. 95–28 added subsecs. (e) to (g).

[1] So in original. Probably should be "buildings".

§6706. Implementing rules, regulations, and procedures; criteria; employment of disabled and Vietnam-era veterans; determination of applications for grants

The Secretary shall, not later than thirty days after July 22, 1976, prescribe those rules, regulations, and procedures (including application forms) necessary to carry out this chapter. Such rules, regulations, and procedures shall assure that adequate consideration is given to the relative needs of various sections of the country. The Secretary shall consider among other factors (1) the severity and duration of unemployment in proposed project areas, (2) the income levels and extent of underemployment in proposed project area, and (3) the extent to which proposed projects will contribute to the reduction of unemployment. The Secretary, in consultation with the Secretary of Labor, and consistent with existing applicable collective bargaining agreements and practices, shall promulgate regulations to assure special consideration to the employment in projects under this chapter of qualified disabled veterans (as defined in section 4211(1) of title 38) and qualified

Vietnam-era veterans (as defined in section 4211(2) of such title 38). The Secretary shall make a final determination with respect to each application for a grant submitted to him under this chapter not later than the sixtieth day after the date he receives such application. Failure to make such final determination within such period shall be deemed to be an approval by the Secretary of the grant requested. For purposes of this section, in considering the extent of unemployment or underemployment, the Secretary shall consider the amount of unemployment or underemployment in the construction and construction-related industries.

(Pub. L. 94–369, title I, §107, July 22, 1976, 90 Stat. 1000; Pub. L. 95–28, title I, §104, May 13, 1977, 91 Stat. 117; Pub. L. 102–83, §5(c)(2), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103–446, title XII, §1203(c)(3), Nov. 2, 1994, 108 Stat. 4690.)

EDITORIAL NOTES

AMENDMENTS

1994—Pub. L. 103–446, which directed substitution of "section 4211(2)" for "section 4211(2)(A)" and "section 4211(1)" for "section 2011(1)", was executed by substituting "section 4211(2)" for "section 4211(2)(A)". Previously, "section 4211(1)" was substituted for "section 2011(1)" by Pub. L. 103–83. See 1991 Amendment note below.

1991—Pub. L. 102–83 substituted references to section 4211 of title 38 for references to section 2011 of title 38 in two places.

1977—Pub. L. 95–28 inserted provision directing Secretary to promulgate regulations to assure special consideration to employment in projects of qualified disabled veterans and qualified Vietnam-era veterans.

§6707. Priority and amounts of projects

(a) Allocation of appropriated funds; Indian tribes and Alaska Native villages; prior applications; unemployment ratio; limits on grants for any one State; territories

The Secretary shall allocate funds appropriated after May 13, 1977, under section 6710 of this title as follows:

(1) 2½ per centum of such funds shall be set aside and shall be expended only for grants for public works projects under this chapter to Indian tribes and Alaska Native villages. None of the remainder of such funds shall be expended for such grants to such tribes and villages.

(2) After the set aside required by paragraph (1) of this subsection, $70,000,000 shall be set aside and expended only for grants for any public works project the application for a grant for which was made under this chapter after July 22, 1976, and before December 24, 1976, and which application was not received, was not considered, or was rejected solely because of an error by an officer or employee of the United States. Any allocation made to an applicant pursuant to regulation shall be reduced by the amount of any grant made to such applicant under this paragraph.

(3) After the set asides required by paragraphs (1) and (2) of this subsection, 65 per centum of such funds shall be allocated among the States on the basis of the ratio that the number of unemployed persons in each State bears to the total number of unemployed persons in all the States and 35 per centum of such funds shall be allocated among those States with an average unemployment rate for the preceding twelve-month period in excess of 6.5 per centum on the basis of the relative severity of unemployment in each such State, except that (A) no State shall be allocated less than three-quarters of one per centum or more than 12½ per centum of such funds for local public works projects within such State, except that in the case of Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands, not less than one-half of one per centum in the aggregate shall be granted for such projects in all four of these jurisdictions, and (B) no State whose unemployment data was converted for the first time in 1976 to the benchmark data of the current population survey annual average compiled by the Bureau of Labor Statistics shall receive a percentage of such funds less than the percentage of funds allocated to

such State under this chapter from funds appropriated to carry out this chapter prior to May 13, 1977.

(b) Local government projects; energy conservation; endorsement of project by general purpose local government; projects requested by school districts

(1) In making grants under this chapter, the Secretary shall give priority and preference to public works projects of local governments.

(2) In making grants for projects for construction, renovation, repair, or other improvement of buildings, the Secretary shall also give consideration as between such building projects to those projects which will result in conserving energy, including, but not limited to, projects to redesign and retrofit existing public facilities for energy conservation purposes, and projects using alternative energy systems.

(3) In making grants under this chapter, the Secretary shall also give priority and preference to any public works project requested by a State or by a special purpose unit of local government which is endorsed by a general purpose local government within such State.

(4) A project requested by a school district shall be accorded the full priority and preference to public works projects of local governments provided in paragraph (1).

(c) Unemployment rates; priority; States receiving minimum allocations

In making grants under this chapter, if for the twelve most recent consecutive months, the national unemployment rate is equal to or exceeds 6½ per centum, the Secretary shall (1) expedite and give priority to applications submitted by States or local governments having unemployment rates for the twelve most recent consecutive months in excess of the national unemployment rate and (2) shall give priority thereafter to applications submitted by States or local governments having unemployment rates for the twelve most recent consecutive months in excess of 6½ per centum, but less than the national unemployment rate. Information regarding unemployment rates may be furnished either by the Federal Government, or by States or local governments, provided the Secretary determines that the unemployment rates furnished by States or local governments are accurate, and shall provide assistance to States or local governments in the calculation of such rates to insure validity and standardization. The Secretary may waive the application of the first sentence of this subsection to any State which receives a minimum allocation pursuant to paragraph (3) of subsection (a) of this section.

(d) Priorities for projects in State or localities with two or more projects

Whenever a State or local government submits applications for grants under this chapter for two or more projects, such State or local government shall submit as part of such applications its priority for each such project.

(e) Community or neighborhood basis of unemployment rates

The unemployment rate of a local government shall, for the purposes of this chapter, and upon request of the applicant, be based upon the unemployment rate of any community or neighborhood (defined without regard to political or other subdivisions or boundaries) within the jurisdiction of such local government, except that any grant made to a local government based upon the unemployment rate of a community or neighborhood within its jurisdiction must be for a project to be constructed in such community or neighborhood.

(f) Repealed. Pub. L. 95–28, title I, §107(e), May 13, 1977, 91 Stat. 119

(g) Criteria for requests

States and local governments making application under this chapter should (1) relate their specific requests to existing approved plans and programs of a local community development or regional development nature so as to avoid harmful or costly inconsistencies or contradictions; and (2) where feasible, make requests which, although capable of early initiation, will promote or advance longer range plans and programs.

(h) Applications not submitted on or before December 23, 1976; grants prohibited; exceptions

(1) Except as provided in paragraph (2) of this subsection, the Secretary shall not consider or approve or make a grant for any project for which any application was not submitted for a grant under this chapter on or before December 23, 1976.

(2) The Secretary may receive applications for grants for projects under this chapter—

(A) from the Trust Territory of the Pacific Islands;

(B) from Indian tribes and Alaska Native villages;

(C) from any applicant to use any allocation which may be made pursuant to regulation, to the extent necessary to expend such allocation, if a sufficient number of applications were not submitted on or before December 23, 1976, to use such allocation.

(i) Substitution of projects to alleviate drought or other emergency or disaster-related conditions or damage

The Secretary may allow any applicant which has received a grant for a project under this chapter to substitute one or more projects for such project if in the judgment of the Secretary (1) the Federal cost in the aggregate of such substituted project or projects does not exceed such grant, (2) such substituted project or projects comply with section 6705(d) of this title, and (3) such substituted project or projects will in fact aid in alleviating drought or other emergency or disaster-related conditions or damage. Section 6705(a) of this title shall not apply to projects substituted under this subsection.

(j) Private nonprofit health care or rehabilitation facilities

Notwithstanding subsection (h)(1) of this section, grants may be made from appropriations made under section 6710 of this title after September 30, 1977, to States or local governments for projects for the construction, renovation, repair, or other improvements of health care or rehabilitation facilities owned and operated by private nonprofit entities.

(Pub. L. 94–369, title I, §108, July 22, 1976, 90 Stat. 1000; Pub. L. 95–28, title I, §§105–107, May 13, 1977, 91 Stat. 117, 118.)

EDITORIAL NOTES

AMENDMENTS

1977—Subsec. (a). Pub. L. 95–28, §105, added par. (1) and introductory provisions preceding par. (1), par. (2), and, in par. (3), introductory provisions preceding cl. (A) and cl. (B), designated existing provisions as cl. (A) of par. (3) and, in such cl. (A) as so designated, inserted reference to Trust Territory of the Pacific Islands and substituted "three-quarters of one percentum" for "one-half of one percentum" and "of such funds" for "of all amounts appropriated to carry out this subchapter".

Subsec. (b). Pub. L. 95–28, §106, designated existing provisions as par. (1) and added pars. (2) to (4).

Subsec. (c). Pub. L. 95–28, §107(a), (b), substituted "twelve most recent consecutive months" for "three most recent consecutive months" and authorized the Secretary to waive the application of the first sentence of the subsection to any State which receives a minimum allocation pursuant to subsec. (a)(3) of this section.

Subsec. (d). Pub. L. 95–28, §107(c), substituted provisions directing State or local governments that submit two or more projects to submit as part of their applications the priorities assigned to each project for provisions directing that seventy percentum of all amounts appropriated to carry out this chapter be granted for public works projects submitted by State or local governments given priority under clause (1) of the first sentence of subsec. (c) of this section, with the remaining thirty percentum available for public works projects submitted by State or local governments in other classifications of priority.

Subsec. (e). Pub. L. 95–28, §107(d), substituted "to be constructed in such community or neighborhood" for "of direct benefit to, or provide employment for, unemployed persons who are residents of that community or neighborhood".

Subsec. (f). Pub. L. 95–28, §107(e), struck out subsec. (f) which directed that, in determining the unemployment rate of a local government for purposes of this section, the unemployment in those adjoining areas from which the labor force for such project might be drawn were to be taken into consideration.

Subsecs. (h) to (j). Pub. L. 95–28, §107(f), added subsecs. (h) to (j).

EXECUTIVE DOCUMENTS

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§6708. Wage standards for laborers and mechanics; enforcement

All laborers and mechanics employed on projects assisted by the Secretary under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40. The Secretary shall not extend any financial assistance under this chapter for such project without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this provision, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 3145 of title 40.

(Pub. L. 94–369, title I, §109, July 22, 1976, 90 Stat. 1001; Pub. L. 95–28, title I, §108, May 13, 1977, 91 Stat. 119.)

EDITORIAL NOTES

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

In text, "sections 3141–3144, 3146, and 3147 of title 40" substituted for "the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5)" and "section 3145 of title 40" substituted for "section 2 of the Act of June 13, 1964, as amended (40 U.S.C. 276c)", meaning section 2 of the Act of June 13, 1934, on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1977—Pub. L. 95–28 substituted "All laborers and mechanics employed" for "All laborers and mechanics employed by contractors or subcontractors".

§6709. Sex discrimination; prohibition; enforcement

No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any project receiving Federal grant assistance under this chapter, including any supplemental grant made under this chapter. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination under title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.]. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee.

(Pub. L. 94–369, title I, §110, July 22, 1976, 90 Stat. 1002.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in text, is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. 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.

§6710. Authorization of appropriations

There is authorized to be appropriated not to exceed $6,000,000,000 for the period ending December 31, 1978, to carry out this chapter.

(Pub. L. 94–369, title I, §111, July 22, 1976, 90 Stat. 1002; Pub. L. 95–28, title I, §109, May 13, 1977, 91 Stat. 119.)

EDITORIAL NOTES

AMENDMENTS

1977—Pub. L. 95–28 substituted "$6,000,000,000 for the period ending December 31, 1978" for "$2,000,000,000 for the period ending September 30, 1977".

STATUTORY NOTES AND RELATED SUBSIDIARIES

IMMEDIATE INITIATION OF CONSTRUCTION ON CERTAIN PROJECTS

Pub. L. 95–28, title I, §111, May 13, 1977, 91 Stat. 120, directed Secretary of Agriculture and Secretary of the Interior to immediately initiate construction of those Federal public works projects which are responsibility of their respective departments, which have been authorized, and which can be commenced within 60 days of May 13, 1977, and completed no later than 180th day after commencement of construction, with no funds authorized by this section used to carry out such works.

SUBCHAPTER II—ANTIRECESSION PROVISIONS

§6721. Congressional findings of fact and declaration of policy

The Congress finds—

(1) that State and local governments represent a significant segment of the national economy whose economic health is essential to national economic prosperity;

(2) that present national economic problems have imposed considerable hardships on State and local government budgets;

(3) that those governments, because of their own fiscal difficulties, are being forced to take budget-related actions which tend to undermine Federal Government efforts to stimulate the economy;

(4) that efforts to stimulate the economy through reductions in Federal Government tax obligations are weakened when State and local governments are forced to increase taxes;

(5) that the net effect of Federal Government efforts to reduce unemployment through public service jobs is substantially limited if State and local governments use federally financed public service employees to replace regular employees that they have been forced to lay off;

(6) that efforts to stimulate the construction industry and reduce unemployment are substantially undermined when State and local governments are forced to cancel or delay the construction of essential capital projects; and

(7) that efforts by the Federal Government to stimulate the economic recovery will be substantially enhanced by a program of emergency Federal Government assistance to State and local governments to help prevent those governments from taking budget-related actions which undermine the Federal Government efforts to stimulate economic recovery.

(Pub. L. 94–369, title II, §201, July 22, 1976, 90 Stat. 1002.)

§6722. Financial assistance

(a) Payments to State and local governments

The Secretary of the Treasury (hereafter in this subchapter referred to as the "Secretary") shall, in accordance with the provisions of this subchapter, make payments to States and to local governments to coordinate budget-related actions by such governments with Federal Government efforts to stimulate economic recovery.

(b) Authorization of appropriations

Subject to the provisions of subsections (c) and (d), there are authorized to be appropriated for each of the five succeeding calendar quarters (beginning with the calendar quarter which begins on July 1, 1977) for the purpose of payments under this subchapter—

(1) $125,000,000, plus

(2) $30,000,000 multiplied by the number of whole one-tenth percentage points by which the rate of seasonally adjusted national unemployment for the most recent calendar quarter which ended three months before the beginning of such quarter exceeded 6 per centum.

(c) Aggregate authorization

In no case shall the aggregate amount authorized to be appropriated under the provisions of subsection (b) for the five successive calendar quarters beginning with the calendar quarter which begins July 1, 1977, exceed $2,250,000,000.

(d) Termination

No amount is authorized to be appropriated under the provisions of subsection (b) for any calendar quarter if—

(1) the average rate of national unemployment during the most recent calendar quarter which ended three months before the beginning of such calendar quarter did not exceed 6 percent, or

(2) the rate of national unemployment for the last month of the most recent calendar quarter which ended three months before the beginning of such calendar quarter did not exceed 6 percent.

(Pub. L. 94–369, title II, §202, July 22, 1976, 90 Stat. 1002; Pub. L. 94–447, title II, §201(1), Oct. 1, 1976, 90 Stat. 1498; Pub. L. 95–30, title VI, §602, May 23, 1977, 91 Stat. 164.)

EDITORIAL NOTES

AMENDMENTS

1977—Subsec. (b). Pub. L. 95–30, §602(a), substituted "July 1, 1977" for "July 1, 1976" in introductory provisions preceding par. (1) and in par. (2) substituted "$30,000,000 multiplied by the number of whole one-tenth" for "$62,500,000 multiplied by the number of one-half" and "such quarter exceeded 6 per centum" for "such calendar quarter exceeded 6 percent".

Subsec. (c). Pub. L. 95–30, §602(b), substituted "five successive calendar quarters beginning with the calendar quarter which begins July 1, 1977, exceed $2,250,000,000" for "five calendar quarters beginning with the calendar quarter which begins July 1, 1976, exceed $1,250,000,000".

1976—Subsec. (d)(1). Pub. L. 94–447 substituted "6 percent, or" for "6 percent, and".

§6723. Allocation of amounts

(a) Reservations for eligible States and units of local government

(1) The Secretary shall reserve one-third of the amounts appropriated pursuant to authorization under section 6722 of this title for each calendar quarter for the purpose of making payments to eligible State governments under subsection (b).

(2) The Secretary shall reserve two-thirds of such amounts for the purpose of making payments to eligible units of local government under subsection (c).

(b) State allocation; percentage; definitions

(1) The Secretary shall allocate from amounts reserved under subsection (a)(1) an amount for the purpose of making payments to each State equal to the total amount reserved under subsection (a)(1)

for the calendar quarter multiplied by the applicable State percentage.

(2) For purposes of this subsection, the applicable State percentage is equal to the quotient resulting from the division of the product of—

(A) the State excess unemployment percentage, multiplied by

(B) the State revenue sharing amount by the sum of such products for all the States.

(3) For the purposes of this section—

(A) the term "State" means each State of the United States;

(B) the State excess unemployment percentage is equal to the difference resulting from the subtraction of 4.5 percentage points from the State unemployment rate for that State but shall not be less than zero;

(C) the State unemployment rate is equal to the rate of unemployment in the State during the appropriate calendar quarter, as determined by the Secretary of Labor and reported to the Secretary; and

(D) the State revenue sharing amount is the amount determined under sections 6705–6707(a) of title 31 [1] for the most recently completed entitlement period, as defined under section 6701(a)(1) of title 31.

(c) Local government allocation; percentage; definitions; special limitation

(1) The Secretary shall allocate from amounts reserved under subsection (a)(2) an amount for the purpose of making payments to each local government, subject to the provisions of paragraph (4), equal to the total amount reserved under such subsection for calendar quarter multiplied by the local government percentage.

(2) For purposes of this subsection, the local government percentage is equal to the quotient resulting from the division of the product of—

(A) the local excess unemployment percentage, multiplied by

(B) the local revenue sharing amount, by the sum of such products for all local governments.

(3) For purposes of this subsection—

(A) the local excess unemployment percentage is equal to the difference resulting from the subtraction of 4.5 percentage points from the local unemployment rate, but shall not be less than zero;

(B) the local unemployment rate is equal to the rate of unemployment in the jurisdiction of the local government during the appropriated calendar quarter, as determined or assigned by the Secretary of Labor and reported to the Secretary (in the case of a local government for which the Secretary of Labor cannot determine a local unemployment rate, he shall assign such local government the local unemployment rate of the smallest unit or subunit of local government for which he has determined a local unemployment rate and within the jurisdiction of which such local government is located, unless—

(i) the Governor of the State in which such local government is located has provided the Secretary of Labor with a local unemployment rate for such local government, and

(ii) the Secretary of Labor finds that such local unemployment rate provided by the Governor has been determined in a manner consistent with the procedures and methodologies used by the Secretary of Labor in determining local unemployment rates,

in which case the Secretary of Labor shall assign such local government the local unemployment rate provided by such Governor);

(C) the local revenue sharing amount is the amount determined under sections 6701(a)(5), (7), (b)–(d), and 6708–6712 of title 31 [1] for the most recently completed entitlement period, as defined under section 6701(a)(1) of title 31; [1]

(D) the term "local government" means the government of a county, municipality, township, or other unit of government below the State which—

(i) is a unit of general government (determined on the basis of the same principles as are used

by the Bureau of the Census for general statistical purposes), and

(ii) performs substantial governmental functions. Such term includes the District of Columbia and also includes the recognized governing body of an Indian tribe or Alaskan Native village which performs substantial governmental functions. Such term does not include the government of a township area unless such government performs substantial governmental functions.

(4) If the amount which would be allocated to any unit of local government under this subsection is less than $100, then no amount shall be allocated for such unit of local government under this subsection.

(Pub. L. 94–369, title II, §203, July 22, 1976, 90 Stat. 1003; Pub. L. 94–447, title II, §201(2), (3), Oct. 1, 1976, 90 Stat. 1498; Pub. L. 95–30, title VI, §603(a)–(h), May 23, 1977, 91 Stat. 165, 166.)

EDITORIAL NOTES

REFERENCES IN TEXT

Chapter 67 of title 31, including sections 6701 and 6705 to 6712, referred to in subsecs. (b)(3)(D) and (c)(3)(C), was repealed by Pub. L. 99–272, title XIV, §14001(a)(1), Apr. 7, 1986, 100 Stat. 327. See, also, Codification note below.

CODIFICATION

In subsecs. (b)(3)(D) and (c)(3)(C), "sections 6705–6707(a) of title 31" substituted for "section 107 of the State and Local Fiscal Assistance Act of 1972 [31 U.S.C. 1226]", "sections 6701(a)(5), (7), (b)–(d), and 6708–6712 of title 31" substituted for "section 108 of the State and Local Fiscal Assistance Act of 1972 [31 U.S.C. 1227], and "section 6701(a)(1) of title 31" substituted for "section 141(b) of such Act [31 U.S.C. 1261(b)]", respectively, on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance. See, also, References in Text note above.

AMENDMENTS

1977—Subsec. (b)(3)(D). Pub. L. 95–30, §603(a), substituted "for the most recently completed entitlement period, as defined under section 1261(b) of title 31" for "for the one-year period beginning on July 1, 1975".

Subsec. (c)(1). Pub. L. 95–30, §603(b), substituted "paragraph (4)" for "paragraphs (3) and (5)".

Subsec. (c)(3). Pub. L. 95–30, §603(c)–(h), struck out par. (3) which set out special rules for local governments other than identifiable local governments, redesignated par. (4) as (3), substituted "determined or assigned" for "determined" in subpar. (B), substituted provisions covering local governments for which the Secretary of Labor cannot determine a local unemployment rate for provisions covering local governments treated as one local government in subpar. (B), substituted "for the most recently completed entitlement period, as defined under section 1261(b) of title 31" for "for the one–year period beginning July 1, 1975" in subpar. (C), struck out parenthetical provisions covering local governments treated as one local government in subpar. (C), struck out subpar. (D) which had defined "identifiable local government", redesignated former subpar. (E) as (D), substituted "Bureau of the Census" for "Social and Economic Statistics Administration" in cl. (i) of subpar. (D) as so redesignated, and struck out provisions which had directed the Secretary of Labor to make determinations with respect to rates of unemployment for the purposes of title VI of the Comprehensive Employment and Training Act of 1973.

Subsec. (c)(4), (5). Pub. L. 95–30, §603(c), redesignated pars. (4) and (5) as (3) and (4), respectively.

1976—Subsec. (c)(3)(C)(ii). Pub. L. 94–447, §201(2), substituted "90 days" for "thirty days".

Subsec. (c)(4)(E)(ii). Pub. L. 94–447, §201(3), substituted "or Alaskan Native village" for "of Alaskan Native village".

[1] *See References in Text note below.*

§6724. Uses of payments

Each State and local government shall use payments made under this subchapter for the maintenance of basic services customarily provided to persons in that State or in the area under the jurisdiction of that local government, as the case may be. State and local governments may not use

emergency support payments made under this subchapter for the acquisition of supplies and materials or for construction, except for normal supplies or repairs necessary to maintain basic services.

(Pub. L. 94–369, title II, §204, July 22, 1976, 90 Stat. 1006; Pub. L. 94–447, title II, §201(4), Oct. 1, 1976, 90 Stat. 1498; Pub. L. 95–30, title VI, §604, May 23, 1977, 91 Stat. 166.)

EDITORIAL NOTES

AMENDMENTS

1977—Pub. L. 95–30 substituted "or for construction, except for normal supplies or repairs necessary to maintain basic services" for "and for construction, unless such supplies and materials or construction are to maintain basic services".

1976—Pub. L. 94–447 substituted "support payments" for "support grants".

§6725. Statement of assurances as prerequisite for payments; rules governing time and manner of filing; contents of statement

Each State and unit of local government may receive payments under this subchapter only upon filing with the Secretary, at such time and in such manner as the Secretary prescribes by rule, a statement of assurances. Such rules shall be prescribed by the Secretary not later than ninety days after July 22, 1976. The Secretary may not require any State or local government to file more than one such statement during each fiscal year. Each such statement shall contain—

(1) an assurance that payments made under this subchapter to the State or local government will be used for the maintenance, to the extent practical, of levels of public employment and of basic services customarily provided to persons in that State or in the area under the jurisdiction of that unit of local government which is consistent with the provisions of section 6724 of this title;

(2) an assurance that the State or unit of local government will—

(A) use fiscal, accounting, and audit procedures which conform to guidelines established therefor by the Secretary (after consultation with the Comptroller General of the United States), and

(B) provide to the Secretary (and to the Comptroller General of the United States), on reasonable notice, access to, and the right to examine, such books, documents, papers, or records as the Secretary may reasonably require for purposes of reviewing compliance with this subchapter;

(3) an assurance that reasonable reports will be furnished to the Secretary in such form and containing such information as the Secretary may reasonably require to carry out the purposes of this subchapter and that such report shall be published in a newspaper of general circulation in the jurisdiction of such government unless the cost of such publication is excessive in relation to the amount of the payments received by such government under this subchapter or other means of publicizing such report is more appropriate, in which case such report shall be publicized pursuant to rules prescribed by the Secretary;

(4) an assurance that the requirements of section 6727 of this title will be complied with;

(5) an assurance that the requirements of section 6728 of this title will be complied with;

(6) an assurance that the requirements of section 6729 of this title will be complied with;

(7) an assurance that the State or unit of local government will spend any payment it receives under this subchapter before the end of the six-calendar-month period which begins on the day after the date on which such State or local government receives such payment; and

(8) an assurance that the State or unit of local government will spend amounts received under this subchapter only in accordance with the laws and procedures applicable to the expenditure of its own revenues.

(Pub. L. 94–369, title II, §205, July 22, 1976, 90 Stat. 1006.)

§6726. Repealed. Pub. L. 95–30, title VI, §603(i), May 23, 1977, 91 Stat 166

Section, Pub. L. 94–369, title II, §206, July 22, 1976, 90 Stat. 1007, provided for the filing of optional State allocation plans.

§6727. Nondiscrimination

(a)(1) No person in the United States shall, on the ground of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity of a State government or unit of local government, which government or unit receives funds made available under this subchapter. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.] or with respect to an otherwise qualified handicapped individual as provided in section 794 of title 29 shall also apply to any such program or activity. Any prohibition against discrimination on the basis of religion, or any exemption, from such prohibition, as provided in the Civil Rights Act of 1964 [42 U.S.C. 2000a et seq.] or title VIII of the Act of April 11, 1968, commonly referred to as Civil Rights Act of 1968 [42 U.S.C. 3601 et seq.], shall also apply to any such program or activity.

(2)(A) The provisions of paragraph (1) of this subsection shall not apply where any State government or unit of local government demonstrates, by clear and convincing evidence, that the program or activity with respect to which the allegation of discrimination has been made is not funded in whole or in part with funds made available under this subchapter.

(B) The provisions of paragraph (1), relating to discrimination on the basis of handicapped status, shall not apply with respect to construction projects commenced prior to January 1, 1977.

(b) The provisions of subsection (a) of this section shall be enforced by the Secretary in the same manner and in accordance with the same procedures as are required by sections 6701(a)(2), (3), 6716–6720, 6721, and 6723(f) of title 31 [1] to enforce compliance with section 6716(a)–(c) of title 31.[1] The Attorney General shall have the same authority, functions, and duties with respect to funds made available under this subchapter as the Attorney General has under sections 6716(d), 6720, and 6721(d) of title 31 [1] with respect to funds made available under chapter 67 of title 31.[1] Any person aggrieved by a violation of subsection (a) of this section shall have the same rights and remedies as a person aggrieved by a violation of section 6716(a)–(c) of title 31,[1] including the rights provided under section 6721(d) of title 31.[1]

(Pub. L. 94–369, title II, §207, July 22, 1976, 90 Stat. 1007; Pub. L. 95–30, title VI, §605, May 23, 1977, 91 Stat. 166.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Age Discrimination Act of 1975, referred to in subsec. (a)(1), is title III of Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 728, which is classified generally to chapter 76 (§6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (a)(1), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, which is classified principally to subchapters II to IX (§2000a 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.

Act of April 11, 1968, referred to in subsec. (a)(1), is Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 73, known as the Civil Rights Act of 1968. Title VIII of Pub. L. 90–284, known as the Fair Housing Act, is classified principally to subchapter I (§3601 et seq.) of chapter 45 of this title.

Chapter 67 of title 31, including sections 6701, 6716–6720, 6721, and 6723, referred to in subsec. (b), was repealed by Pub. L. 99–272, title XIV, §14001(a)(1), Apr. 7, 1986, 100 Stat. 327. See, also, Codification note below.

CODIFICATION

In subsec. (b), "sections 6701(a)(2), (3), 6716–6720, 6721, and 6723(f) of title 31" substituted for "sections 122, 124, and 125 of the State and Local Fiscal Assistance Act of 1972 [31 U.S.C. 1242, 1244, 1245]", "section 6716(a)–(c) of title 31" substituted for "section 122(a) of such Act" and also for "subsection (a) of section 122 of such Act" [31 U.S.C. 1242(a)], "sections 6716(d), 6720, and 6721(d) of title 31" substituted for "sections 122(g) and (h) and 124(c) of such Act [31 U.S.C. 1242(g), (h), 1244(c)]", and "chapter 67 of title 31" substituted for "that Act [31 U.S.C. 1221 et seq.]", respectively, on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance. See, also, References in Text note above.

AMENDMENTS

1977—Pub. L. 95–30 amended section generally, inserting reference to discriminatory practices prohibited by the Age Discrimination Act of 1975 and the Rehabilitation Act of 1973 and generally restructuring the enforcement and remedies provisions to incorporate the procedures of the Secretary and of the Attorney General under the State and Local Fiscal Assistance Act of 1972.

[1] *See References in Text note below.*

§6728. Wage standards for laborers and mechanics; enforcement

All laborers and mechanics employed by contractors on all construction projects funded in whole or in part by payments under this subchapter shall be paid wages at rates not less than those prevailing on similar projects in the locality as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40. The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 3145 of title 40.

(Pub. L. 94–369, title II, §208, July 22, 1976, 90 Stat. 1008.)

EDITORIAL NOTES

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

In text, "sections 3141–3144, 3146, and 3147 of title 40" substituted for "the Davis-Bacon Act (40 U.S.C. 276a to 276a–5)" and "section 3145 of title 40" substituted for "section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c)", on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

§6729. Reports to Secretary by States and local governments; contents

Each State and unit of local government which receives a payment under the provisions of this subchapter shall report to the Secretary any increase or decrease in any tax which it imposes and any substantial reduction in the number of individuals it employs or in services which such State or local government provides. Each State which receives a payment under the provisions of this subchapter shall report to the Secretary any decrease in the amount of financial assistance which the State provides to the units of local governments during the twelve-month period which ends on the last day of the calendar quarter immediately preceding July 22, 1976, together with an explanation of the reasons for such decrease. Such reports shall be made as soon as it is practical and, in any case, not more than six months after the date on which the decision to impose such tax increase or decrease, such reductions in employment or services, or such decrease in State financial assistance is made public.

(Pub. L. 94–369, title II, §209, July 22, 1976, 90 Stat. 1008.)

§6730. Payments

(a) Time and amount

From the amount allocated for State and local governments under section 6723 of this title, the Secretary shall pay not later than five days after the beginning of each quarter to each State and to each local government which has filed a statement of assurances under section 6725 of this title, an amount equal to the amount allocated to such State or local government under section 6723 of this title.

(b) Adjustments

Payments under this subchapter may be made with necessary adjustments on account of overpayments or underpayments.

(c) Termination

No amount shall be paid to any State or local government under the provisions of this section for any calendar quarter if—

(1) the average rate of unemployment within the jurisdiction of such State or local government during the most recent calendar quarter which ended three months before the beginning of such calendar quarter was less than 4.5 percent, or

(2) the rate of unemployment within the jurisdiction of such government for the last month of the most recent calendar quarter which ended three months before the beginning of such calendar quarter did not exceed 4.5 percent.

(Pub. L. 94–369, title II, §210, July 22, 1976, 90 Stat. 1009; Pub. L. 94–447, title II, §201 (5), Oct. 1, 1976, 90 Stat. 1498.)

EDITORIAL NOTES

AMENDMENTS

1976—Subsec. (c)(1). Pub. L. 94–447 substituted "4.5 percent, or" for "4.5 percent, and".

§6731. Economization by State and local governments; statement of assurances, etc., required

Each State or unit of local government which receives payments under this subchapter shall provide assurances in writing to the Secretary, at such time and in such manner and form as the Secretary may prescribe by rule, that it has made substantial economies in its operations and that payments under this subchapter are necessary to maintain essential services without weakening Federal Government efforts to stimulate the economy through reductions in Federal tax obligations.

(Pub. L. 94–369, title II, §211, July 22, 1976, 90 Stat. 1009.)

§6732. Withholding of payments for failure to comply with statement of assurances; procedures applicable

Whenever the Secretary, after affording reasonable notice and an opportunity for a hearing to any State or unit of local government, finds that there has been a failure to comply substantially with any assurance set forth in the statement of assurances of that State or units of local government filed under section 6725 of this title, the Secretary shall notify that State or unit of local government that further payments will not be made under this subchapter until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made under this subchapter.

(Pub. L. 94–369, title II, §212, July 22, 1976, 90 Stat. 1009.)

§6733. Repealed. Pub. L. 104–66, title I, §1131(b), Dec. 21, 1995, 109 Stat. 725

Section, Pub. L. 94–369, title II, §213, July 22, 1976, 90 Stat. 1009, related to reports to Congress by Secretary of the Treasury.

§6734. Administration; rules; authorization of appropriations

(a) The Secretary is authorized to prescribe, after consultation with the Secretary of Labor, such rules as may be necessary for the purpose of carrying out his functions under this subchapter. Such rules should be prescribed by the Secretary not later than ninety days of July 22, 1976.

(b) There are authorized to be appropriated such sums as may be necessary for the administration of this subchapter.

(Pub. L. 94–369, title II, §214, July 22, 1976, 90 Stat. 1010.)

§6735. Program studies and recommendations; evaluation; countercyclical study

(a) The Comptroller General of the United States shall conduct an investigation of the impact which emergency support grants have on the operations of State and local governments and on the national economy. Before and during the course of such investigation the Comptroller General shall consult with and coordinate his activities with the Congressional Budget Office and the Advisory Commission on Intergovernmental Relations. The Comptroller General shall report the results of such investigation to the Congress within one year after July 22, 1976, together with an evaluation of the macroeconomic effect of the program established under this subchapter and any recommendations for improving the effectiveness of similar programs. All officers and employees of the United States shall make available all information, reports, data, and any other material necessary to carry out the provisions of this subsection to the Comptroller General upon a reasonable request.

(b) The Congressional Budget Office and the Advisory Commission on Intergovernmental Relations shall conduct a study to determine the most effective means by which the Federal Government can stabilize the national economy during periods of rapid economic growth and high inflation through programs directed toward State and local governments. Such study shall include a comparison of the effectiveness of alternative factors for triggering and measuring the extent of the fiscal coordination problem addressed by this program, and the effect of the recession on State and local expenditures. Before and during the course of such study, the Congressional Budget Office and the Advisory Commission shall consult with and coordinate their activities with the Comptroller General of the United States. The Congressional Budget Office and the Advisory Commission shall report the results of such study to Congress within two years after July 22, 1976. Such study shall include the opinions of the Comptroller General with respect to such study.

(c) The Secretary shall, in consultation with the Secretary of Commerce, conduct an investigation of—

(1) the extent to which allocations of funds provided under this chapter might be more precisely related to true economic conditions by the use of data on aggregate declines in private real wages and salaries;

(2) the extent to which other factors, such as relative tax effort, should also be made part of the allocation system provided by this chapter; and

(3) the availability and reliability of data concerning Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands, and the extent to which such territories may properly be made part of the regular allocation system applicable to the several States.

The results of such investigation shall be submitted to the Congress not later than March 1, 1978,

in order that such results may be available during congressional consideration of any extension of this chapter beyond the fiscal year ending September 30, 1978.

(Pub. L. 94–369, title II, §215, July 22, 1976, 90 Stat. 1010; Pub. L. 95–30, title VI, §606, May 23, 1977, 91 Stat. 167.)

EDITORIAL NOTES

AMENDMENTS

1977—Subsec. (c). Pub. L. 95–30 added subsec. (c).

EXECUTIVE DOCUMENTS

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§6736. Authorization of appropriations for Puerto Rico, Guam, American Samoa, and Virgin Islands

(a) Authorizations for five calendar quarters beginning July 1, 1977

There is hereby authorized to be appropriated for each of the five succeeding calendar quarters (beginning with the calendar quarter which begins on July 1, 1977) for the purpose of making payments under this subchapter to Puerto Rico, Guam, American Samoa, and the Virgin Islands, an amount equal to 1 percent of the amount authorized for each such quarter under section 6722(b) of this title.

(b) Allocations

(1) The Secretary shall allocate from the amount authorized under subsection (a) an amount for the purpose of making payments to such governments equal to the total authorized for the calendar quarter multiplied by the applicable territorial percentage.

(2) For the purposes of this subsection, the applicable territorial percentage is equal to the quotient resulting from the division of the territorial population by the sum of the territorial population for all territories.

(3) For purposes of this section—

(A) The term "territory" means Puerto Rico, Guam, American Samoa, and the Virgin Islands.

(B) The term "territorial population" means the most recent population for each territory as determined by the Bureau of Census.

(C) The provisions of sections 6723(c)(4), 6724, 6725, 6726,[1] 6727, 6728, 6729, 6730, 6731, 6732, and 6733 [1] of this title shall apply to the funds authorized under this section.

(c) Payments to local governments

The governments of the territories are authorized to make payments to local governments within their jurisdiction from sums received under this section as they deem appropriate.

(Pub. L. 94–369, title II, §216, as added Pub. L. 95–30, title VI, §607, May 23, 1977, 91 Stat. 167.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 6726 of this title, referred to in subsec. (b)(3)(C), was repealed by Pub. L. 95–30, title VI, §603(i), May 23, 1977, 91 Stat. 166.

Section 6733 of this title, referred to in subsec. (b)(3)(C), was repealed by Pub. L. 104–66, title I, §1131(b), Dec. 21, 1995, 109 Stat. 725.

[1] *See References in Text note below.*

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SUBCHAPTER I—ELECTRIC UTILITY RATE DESIGN INITIATIVES

§6801. Congressional findings and purpose

(a) The Congress finds that improvement in electric utility rate design has great potential for reducing the cost of electric utility services to consumers and current and projected shortages of capital, and for encouraging energy conservation and better use of existing electrical generating facilities.

(b) It is the purpose of this subchapter to require the Secretary to develop proposals for improvement of electric utility rate design and transmit such proposals to Congress; to fund electric utility rate demonstration projects; to intervene or participate, upon request, in the proceedings of utility regulatory commissions; and to provide financial assistance to State offices of consumer services to facilitate presentation of consumer interests before such commissions.

(Pub. L. 94–385, title II, §201, Aug. 14, 1976, 90 Stat. 1142; Pub. L. 95–91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 94–385, §1, Aug. 14, 1976, 90 Stat. 1125, provided: "That this Act [enacting this chapter, section 6327 of this title, section 1701z–8 of Title 12, Banks and Banking, sections 787 and 790 to 790h of Title 15, Commerce and Trade, amending sections 5818, 6211, 6295, 6323, 6325, and 6326 of this title and sections 757, 764, 766, 772, 774, 777 and 784 of Title 15, and enacting provisions set out as notes under sections 6801, 6831, and 6851 of this title, and sections 753, 757, 761, and 790 of Title 15] may be cited as the 'Energy Conservation and Production Act'."

Pub. L. 94–385, title III, §301, Aug. 14, 1976, 90 Stat. 1144, provided that: "This title [enacting subchapter II of this chapter] may be cited as the 'Energy Conservation Standards for New Buildings Act of 1976'."

Pub. L. 94–385, title IV, §401, Aug. 14, 1976, 90 Stat. 1150, provided that: "This title [enacting subchapter III of this chapter, section 6327 of this title, and section 1701z–8 of Title 12, Banks and Banking, and amending sections 6323, 6325, and 6326 of this title] may be cited as the 'Energy Conservation in Existing Buildings Act of 1976'."

TRANSFER OF FUNCTIONS

"Secretary", meaning Secretary of Energy, substituted for "Federal Energy Administration" in subsec. (b) pursuant to sections 301(a), 703, and 707 of Pub. L. 95–91, which are classified to sections 7151(a), 7293, and 7297 of this title and which terminated Federal Energy Administration and transferred its functions (with certain exceptions) to Secretary of Energy.

§6802. Definitions

As used in this subchapter:

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "electric utility" means any person, State agency, or Federal agency which sells

electric energy.

(3) The term "Federal agency" means any agency or instrumentality of the United States.

(4) The term "State agency" means a State, political subdivision thereof, or any agency or instrumentality of either.

(5) The term "State utility regulatory commission" means (A) any utility regulatory commission which is a State agency or (B) the Tennessee Valley Authority.

(6) The term "State" means any State, the District of Columbia, Puerto Rico, and any territory or possession of the United States.

(7) The term "utility regulatory commission" means any State agency or Federal agency which has authority to fix, modify, approve, or disapprove rates for the sale of electric energy by any electric utility (other than by such agency).

(Pub. L. 94–385, title II, §202, Aug. 14, 1976, 90 Stat. 1142; Pub. L. 95–617, title I, §143, Nov. 9, 1978, 92 Stat. 3134; Pub. L. 105–388, §5(b)(2), Nov. 13, 1998, 112 Stat. 3479.)

EDITORIAL NOTES

AMENDMENTS

1998—Par. (1). Pub. L. 105–388 made technical amendment by striking heading and designation which had been inserted by Pub. L. 95–617.

1978—Par. (1). Pub. L. 95–617 substituted "The term 'Secretary' means the Secretary of Energy" for "The term 'Administrator' means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this subchapter".

§6803. Development of electric utility rate design proposals by Secretary; contents; submission to Congress; supporting analysis

(a) The Secretary shall develop proposals to improve electric utility rate design. Such proposals shall be designed to encourage energy conservation, minimize the need for new electrical generating capacity, and minimize costs of electric energy to consumers, and shall include (but not be limited to) proposals which provide for the development and implementation of—

(1) load management techniques which are cost effective;

(2) rates which reflect marginal cost of service, or time of use of service, or both;

(3) ratemaking policies which discourage inefficient use of fuel and encourage economical purchases of fuel; and

(4) rates (or other regulatory policies) which encourage electric utility system reliability and reliability of major items of electric utility equipment.

(b) The proposals prepared under subsection (a) shall be transmitted to each House of Congress not later than 6 months after August 14, 1976, for review and for such further action as the Congress may direct by law. Such proposals shall be accompanied by an analysis of—

(1) the projected savings (if any) in consumption of petroleum products, natural gas, electric energy, and other energy resources,

(2) the reduction (if any) in the need for new electrical generating capacity, and of the demand for capital by the electric utility industry, and

(3) changes (if any) in the cost of electric energy to consumers,

which are likely to result from the implementation nationally of each of the proposals transmitted under this subsection.

(Pub. L. 94–385, title II, §203, Aug. 14, 1976, 90 Stat. 1143; Pub. L. 95–617, title I, §143, Nov. 9, 1978, 92 Stat. 3134.)

EDITORIAL NOTES

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–617 substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration.

§6804. Funding, administrative, and judicial authorities of Secretary

The Secretary may—

(1) fund (A) demonstration projects to improve electric utility load management procedures and (B) regulatory rate reform initiatives,

(2) on request of a State, a utility regulatory commission, or of any participant in any proceeding before a State utility regulatory commission which relates to electric utility rates or rate design, intervene and participate in such proceeding, and

(3) on request of any State, utility regulatory commission, or party to any action to obtain judicial review of an administrative proceeding in which the Secretary intervened or participated under paragraph (2), intervene and participate in such action.

(Pub. L. 94–385, title II, §204, Aug. 14, 1976, 90 Stat. 1143; Pub. L. 95–617, title I, §143, Nov. 9, 1978, 92 Stat. 3134.)

EDITORIAL NOTES

AMENDMENTS

1978—Pub. L. 95–617 substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration in two places.

§6805. Grants for State consumer protection offices by Secretary

(a) Establishment, operation, and purpose; qualifications for funds

The Secretary may make grants to States, or otherwise as provided in subsection (c), under this section to provide for the establishment and operation of offices of consumer services to assist consumers in their presentations before utility regulatory commissions. Any assistance provided under this section shall be provided only for an office of consumer services which is operated independently of any such utility regulatory commission and which is empowered to—

(1) make general factual assessments of the impact of proposed rate changes and other proposed regulatory actions upon all affected consumers;

(2) assist consumers in the presentation of their positions before utility regulatory commissions; and

(3) advocate, on its own behalf, a position which it determines represents the position most advantageous to consumers, taking into account developments in rate design reform.

(b) Grants subject to State assurances on funds

Grants pursuant to subsection (a) of this section shall be made only to States which furnish such assurances as the Secretary may require that funds made available under such section will be in addition to, and not in substitution for, funds made available to offices of consumer services from other sources.

(c) Offices established by Tennessee Valley Authority

Assistance may be provided under this section to an office of consumer services established by the Tennessee Valley Authority, if such office is operated independently of the Tennessee Valley Authority.

(Pub. L. 94–385, title II, §205, Aug. 14, 1976, 90 Stat. 1144; Pub. L. 95–617, title I, §143, Nov. 9, 1978, 92 Stat. 3134.)

EDITORIAL NOTES

AMENDMENTS

1978—Subsecs. (a), (b). Pub. L. 95–617 substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration.

§6806. Statement in annual report

The Secretary shall include in each annual report submitted under section 7267 of this title a statement with respect to activities conducted under this subchapter and recommendations as to the need for and types of further Federal legislation.

(Pub. L. 94–385, title II, §206, Aug. 14, 1976, 90 Stat. 1144; Pub. L. 95–617, title I, §143, Nov. 9, 1978, 92 Stat. 3134; Pub. L. 96–470, title II, §203(g), Oct. 19, 1980, 94 Stat. 2243.)

EDITORIAL NOTES

AMENDMENTS

1980—Pub. L. 96–470 substituted "The Secretary shall include in each annual report submitted under section 7267 of this title a statement" for "Not later than the last day in December in each year, the Secretary shall transmit to the Congress a report".

1978—Pub. L. 95–617 substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration.

§6807. State utility regulatory assistance

(a) Grants to State utility regulatory commissions and nonregulated electric utilities

The Secretary may make grants to State utility regulatory commissions and nonregulated electric utilities (as defined in the Public Utility Regulatory Policies Act of 1978 [16 U.S.C. 2602]) to carry out duties and responsibilities under titles I [16 U.S.C. 2601 et seq.] and III [15 U.S.C. 3201 et seq.], and section 210 [16 U.S.C. 824a–3], of the Public Utility Regulatory Policies Act of 1978. No grant may be made under this section to any Federal agency.

(b) Unnecessary requirements prohibited

Any requirements established by the Secretary with respect to grants under this section may be only such requirements as are necessary to assure that such grants are expended solely to carry out duties and responsibilities referred to in subsection (a) or such as are otherwise required by law.

(c) Application for grant

No grant may be made under this section unless an application for such grant is submitted to the Secretary in such form and manner as the Secretary may require. The Secretary may not approve an application of a State utility regulatory commission or nonregulated electric utility unless such commission or nonregulated electric utility assures the Secretary that funds made available under this section will be in addition to, and not in substitution for, funds made available to such commission or nonregulated electric utility from other governmental sources.

(d) Apportionment of funds

The funds appropriated for purposes of this section shall be apportioned among the States in such manner that grants made under this section in each State shall not exceed the lesser of—

(1) the amount determined by dividing equally among all States the total amount available under this section for such grants, or

(2) the amount which the Secretary is authorized to provide pursuant to subsections (b) and (c) of this section for such State.

(Pub. L. 94–385, title II, §207, Aug. 14, 1976, 90 Stat. 1144; Pub. L. 95–617, title I, §141, Nov. 9, 1978, 92 Stat. 3133.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Public Utility Regulatory Policies Act of 1978, referred to in subsec. (a), is Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3117. Title I of such Act is classified principally to chapter 46 (§2601 et seq.) of Title 16, Conservation, and title III of such Act is classified generally to chapter 59 (§3201 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 16 and Tables.

AMENDMENTS

1978—Pub. L. 95–617 substituted provisions relating to grants to State utility regulatory commissions and nonregulated electric utilities for provisions authorizing appropriations to carry out this subchapter.

§6807a. Energy efficiency grants to State regulatory authorities

(a) Energy efficiency grants

The Secretary is authorized in accordance with the provisions of this section to provide grants to State regulatory authorities in an amount not to exceed $250,000 per authority, for purposes of encouraging demand-side management including energy conservation, energy efficiency and load management techniques and for meeting the requirements of paragraphs (7), (8), and (9) of section 2621(d) of title 16 and as a means of meeting gas supply needs and to meet the requirements of paragraphs (3) and (4) of section 3203(b) of title 15. Such grants may be utilized by a State regulatory authority to provide financial assistance to nonprofit subgrantees of the Department of Energy's Weatherization Assistance Program in order to facilitate participation by such subgrantees in proceedings of such regulatory authority to examine energy conservation, energy efficiency, or other demand-side management programs.

(b) Plan

A State regulatory authority wishing to receive a grant under this section shall submit a plan to the Secretary that specifies the actions such authority proposes to take that would achieve the purposes of this section.

(c) Secretarial action

(1) In determining whether, and in what amount, to provide a grant to a State regulatory authority under this section the Secretary shall consider, in addition to other appropriate factors, the actions proposed by the State regulatory authority to achieve the purposes of this section and to consider implementation of the ratemaking standards established in—

(A) paragraphs (7), (8) and (9) of section 2621(d) of title 16; or

(B) paragraphs (3) and (4) of section 3203(b) of title 15.

(2) Such actions—

(A) shall include procedures to facilitate the participation of grantees and nonprofit subgrantees of the Department of Energy's Weatherization Assistance Program in proceedings of such regulatory authorities examining demand-side management programs; and

(B) shall provide for coverage of the cost of such grantee and subgrantees' participation in such proceedings.

(d) Recordkeeping

Each State regulatory authority that receives a grant under this section shall keep such records as the Secretary shall require.

(e) "State regulatory authority" defined

For purposes of this section, the term "State regulatory authority" shall have the same meaning as provided by section 2602 of title 16 in the case of electric utilities, and such term shall have the same meaning as provided by section 3202 of title 15 in the case of gas utilities, except that in the case of any State without a statewide ratemaking authority, such term shall mean the State energy office.

(f) Authorization

There are authorized to be appropriated $5,000,000 for each of the fiscal years 1994, 1995 and 1996 to carry out the purposes of this section.

(Pub. L. 102–486, title I, §112, Oct. 24, 1992, 106 Stat. 2797.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Energy Conservation and Production Act which comprises this chapter.

§6808. Authorization of appropriations

There are authorized to be appropriated—

(1) not to exceed $40,000,000 for each of the fiscal years 1979 and 1980 to carry out section 6807 of this title (relating to State utility regulatory assistance);

(2) not to exceed $10,000,000 for each of the fiscal years 1979 and 1980 to carry out section 6805 of this title (relating to State offices of consumer services); and

(3) not to exceed $8,000,000 for the fiscal year 1979, and $10,000,000 for the fiscal year 1980 to carry out section 6804(1)(B) of this title (relating to innovative rate structures).

(Pub. L. 94–385, title II, §208, as added Pub. L. 95–617, title II, §142, Nov. 9, 1978, 92 Stat. 3134.)

SUBCHAPTER II—ENERGY CONSERVATION STANDARDS FOR NEW BUILDINGS

§6831. Congressional findings and purpose

(a) The Congress finds that—

(1) large amounts of fuel and energy are consumed unnecessarily each year in heating, cooling, ventilating, and providing domestic hot water for newly constructed residential and commercial buildings because such buildings lack adequate energy conservation features;

(2) Federal voluntary performance standards for newly constructed buildings can prevent such waste of energy, which the Nation can no longer afford in view of its current and anticipated energy shortage;

(3) the failure to provide adequate energy conservation measures in newly constructed buildings increases long-term operating costs that may affect adversely the repayment of, and security for, loans made, insured, or guaranteed by Federal agencies or made by federally insured or regulated instrumentalities; and

(4) State and local building codes or similar controls can provide an existing means by which to assure, in coordination with other building requirements and with a minimum of Federal interference in State and local transactions, that newly constructed buildings contain adequate energy conservation features.

(b) The purposes of this subchapter, therefore, are to—

(1) redirect Federal policies and practices to assure that reasonable energy conservation features

will be incorporated into new commercial and residential buildings receiving Federal financial assistance;

(2) provide for the development and implementation, as soon as practicable, of voluntary performance standards for new residential and commercial buildings which are designed to achieve the maximum practicable improvements in energy efficiency and increases in the use of nondepletable sources of energy; and

(3) encourage States and local governments to adopt and enforce such standards through their existing building codes and other construction control mechanisms, or to apply them through a special approval process.

(Pub. L. 94–385, title III, §302, Aug. 14, 1976, 90 Stat. 1144; Pub. L. 97–35, title X, §1041(a), Aug. 13, 1981, 95 Stat. 621.)

EDITORIAL NOTES

AMENDMENTS

1981—Subsecs. (a)(2), (b)(2). Pub. L. 97–35 inserted "voluntary" before "performance standards".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Aug. 13, 1981, see section 1038 of Pub. L. 97–35, set out as a note under section 6240 of this title.

SHORT TITLE

For short title of this subchapter as the "Energy Conservation Standards for New Buildings Act of 1976", see section 301 of Pub. L. 94–385, set out as a note under section 6801 of this title.

§6832. Definitions

Except as otherwise provided, in this subchapter:

(1) Omitted

(2) The term "building" means any structure to be constructed which includes provision for a heating or cooling system, or both, or for a hot water system.

(3) The term "building code" means a legal instrument which is in effect in a State or unit of general purpose local government, the provisions of which must be adhered to if a building is to be considered to be in conformance with law and suitable for occupancy and use.

(4) The term "commercial building" means any building other than a residential building, including any building developed for industrial or public purposes.

(5) The term "Federal agency" means any department, agency, corporation, or other entity or instrumentality of the executive branch of the Federal Government, including the United States Postal Service, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation.

(6) The term "Federal building" means any building to be constructed by, or for the use of, any Federal agency. Such term shall include buildings built for the purpose of being leased by a Federal agency, and privatized military housing.

(7) The term "Federal financial assistance" means (A) any form of loan, grant, guarantee, insurance, payment, rebate, subsidy, or any other form of direct or indirect Federal assistance (other than general or special revenue sharing or formula grants made to States) approved by any Federal officer or agency; or (B) any loan made or purchased by any bank, savings and loan association, or similar institution subject to regulation by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration.

(8) The term "National Institute of Building Sciences" means the institute established by section 1701j–2 of title 12.

(9) The term "residential building" means any structure which is constructed and developed for residential occupancy.

(10) The term "Secretary" means the Secretary of Energy.

(11) The term "State" includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory and possession of the United States.

(12) The term "unit of general purpose local government" means any city, county, town, municipality, or other political subdivision of a State (or any combination thereof), which has a building code or similar authority over a particular geographic area.

(13) The term "Federal building energy standards" means energy consumption objectives to be met without specification of the methods, materials, or equipment to be employed in achieving those objectives, but including statements of the requirements, criteria, and evaluation methods to be used, and any necessary commentary.

(14) The term "voluntary building energy code" means a building energy code developed and updated through a consensus process among interested persons, such as that used by the Council of American Building Officials; the American Society of Heating, Refrigerating, and Air-Conditioning Engineers; or other appropriate organizations.

(15) The term "CABO" means the Council of American Building Officials.

(16) The term "ASHRAE" means the American Society of Heating, Refrigerating, and Air-Conditioning Engineers.

(Pub. L. 94–385, title III, §303, Aug. 14, 1976, 90 Stat. 1145; Pub. L. 95–91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607; Pub. L. 97–35, title X, §1041(a), Aug. 13, 1981, 95 Stat. 621; Pub. L. 100–242, title V, §570(c), Feb. 5, 1988, 101 Stat. 1950; Pub. L. 102–486, title I, §101(a)(1), Oct. 24, 1992, 106 Stat. 2782; Pub. L. 110–140, title IV, §433(b), Dec. 19, 2007, 121 Stat. 1614; Pub. L. 117–58, div. D, title V, §40511(b), Nov. 15, 2021, 135 Stat. 1059.)

EDITORIAL NOTES

CODIFICATION

Par. (1) of this section which read "The term 'Administrator' means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this subchapter" has been omitted in view of the termination of the Federal Energy Administration and the transfer of its functions and the functions of the Administrator thereof (with certain exceptions) to the Secretary of Energy pursuant to sections 301(a), 703, and 707 of Pub. L. 95–91, which are classified to sections 7151(a), 7293, and 7297 of this title and the fact that the term "Secretary" is defined for the purposes of this subchapter by par. (10) of this section. In this subchapter, "Secretary of Energy" has been substituted for "Administrator" wherever appearing.

AMENDMENTS

2021—Pub. L. 117–58 substituted "Except as otherwise provided, in" for "As used in" in introductory provisions.

2007—Par. (6). Pub. L. 110–140 struck out "which is not legally subject to State or local building codes or similar requirements" after "any Federal agency" and inserted at end "Such term shall include buildings built for the purpose of being leased by a Federal agency, and privatized military housing."

1992—Pars. (9) to (16). Pub. L. 102–486 redesignated pars. (10) to (13) as (9) to (12), respectively, added pars. (13) to (16), and struck out former par. (9) which read as follows: "The term 'voluntary performance standards' means an energy consumption goal or goals to be met without specification of the methods, materials, and processes to be employed in achieving that goal or goals, but including statements of the requirements, criteria and evaluation methods to be used, and any necessary commentary."

1988—Par. (11). Pub. L. 100–242 substituted "Secretary of Energy" for "Secretary of Housing and Urban Development".

1981—Par. (9). Pub. L. 97–35 inserted "voluntary" before "performance standards".

STATUTORY NOTES AND RELATED SUBSIDIARIES

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.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Aug. 13, 1981, see section 1038 of Pub. L. 97–35, set out as a note under section 6240 of this title.

TRANSFER OF FUNCTIONS

Federal Savings and Loan Insurance Corporation and Federal Home Loan Bank Board abolished and functions transferred, see sections 401 to 406 of Pub. L. 101–73, set out as a note under section 1437 of Title 12, Banks and Banking.

WAGE RATE REQUIREMENTS

For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction, alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117–58, including authority of Secretary of Labor, see section 18851 of this title.

§6833. Updating State building energy efficiency codes

(a) Consideration and determination respecting residential building energy codes

(1) Not later than 2 years after October 24, 1992, each State shall certify to the Secretary that it has reviewed the provisions of its residential building code regarding energy efficiency and made a determination as to whether it is appropriate for such State to revise such residential building code provisions to meet or exceed CABO Model Energy Code, 1992.

(2) The determination referred to in paragraph (1) shall be—

(A) made after public notice and hearing;

(B) in writing;

(C) based upon findings included in such determination and upon the evidence presented at the hearing; and

(D) available to the public.

(3) Each State may, to the extent consistent with otherwise applicable State law, revise the provisions of its residential building code regarding energy efficiency to meet or exceed CABO Model Energy Code, 1992, or may decline to make such revisions.

(4) If a State makes a determination under paragraph (1) that it is not appropriate for such State to revise its residential building code, such State shall submit to the Secretary, in writing, the reasons for such determination, and such statement shall be available to the public.

(5)(A) Whenever CABO Model Energy Code, 1992,[1] (or any successor of such code) is revised, the Secretary shall, not later than 12 months after such revision, determine whether such revision would improve energy efficiency in residential buildings. The Secretary shall publish notice of such determination in the Federal Register.

(B) If the Secretary makes an affirmative determination under subparagraph (A), each State shall, not later than 2 years after the date of the publication of such determination, certify that it has reviewed the provisions of its residential building code regarding energy efficiency and made a determination as to whether it is appropriate for such State to revise such residential building code provisions to meet or exceed the revised code for which the Secretary made such determination.

(C) Paragraphs (2), (3), and (4) shall apply to any determination made under subparagraph (B).

(b) Certification of commercial building energy code updates

(1) Not later than 2 years after October 24, 1992, each State shall certify to the Secretary that it has reviewed and updated the provisions of its commercial building code regarding energy efficiency. Such certification shall include a demonstration that such State's code provisions meet or exceed the

requirements of ASHRAE Standard 90.1–1989.

(2)(A) Whenever the provisions of ASHRAE Standard 90.1–1989 (or any successor standard) regarding energy efficiency in commercial buildings are revised, the Secretary shall, not later than 12 months after the date of such revision, determine whether such revision will improve energy efficiency in commercial buildings. The Secretary shall publish a notice of such determination in the Federal Register.

(B)(i) If the Secretary makes an affirmative determination under subparagraph (A), each State shall, not later than 2 years after the date of the publication of such determination, certify that it has reviewed and updated the provisions of its commercial building code regarding energy efficiency in accordance with the revised standard for which such determination was made. Such certification shall include a demonstration that the provisions of such State's commercial building code regarding energy efficiency meet or exceed such revised standard.

(ii) If the Secretary makes a determination under subparagraph (A) that such revised standard will not improve energy efficiency in commercial buildings, State commercial building code provisions regarding energy efficiency shall meet or exceed ASHRAE Standard 90.1–1989, or if such standard has been revised, the last revised standard for which the Secretary has made an affirmative determination under subparagraph (A).

(c) Extensions

The Secretary shall permit extensions of the deadlines for the certification requirements under subsections (a) and (b) if a State can demonstrate that it has made a good faith effort to comply with such requirements and that it has made significant progress in doing so.

(d) Technical assistance

The Secretary shall provide technical assistance to States to implement the requirements of this section, and to improve and implement State residential and commercial building energy efficiency codes or to otherwise promote the design and construction of energy efficient buildings.

(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); 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); 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.)

EDITORIAL NOTES

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."

[1] *So in original. The comma probably should not appear.*

§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) 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.)

EDITORIAL NOTES

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 energy 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).

STATUTORY NOTES AND RELATED SUBSIDIARIES

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 building only if the building meets or exceeds the appropriate Federal building energy standards established under section 6834 of this title.

(Pub. L. 94–385, title III, §306, as added Pub. L. 102–486, title I, §101(a)(2), Oct. 24, 1992, 106 Stat. 2785.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 6835, Pub. L. 94–385, title III, §306, Aug. 14, 1976, 90 Stat. 1148; Pub. L. 96–399, title III, §326(d), Oct. 8, 1980, 94 Stat. 1650; Pub. L. 97–35, title X, §1041(d), Aug. 13, 1981, 95 Stat. 621, related to compliance with final performance standards by Federal agencies, prior to repeal by Pub. L. 102–486, title I, §101(a)(2), Oct. 24, 1992, 106 Stat. 2783.

§6836. Support for voluntary building energy codes

(a) In general

Not later than 1 year after October 24, 1992, the Secretary, after consulting with the Secretary of Housing and Urban Development, the Secretary of Veterans Affairs, other appropriate Federal agencies, CABO, ASHRAE, the National Conference of States on Building Codes and Standards, and any other appropriate building codes and standards organization, shall support the upgrading of voluntary building energy codes for new residential and commercial buildings. Such support shall include—

(1) a compilation of data and other information regarding building energy efficiency standards and codes in the possession of the Federal Government, State and local governments, and industry organizations;

(2) assistance in improving the technical basis for such standards and codes;

(3) assistance in determining the cost-effectiveness and the technical feasibility of the energy efficiency measures included in such standards and codes; and

(4) assistance in identifying appropriate measures with regard to radon and other indoor air pollutants.

(b) Review

The Secretary shall periodically review the technical and economic basis of voluntary building energy codes and, based upon ongoing research activities—

(1) recommend amendments to such codes including measures with regard to radon and other indoor air pollutants;

(2) seek adoption of all technologically feasible and economically justified energy efficiency measures; and

(3) otherwise participate in any industry process for review and modification of such codes.

(Pub. L. 94–385, title III, §307, as added Pub. L. 102–486, title I, §101(a)(2), Oct. 24, 1992, 106 Stat. 2785.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 6836, Pub. L. 94–385, title III, §307, Aug. 14, 1976, 90 Stat. 1149; Pub. L. 95–619, title II, §255, Nov. 9, 1978, 92 Stat. 3238, set forth provisions respecting grants to States for adoption and implementation of performance standards, prior to repeal by Pub. L. 97–35, title X, §1041(b), Aug. 13, 1981, 95 Stat. 621.

§6837. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 94–385, title III, §308, as added Pub. L. 102–486, title I, §101(a)(2), Oct. 24, 1992, 106 Stat. 2786, which required the Secretary to report annually to Congress on activities conducted pursuant to this subchapter, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, the 4th item on page 88 of House Document No. 103–7.

A prior section 6837, Pub. L. 94–385, title III, §308, Aug. 14, 1976, 90 Stat. 1149; Pub. L. 97–35, title X, §1041(e), Aug. 13, 1981, 95 Stat. 621, related to technical assistance to States, etc., prior to repeal by Pub. L. 102–486, §101(a)(2).

§6838. Cost-effective codes implementation for efficiency and resilience

(a) Definitions

In this section:

(1) Eligible entity

The term "eligible entity" means—

(A) a relevant State agency, as determined by the Secretary, such as a State building code agency, State energy office, or Tribal energy office; and

(B) a partnership.

(2) Partnership

The term "partnership" means a partnership between an eligible entity described in paragraph (1)(A) and 1 or more of the following entities:

(A) Local building code agencies.

(B) Codes and standards developers.

(C) Associations of builders and design and construction professionals.

(D) Local and utility energy efficiency programs.

(E) Consumer, energy efficiency, and environmental advocates.

(F) Other entities, as determined by the Secretary.

(3) Secretary

The term "Secretary" means the Secretary of Energy.

(b) Establishment

(1) In general

The Secretary shall establish within the Building Technologies Office of the Department of Energy a program under which the Secretary shall award grants on a competitive basis to eligible entities to enable sustained cost-effective implementation of updated building energy codes.

(2) Updated building energy code

An update to a building energy code under this section, including an amendment that results in increased efficiency compared to the previously adopted building energy code, shall include any update made available after the existing building energy code, even if it is not the most recent updated code available.

(c) Criteria; priority

In awarding grants under subsection (b), the Secretary shall—

(1) consider—

(A) prospective energy savings and plans to measure the savings, including utilizing the Environmental Protection Agency Portfolio Manager, the Home Energy Score rating of the Office of Energy Efficiency and Renewable Energy of the Department of Energy, the Energy Star Building rating methodologies of the Environmental Protection Agency, and other methodologies determined appropriate by the Secretary;

(B) the long-term sustainability of those measures and savings;

(C) prospective benefits, and plans to assess the benefits, including benefits relating to—

(i) resilience and peak load reduction;

(ii) occupant safety and health; and

(iii) environmental performance;

(D) the demonstrated capacity of the eligible entity to carry out the proposed project; and

(E) the need of the eligible entity for assistance; and

(2) give priority to applications from partnerships.

(d) Eligible activities

(1) In general

An eligible entity awarded a grant under this section may use the grant funds—

(A) to create or enable State or regional partnerships to provide training and materials to—

(i) builders, contractors and subcontractors, architects, and other design and construction professionals, relating to meeting updated building energy codes in a cost-effective manner; and

(ii) building code officials, relating to improving implementation of and compliance with building energy codes;

(B) to collect and disseminate quantitative data on construction and codes implementation, including code pathways, performance metrics, and technologies used;

(C) to develop and implement a plan for highly effective codes implementation, including measuring compliance;

(D) to address various implementation needs in rural, suburban, and urban areas; and

(E) to implement updates in energy codes for—

(i) new residential and commercial buildings (including multifamily buildings); and

(ii) additions and alterations to existing residential and commercial buildings (including

multifamily buildings).

(2) Related topics

Training and materials provided using a grant under this section may include information on the relationship between energy codes and—

(A) cost-effective, high-performance, and zero-net-energy buildings;

(B) improving resilience, health, and safety;

(C) water savings and other environmental impacts; and

(D) the economic impacts of energy codes.

(e) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this section $225,000,000 for the period of fiscal years 2022 through 2026.

(Pub. L. 94–385, title III, §309, as added Pub. L. 117–58, div. D, title V, §40511(a), Nov. 15, 2021, 135 Stat. 1058.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 6838, Pub. L. 94–385, title III, §309, Aug. 14, 1976, 90 Stat. 1149; Pub. L. 97–35, title X, §1041(a), Aug. 13, 1981, 95 Stat. 621, related to consultations by Secretary with interested and affected groups in developing and promulgating voluntary performance standards and establishment of advisory committees, prior to repeal by Pub. L. 102–486, title I, §101(a)(2), Oct. 24, 1992, 106 Stat. 2783.

STATUTORY NOTES AND RELATED SUBSIDIARIES

WAGE RATE REQUIREMENTS

For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction, alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117–58, including authority of Secretary of Labor, see section 18851 of this title.

§§6839, 6840. Repealed. Pub. L. 102–486, title I, §101(a)(2), Oct. 24, 1992, 106 Stat. 2783

Section 6839, Pub. L. 94–385, title III, §310, Aug. 14, 1976, 90 Stat. 1149; Pub. L. 95–91, title III, §§301(a), 304(a), title VII, §§703, 707, 709(e)(2), Aug. 4, 1977, 91 Stat. 577, 580, 606, 607, 608; Pub. L. 97–35, title X, §1041(a), Aug. 13, 1981, 95 Stat. 621; Pub. L. 100–418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433, related to support activities necessary or appropriate to develop and implement voluntary performance standards.

Section 6840, Pub. L. 94–385, title III, §311, Aug. 14, 1976, 90 Stat. 1149; Pub. L. 97–375, title II, §207(b), Dec. 21, 1982, 96 Stat. 1824, related to monitoring of State and local adoption and implementation of standards and reports to Congress on implementation and effectiveness of standards.

SUBCHAPTER III—ENERGY CONSERVATION AND RENEWABLE-RESOURCE ASSISTANCE FOR EXISTING BUILDINGS

§6851. Congressional findings and purpose

(a) The Congress finds that—

(1) the fastest, most cost-effective, and most environmentally sound way to prevent future energy shortages in the United States, while reducing the Nation's dependence on imported energy

supplies, is to encourage and facilitate, through major programs, the implementation of energy conservation and renewable-resource energy measures with respect to dwelling units, nonresidential buildings, and industrial plants;

(2) current efforts to encourage and facilitate such measures are inadequate as a consequence of—

(A) a lack of adequate and available financing for such measures, particularly with respect to individual consumers and owners of small businesses;

(B) a shortage of reliable and impartial information and advisory services pertaining to practicable energy conservation measures and renewable-resource energy measures and the cost savings that are likely if they are implemented in such units, buildings, and plants; and

(C) the absence of organized programs which, if they existed, would enable consumers, especially individuals and owners of small businesses, to undertake such measures easily and with confidence in their economic value;

(3) major programs of financial incentives and assistance for energy conservation measures and renewable-resource energy measures in dwelling units, nonresidential buildings, and industrial plants would—

(A) significantly reduce the Nation's demand for energy and the need for petroleum imports;

(B) cushion the adverse impact of the high price of energy supplies on consumers, particularly elderly and handicapped low-income persons who cannot afford to make the modifications necessary to reduce their residential energy use; and

(C) increase, directly and indirectly, job opportunities and national economic output;

(4) the primary responsibility for the implementation of such major programs should be lodged with the governments of the States; the diversity of conditions among the various States and regions of the Nation is sufficiently great that a wholly federally administered program would not be as effective as one which is tailored to meet local requirements and to respond to local opportunities; the State should be allowed flexibility within which to fashion such programs, subject to general Federal guidelines and monitoring sufficient to protect the financial investments of consumers and the financial interest of the United States and to insure that the measures undertaken in fact result in significant energy and cost savings which would probably not otherwise occur;

(5) to the extent that direct Federal administration is more economical and efficient, direct Federal financial incentives and assistance should be extended through existing and proven Federal programs rather than through new programs that would necessitate new and separate administrative bureaucracies; and

(6) such programs should be designed and administered to supplement, and not to supplant or in any other way conflict with, State energy conservation programs under part C of title III of the Energy Policy and Conservation Act [42 U.S.C. 6321 et seq.]; the emergency energy conservation program carried out by community action agencies pursuant to section 2809(a)(12) [1] of this title; and other forms of assistance and encouragement for energy conservation.

(b) It is, therefore, the purpose of this subchapter to encourage and facilitate the implementation of energy conservation measures and renewable-resource energy measures in dwelling units, nonresidential buildings, and industrial plants, through—

(1) supplemental State energy conservation plans; and

(2) Federal financial incentives and assistance.

(Pub. L. 94–385, title IV, §402, Aug. 14, 1976, 90 Stat. 1150.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Energy Policy and Conservation Act, referred to in subsec. (a)(5), is Pub. L. 94–163, Dec. 22, 1975, 89

Stat. 871. Part C of title III of the Energy Policy and Conservation Act is classified generally to part B (§6321 et seq.) of subchapter III of chapter 77 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

Section 2809(a)(12) of this title, referred to in subsec. (a)(6), which was redesignated as section 2809(a)(5) by Pub. L. 95–568, §5(a)(2)(E), Nov. 2, 1978, 92 Stat. 2426, was subsequently repealed by Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519.

This subchapter, referred to in subsec. (b), was in the original "this title," meaning title IV of Pub. L. 94–385, known as the Energy Conservation in Existing Buildings Act of 1976, which enacted this subchapter, section 6327 of this title, and section 1701z–8 of Title 12, Banks and Banking, amended sections 6323, 6325, and 6326 of this title, and enacted provisions set out as a note under section 6801 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6801 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

For short title of title IV of Pub. L. 94–385, which is classified principally to this subchapter, as the "Energy Conservation in Existing Buildings Act of 1976", see section 401 of Pub. L. 94–385, set out as a note under section 6801 of this title.

[1] *See References in Text note below.*

PART A—WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS

§6861. Congressional findings and purpose

(a) The Congress finds that—

(1) a fast, cost-effective, and environmentally sound way to prevent future energy shortages in the United States while reducing the Nation's dependence on imported energy supplies, is to encourage and facilitate, through major programs, the implementation of energy conservation and renewable-resource energy measures with respect to dwelling units;

(2) existing efforts to encourage and facilitate such measures are inadequate because—

(A) many dwellings owned or occupied by low-income persons are energy inefficient;

(B) low-income persons can least afford to make the modifications necessary to provide for efficient energy equipment in such dwellings and otherwise to improve the energy efficiency of such dwellings;

(3) weatherization of such dwellings would lower shelter costs in dwellings owned or occupied by low-income persons as well as save energy and reduce future energy capacity requirements; and

(4) States, through Community Action Agencies established under the Economic Opportunity Act of 1964 [42 U.S.C. 2701 et seq.] and units of general purpose local government, should be encouraged, with Federal financial and technical assistance, to develop and support coordinated weatherization programs designed to alleviate the adverse effects of energy costs on such low-income persons, to supplement other Federal programs serving such low-income persons, and to increase energy efficiency.

(b) It is, therefore, the purpose of this part to develop and implement a weatherization assistance program to increase the energy efficiency of dwellings owned or occupied by low-income persons,

reduce their total residential energy expenditures, and improve their health and safety, especially low-income persons who are particularly vulnerable such as the elderly, the handicapped, and children.

(Pub. L. 94–385, title IV, §411, Aug. 14, 1976, 90 Stat. 1151; Pub. L. 101–440, §7(j), Oct. 18, 1990, 104 Stat. 1015.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Economic Opportunity Act of 1964, referred to in subsec. (a)(4), is Pub. L. 88–452, Aug. 20, 1964, 78 Stat. 508, which was classified generally to chapter 34 (§2701 et seq.) of this title prior to repeal, except for titles VIII and X, by Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519. Titles VIII and X of the Act are classified generally to subchapters VIII (§2991 et seq.) and X (§2996 et seq.) of chapter 34 of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1990—Pub. L. 101–440 amended section generally. Prior to amendment, section read as follows:

"(a) The Congress finds that—

"(1) dwellings owned or occupied by low-income persons frequently are inadequately insulated;

"(2) low-income persons, particularly elderly and handicapped low-income persons, can least afford to make the modifications necessary to provide for adequate insulation in such dwellings and to otherwise reduce residential energy use;

"(3) weatherization of such dwellings would lower utility expenses for such low-income owners or occupants as well as save thousands of barrels per day of needed fuel; and

"(4) States, through community action agencies established under the Economic Opportunity Act of 1964 and units of general purpose local government, should be encouraged, with Federal financial and technical assistance, to develop and support coordinated weatherization programs designed to ameliorate the adverse effects of high energy costs on such low-income persons, to supplement other Federal programs serving such persons, and to conserve energy.

"(b) It is, therefore, the purpose of this part to develop and implement a supplementary weatherization assistance program to assist in achieving a prescribed level of insulation in the dwellings of low-income persons, particularly elderly and handicapped low-income persons, in order both to aid those persons least able to afford higher utility costs and to conserve needed energy."

STATUTORY NOTES AND RELATED SUBSIDIARIES

WEATHERIZATION ASSISTANCE PROGRAM

Pub. L. 117–58, div. D, title V, §40551, Nov. 15, 2021, 135 Stat. 1075, provided that:

"(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary [of Energy] for the weatherization assistance program established under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.) $3,500,000,000 for fiscal year 2022, to remain available until expended.

"(b) APPLICATION OF WAGE RATE REQUIREMENTS TO WEATHERIZATION ASSISTANCE PROGRAM.—With respect to work performed under the weatherization assistance program established under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.) on a project assisted in whole or in part by funding made available under subsection (a), the requirements of section 41101 [42 U.S.C. 18851] shall apply only to work performed on multifamily buildings with not fewer than 5 units."

[For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction, alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117–58, including authority of Secretary of Labor, see section 18851 of this title.]

§6862. Definitions

As used in this part:

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "Director" means the Director of the Community Services Administration.

(3) The term "elderly" means any individual who is 60 years of age or older.

(4) The term "Governor" means the chief executive officer of a State (including the Mayor of the District of Columbia).

(5) The term "handicapped person" means any individual (A) who is an individual with a disability, as defined in section 705 of title 29, (B) who is under a disability as defined in section 1614(a)(3)(A) or 223(d)(1) of the Social Security Act [42 U.S.C. 1382c(a)(3)(A), 423(d)(1)] or in section 102(7) [1] of the Developmental Disabilities Services and Facilities Construction Act [42 U.S.C. 6001(7)], or (C) who is receiving benefits under chapter 11 or 15 of title 38.

(6) The terms "Indian", "Indian tribe", and "tribal organization" have the meanings prescribed for such terms by section 3002 of this title.

(7) The term "low-income" means that income in relation to family size which (A) is at or below 200 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, except that the Secretary may establish a higher level if the Secretary, after consulting with the Secretary of Agriculture and the Director of the Community Services Administration, determines that such a higher level is necessary to carry out the purposes of this part and is consistent with the eligibility criteria established for the weatherization program under section 2809(a)(12) of this title, (B) is the basis on which cash assistance payments have been paid during the preceding 12-month period under titles IV and XVI of the Social Security Act [42 U.S.C. 601 et seq., 1381 et seq.] or applicable State or local law, or (C) if a State elects, is the basis for eligibility for assistance under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621), provided that such basis is at least 200 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget.

(8) STATE.—The term "State" means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

(D) any other territory or possession of the United States.

(9) The term "weatherization materials" means—

(A) caulking and weatherstripping of doors and windows;

(B) furnace efficiency modifications, including, but not limited to—

(i) replacement burners, furnaces, or boilers or any combination thereof;

(ii) devices for minimizing energy loss through heating system, chimney, or venting devices; and

(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

(C) clock thermostats;

(D) ceiling, attic, wall, floor, and duct insulation;

(E) water heater insulation;

(F) storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective window and door materials;

(G) cooling efficiency modifications, including, but not limited to, replacement air-conditioners, ventilation equipment, screening, window films, and shading devices;

(H) solar thermal water heaters;

(I) wood-heating appliances; and

(J) such other insulating or energy conserving devices or technologies, including renewable energy technologies and other advanced technologies, as the Secretary may determine, after consulting with the Secretary of Housing and Urban Development.

(Pub. L. 94–385, title IV, §412, Aug. 14, 1976, 90 Stat. 1152; Pub. L. 95–602, title I, §122(e), Nov. 6, 1978, 92 Stat. 2987; Pub. L. 95–619, title II, §231(a)(1), (b)(2), Nov. 9, 1978, 92 Stat. 3224, 3225;

Pub. L. 96–294, title V, §577(1), (2), June 30, 1980, 94 Stat. 760; Pub. L. 98–558, title IV, §§401, 402, Oct. 30, 1984, 98 Stat. 2887; Pub. L. 100–242, title V, §570(d), Feb. 5, 1988, 101 Stat. 1950; Pub. L. 101–440, §7(a), Oct. 18, 1990, 104 Stat. 1012; Pub. L. 102–486, title I, §142(b), Oct. 24, 1992, 106 Stat. 2843; Pub. L. 105–220, title IV, §414(f), Aug. 7, 1998, 112 Stat. 1242; Pub. L. 109–58, title I, §122(b), Aug. 8, 2005, 119 Stat. 616; Pub. L. 109–365, title IX, §901(b), Oct. 17, 2006, 120 Stat. 2599; Pub. L. 110–140, title IV, §411(c), Dec. 19, 2007, 121 Stat. 1601; Pub. L. 111–5, div. A, title IV, §407(a), Feb. 17, 2009, 123 Stat. 145; Pub. L. 116–260, div. Z, title I, §1011(b), Dec. 27, 2020, 134 Stat. 2442.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 102(7) of the Developmental Disabilities Services and Facilities Construction Act [42 U.S.C. 6001(7)], referred to in par. (5), was repealed by Pub. L. 106–402, title IV, §401(a), Oct. 30, 2000, 114 Stat. 1737.

Section 2809(a)(12) of this title, referred to in par. (7), which was redesignated as section 2809(a)(5) by Pub. L. 95–568, §5(a)(2)(E), Nov. 2, 1978, 92 Stat. 2426, was subsequently repealed by Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519.

The Social Security Act, referred to in par. (7), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles IV and XVI of the Social Security Act are classified generally to subchapters IV (§601 et seq.) and XVI (§1381 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Low-Income Home Energy Assistance Act of 1981, referred to in par. (7), is title XXVI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 893, which is classified generally to subchapter II (§8621 et seq.) of chapter 94 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 8621 of this title and Tables.

AMENDMENTS

2020—Par. (9)(J). Pub. L. 116–260 inserted ", including renewable energy technologies and other advanced technologies," after "devices or technologies" and struck out ", the Secretary of Agriculture, and the Director, of the Community Services Administration" before period at end.

2009—Par. (7). Pub. L. 111–5 substituted "200 percent" for "150 percent" in two places.

2007—Par. (8). Pub. L. 110–140 added par. (8) and struck out former par. (8) which read as follows: "The term 'State' means each of the States and the District of Columbia."

2006—Par. (6). Pub. L. 109–365 struck out "paragraphs (4), (5), and (6), respectively, of" before "section 3002 of this title".

2005—Par. (7). Pub. L. 109–58 substituted "150 percent" for "125 percent" in two places.

1998—Par. (5)(A). Pub. L. 105–220 substituted "an individual with a disability, as defined in section 705 of title 29" for "a handicapped individual as defined in section 7(7) of the Rehabilitation Act of 1973".

1992—Par. (9)(G) to (J). Pub. L. 102–486 realigned margin of subpar. (G), added subpars. (H) and (I), and redesignated former subpar. (H) as (J).

1990—Par. (9)(G), (H). Pub. L. 101–440 added subpar. (G) and redesignated former subpar. (G) as (H).

1988—Par. (9)(G). Pub. L. 100–242 substituted a single comma for two consecutive commas after "determine".

1984—Par. (7)(C). Pub. L. 98–558, §401, added cl. (C).

Par. (9)(B). Pub. L. 98–558, §402(1), in amending subpar. (B) generally, substituted ", including, but not limited to" for "limited to" in provisions preceding cl. (i), ", furnaces, or boilers or any combination thereof" for "designed to substantially increase the energy efficiency of the heating system," in cl. (i), and "minimizing energy loss through heating system, chimney, or venting devices" for "modifying flue openings which will increase the energy efficiency of the heating system," in cl. (ii).

Par. (9)(C). Pub. L. 98–558, §402(2), struck out "by rule" after "may determine,".

1980—Par. (1). Pub. L. 96–294, §577(1), substituted provisions defining "Secretary" for provisions defining "Administrator".

Pars. (7), (9)(G). Pub. L. 96–294, §577(2), substituted "Secretary" for "Administrator" wherever appearing.

1978—Par. (5). Pub. L. 95–602 substituted "section 7(7) of the Rehabilitation Act of 1973" for "section 7(6) of the Rehabilitation Act of 1973".

Par. (7)(A). Pub. L. 95–619, §231(a)(1), inserted "125 percent of" after "at or below" and inserted provision

authorizing the Administrator to establish a higher level for low-income computations after determining such higher level to be necessary to carry out the purposes of this part.

Par. (9). Pub. L. 95–619, §231(b)(2), substituted a specific listing of items to be considered weatherization materials for purposes of this part for a general statement of the sort of materials that could be considered as such.

STATUTORY NOTES AND RELATED SUBSIDIARIES

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.

USE OF APPROPRIATIONS

Pub. L. 113–76, div. D, title III, §308, Jan. 17, 2014, 128 Stat. 175, provided that: "None of the funds made available by this [Act] [div D. of Pub. L. 113–76, see Tables for classification] or any subsequent Act for fiscal year 2014 or any fiscal year hereafter may be used to pay the salaries of Department of Energy employees to carry out the amendments made by section 407 of division A of the American Recovery and Reinvestment Act of 2009 [Pub. L. 111–5, amending this section and sections 6865 and 6866 of this title]."

COMMUNITY SERVICES ADMINISTRATION

Community Services Administration, which was established by section 601 of Economic Opportunity Act of 1964, as amended (42 U.S.C. 2941), terminated when Economic Opportunity Act of 1964, Pub. L. 88–452, Aug. 20, 1964, 78 Stat. 508, as amended, was repealed, except for titles VIII and X, effective Oct. 1, 1981, by section 683(a) of Pub. L. 97–35, title VI, Aug. 13, 1981, 95 Stat. 519, which is classified to 42 U.S.C. 9912(a). An Office of Community Services, headed by a Director, was established in Department of Health and Human Services by section 676 of Pub. L. 97–35, which is classified to 42 U.S.C. 9905.

[1] *See References in Text note below.*

§6863. Weatherization program

(a) Development and conduct of program by Secretary; grants to States and Indian tribal organizations

The Secretary shall develop and conduct, in accordance with the purpose and provisions of this part, a weatherization program. In developing and conducting such program, the Secretary may, in accordance with this part and regulations promulgated under this part, make grants (1) to States, and (2) in accordance with the provisions of subsection (d), to Indian tribal organizations to serve Native Americans. Such grants shall be made for the purpose of providing financial assistance with regard to projects designed to provide for the weatherization of dwelling units, particularly those where elderly or handicapped low-income persons reside, occupied by low-income families.

(b) Consultation by Secretary with other Federal departments and agencies on development and publication in Federal Register of proposed regulations; required regulatory provisions; standards and procedures; rental units

(1) The Secretary, after consultation with the Director, the Secretary of Housing and Urban Development, the Secretary of Health and Human Services, the Secretary of Labor, and the heads of such other Federal departments and agencies as the Secretary deems appropriate, shall develop and publish in the Federal Register for public comment, not later than 60 days after August 14, 1976, proposed regulations to carry out the provisions of this part. The Secretary shall take into consideration comments submitted regarding such proposed regulations and shall promulgate and publish final regulations for such purpose not later than 90 days after August 14, 1976. The development of regulations under this part shall be fully coordinated with the Director.

(2) The regulations promulgated pursuant to this section shall include provisions—

(A) prescribing, in coordination with the Secretary of Housing and Urban Development, the

Secretary of Health and Human Services, and the Director of the National Institute of Standards and Technology in the Department of Commerce, for use in various climatic, structural, and human need settings, standards for weatherization materials, energy conservation techniques, and balance combinations thereof, which are designed to achieve a balance of a healthful dwelling environment and maximum practicable energy conservation;

(B) that provide guidance to the States in the implementation of this part, including guidance designed to ensure that a State establishes (i) procedures that provide protection under paragraph (5) to tenants paying for energy as a portion of their rent, and (ii) a process for monitoring compliance with its obligations pursuant to this part; and

(C) that secure the Federal investment made under this part and address the issues of eviction from and sale of property receiving weatherization materials under this part.

(3) The Secretary, in coordination with the Secretaries and Director described in paragraph (2)(A) and the Secretary of Agriculture, shall develop and publish in the Federal Register for public comment, not later than 60 days after November 9, 1978, proposed amendments to the regulations prescribed under paragraph (1). Such amendments shall provide that the standards described in paragraph (2)(A) shall include a set of procedures to be applied to each dwelling unit to determine the optimum set of cost-effective measures, within the cost guidelines set for the program, to be installed in such dwelling unit. Such standards shall, in order to achieve such optimum savings of energy, take into consideration the following factors—

(A) the cost of the weatherization material;

(B) variation in climate; and

(C) the value of energy saved by the application of the weatherization material.

Such standards shall be utilized by the Secretary in carrying out this part, and by the Secretary of Agriculture in carrying out the weatherization program under section 1474(c) of this title. The Secretary shall take into consideration comments submitted regarding such proposed amendment and shall promulgate and publish final amended regulations not later than 120 days after November 9, 1978.

(4) The Secretary may amend the regulations prescribed under paragraph (1) to provide that the standards described in paragraph (2)(A) take into consideration improvements in the health and safety of occupants of dwelling units, and other non-energy benefits, from weatherization.

(5) In carrying out paragraphs (2)(A) and (3), the Secretary shall establish the standards and procedures described in such paragraphs so that weatherization efforts being carried out under this part and under programs described in the fourth sentence of paragraph (3) will accomplish uniform results among the States in any area with a similar climatic condition.

(6) In any case in which a dwelling consists of a rental unit or rental units, the State, in the implementation of this part, shall ensure that—

(A) the benefits of weatherization assistance in connection with such rental units, including units where the tenants pay for their energy through their rent, will accrue primarily to the low-income tenants residing in such units;

(B) for a reasonable period of time after weatherization work has been completed on a dwelling containing a unit occupied by an eligible household, the tenants in that unit (including households paying for their energy through their rent) will not be subjected to rent increases unless those increases are demonstrably related to matters other than the weatherization work performed;

(C) the enforcement of subparagraph (B) is provided through procedures established by the State by which tenants may file complaints and owners, in response to such complaints, shall demonstrate that the rent increase concerned is related to matters other than the weatherization work performed; and

(D) no undue or excessive enhancement will occur to the value of such dwelling units.

(7) As a condition of having assistance provided under this part with respect to multifamily buildings, a State may require financial participation from the owners of such buildings.

(c) Failure of State to submit application; alternate application by any unit of general purpose local government or community action agency; submission of amended application by State

If a State does not, within 90 days after the date on which final regulations are promulgated under this section, submit an application to the Secretary which meets the requirements set forth in section 6864 of this title, any unit of general purpose local government of sufficient size (as determined by the Secretary), or a community action agency carrying out programs under title II of the Economic Opportunity Act of 1964 [42 U.S.C. 2781 et seq.], may, in lieu of such State, submit an application (meeting such requirements and subject to all other provisions of this part) for carrying out projects under this part within the geographical area which is subject to the jurisdiction of such government or is served by such agency. A State may, in accordance with regulations promulgated under this part, submit an amended application.

(d) Direct grants to low-income members of Indian tribal organizations or alternate service organizations; application for funds

(1) Reservation of amounts

(A) In general

Subject to subparagraph (B) and notwithstanding any other provision of this part, the Secretary shall reserve from amounts that would otherwise be allocated to a State under this part not less than 100 percent, but not more than 150 percent, of an amount which bears the same proportion to the allocation of that State for the applicable fiscal year as the population of all low-income members of an Indian tribe in that State bears to the population of all low-income individuals in that State.

(B) Restrictions

Subparagraph (A) shall apply only if—

(i) the tribal organization serving the low-income members of the applicable Indian tribe requests that the Secretary make a grant directly; and

(ii) the Secretary determines that the low-income members of the applicable Indian tribe would be equally or better served by making a grant directly than a grant made to the State in which the low-income members reside.

(C) Presumption

If the tribal organization requesting the grant is a tribally designated housing entity (as defined in section 4103 of title 25) that has operated without material audit exceptions (or without any material audit exceptions that were not corrected within a 3-year period), the Secretary shall presume that the low-income members of the applicable Indian tribe would be equally or better served by making a grant directly to the tribal organization than by a grant made to the State in which the low-income members reside.

(2) Administration

The amounts reserved by the Secretary under this subsection shall be granted to the tribal organization serving the low-income members of the Indian tribe, or, where there is no tribal organization, to such other entity as the Secretary determines has the capacity to provide services pursuant to this part.

(3) Application

In order for a tribal organization or other entity to be eligible for a grant for a fiscal year under this subsection, it shall submit to the Secretary an application meeting the requirements set forth in section 6864 of this title.

(e) Transfer of funds

Notwithstanding any other provision of law, the Secretary may transfer to the Director sums appropriated under this part to be utilized in order to carry out programs, under section 222(a)(12) of the Economic Opportunity Act of 1964 [42 U.S.C. 2809(a)(12)], which further the purpose of this part.

(Pub. L. 94–385, title IV, §413, Aug. 14, 1976, 90 Stat. 1152; Pub. L. 95–619, title II, §231(a)(2), (b)(1), Nov. 9, 1978, 92 Stat. 3224; Pub. L. 96–294, title V, §§573(b), 574, 577(2), June 30, 1980, 94 Stat. 759, 760; Pub. L. 98–479, title II, §201(h), Oct. 17, 1984, 98 Stat. 2228; Pub. L. 100–418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433; Pub. L. 101–440, §7(b), Oct. 18, 1990, 104 Stat. 1012; Pub. L. 103–82, title IV, §405(l), Sept. 21, 1993, 107 Stat. 922; Pub. L. 115–325, title II, §203, Dec. 18, 2018, 132 Stat. 4462; Pub. L. 116–260, div. Z, title I, §1011(c), Dec. 27, 2020, 134 Stat. 2442.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Economic Opportunity Act of 1964, referred to in subsec. (c), is Pub. L. 88–452, Aug. 20, 1964, 78 Stat. 508. Title II of the Economic Opportunity Act of 1964 was classified generally to subchapter II (§2781 et seq.) of chapter 34 of this title prior to repeal by Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519. Prior to that repeal, section 222(a)(12) of that Act [42 U.S.C. 2809(a)(12)] was redesignated as section 222(a)(5) [42 U.S.C. 2809(a)(5)] by Pub. L. 95–568, §5(a)(2)(E), Nov. 2, 1978, 94 Stat. 2426. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2020—Subsec. (b)(3). Pub. L. 116–260, §1011(c)(1), in introductory provisions, struck out "and with the Director of the Community Services Administration" after "Director described in paragraph (2)(A)" and, in concluding provisions, inserted "and by" after "in carrying out this part," and struck out ", and the Director of the Community Services Administration in carrying out weatherization programs under section 222(a)(12) of the Economic Opportunity Act of 1964" after "section 1474(c) of this title".

Subsec. (b)(4) to (7). Pub. L. 116–260, §1011(c)(2), (3), added par. (4) and redesignated former pars. (4) to (6) as (5) to (7), respectively.

2018—Subsec. (d)(1). Pub. L. 115–325, §203(1), added par. (1) and struck out former par. (1) which related to conditions for reserving funds for direct grants to provide assistance to low-income members of Indian tribes.

Subsec. (d)(2). Pub. L. 115–325, §203(2), inserted heading, substituted "The amounts" for "The sums", "low-income members of the Indian tribe" for "individuals for whom such a determination has been made", and "as the Secretary determines" for "as he determines", and struck out "on the basis of his determination" before "under this subsection".

Subsec. (d)(3). Pub. L. 115–325, §203(3), inserted heading.

1993—Subsec. (b)(1). Pub. L. 103–82 struck out "the Director of the ACTION Agency," after "Labor,".

1990—Subsec. (b)(2)(B), (C). Pub. L. 101–440, §7(b)(1), added subpars. (B) and (C) and struck out former subpar. (B) which read as follows: "designed to insure that (i) the benefits of weatherization assistance in connection with leased dwelling units will accrue primarily to low-income tenants; (ii) the rents on such dwelling units will not be raised because of any increase in the value thereof due solely to weatherization assistance provided under this part; and (iii) no undue or excessive enhancement will occur to the value of such dwelling units."

Subsec. (b)(5), (6). Pub. L. 101–440, §7(b)(2), added pars. (5) and (6).

1988—Subsec. (b)(2)(A). Pub. L. 100–418 substituted "National Institute of Standards and Technology" for "National Bureau of Standards".

1984—Subsec. (b)(1), (2)(A). Pub. L. 98–479 substituted "Health and Human Services" for "Health, Education, and Welfare".

1980—Subsecs. (a), (b)(1), (3). Pub. L. 96–294, §577(2), substituted "Secretary" for "Administrator" wherever appearing.

Subsec. (b)(4). Pub. L. 96–294, §574, added par. (4).

Subsec. (c). Pub. L. 96–294, §§573(b), 577(2), substituted "Secretary" for "Administrator" wherever appearing, and struck out provisions relating to determinations respecting inapplicability of allocation requirement and priority for an applicable community action agency.

Subsecs. (d), (e). Pub. L. 96–294, §577(2), substituted "Secretary" for "Administrator" wherever appearing.

1978—Subsec. (a). Pub. L. 95–619, §231(a)(2), substituted "occupied by low-income families" for "in which the head of the household is a low-income person".

Subsec. (b)(3). Pub. L. 95–619, §231(b)(1), added par. (3).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Apr. 4, 1994, see section 406(b) of Pub. L. 103–82, set out as a note under section 8332 of Title 5, Government Organization and Employees.

WEATHERIZATION ASSISTANCE GRANTS COST SHARING

Pub. L. 106–291, title II, Oct. 11, 2000, 114 Stat. 976, provided in part: "That, hereafter, Indian tribal direct grantees of weatherization assistance shall not be required to provide matching funds."

Provisions of Pub. L. 106–113, div. B, §1000(a)(3) [title II], Nov. 29, 1999, 113 Stat. 1535, 1501A–180, which provided that sums appropriated for weatherization assistance grants were to be contingent on a cost share of 25 percent by each participating State or other qualified participant, were repealed by Pub. L. 106–469, title VI, §601(a), Nov. 9, 2000, 114 Stat. 2040.

COMMUNITY SERVICES ADMINISTRATION

Community Services Administration, which was established by section 601 of Economic Opportunity Act of 1964, as amended (42 U.S.C. 2941), terminated when Economic Opportunity Act of 1964, Pub. L. 88–452, Aug. 20, 1964, 78 Stat. 508, as amended, was repealed, except for titles VIII and X, effective Oct. 1, 1981, by section 683(a) of Pub. L. 97–35, title VI, Aug. 13, 1981, 95 Stat. 519, which is classified to 42 U.S.C. 9912(a). An Office of Community Services, headed by a Director, was established in Department of Health and Human Services by section 676 of Pub. L. 97–35, which is classified to 42 U.S.C. 9905.

§6864. Financial assistance

(a) Annual application; contents; allocation to States

The Secretary shall provide financial assistance, from sums appropriated for any fiscal year under this part, only upon annual application. Each such application shall describe the estimated number and characteristics of the low-income persons and the number of dwelling units to be assisted and the criteria and methods to be used by the applicant in providing weatherization assistance to such persons. The application shall also contain such other information (including information needed for evaluation purposes) and assurances as may be required (1) in the regulations promulgated pursuant to section 6863 of this title and (2) to carry out this section. The Secretary shall allocate financial assistance to each State on the basis of the relative need for weatherization assistance among low-income persons throughout the States, taking into account the following factors:

(A) The number of dwelling units to be weatherized.

(B) The climatic conditions in the State respecting energy conservation, which may include consideration of annual degree days.

(C) The type of weatherization work to be done in the various settings.

(D) Such other factors as the Secretary may determine necessary, such as the cost of heating and cooling, in order to carry out the purpose and provisions of this part.

(b) Requirements for assistance

The Secretary shall not provide financial assistance under this part unless the applicant has provided reasonable assurances that it has—

(1) established a policy advisory council which (A) has special qualifications and sensitivity with respect to solving the problems of low-income persons (including the weatherization and energy-conservation problems of such persons), (B) is broadly representative of organizations and agencies which are providing services to such persons in the State or geographical area in question, and (C) is responsible for advising the responsible official or agency administering the allocation of financial assistance in such State or area with respect to the development and implementation of such weatherization assistance program;

(2) established priorities to govern the provision of weatherization assistance to low-income persons, including methods to provide priority to elderly and handicapped low-income persons, and such priority as the applicant determines is appropriate for single-family or other high-energy-consuming dwelling units;

(3) established policies and procedures designed to assure that financial assistance provided under this part will be used to supplement, and not to supplant, State or local funds, and, to the extent practicable, to increase the amounts of such funds that would be made available in the absence of Federal funds for carrying out the purpose of this part, including plans and procedures (A) for securing, to the maximum extent practicable, the services of volunteers and training participants and public service employment workers, pursuant to title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3111 et seq.], to work under the supervision of qualified supervisors and foremen, (B) for using Federal financial assistance under this part to increase the portion of low-income weatherization assistance that the State obtains from non-Federal sources, including private sources, and (C) for complying with the limitations set forth in section 6865 of this title; and

(4) selected on the basis of public comment received during a public hearing conducted pursuant to section 6865(b)(1) of this title, and other appropriate findings, community action agencies or other public or nonprofit entities to undertake the weatherization activities authorized by this subchapter: *Provided*, Such selection shall be based on the agency's experience and performance in weatherization or housing renovation activities, experience in assisting low-income persons in the area to be served, and the capacity to undertake a timely and effective weatherization program: *Provided further*, That in making such selection preference shall be given to any community action agency or other public or nonprofit entity which has, or is currently administering, an effective program under this subchapter or under title II of the Economic Opportunity Act of 1964 [42 U.S.C. 2781 et seq.].

(c) Annual update of data used in allocating funds

Effective with fiscal year 1991, and annually thereafter, the Secretary shall update the population, eligible households, climatic, residential energy use, and all other data used in allocating the funds under this part among the States pursuant to subsection (a).

(Pub. L. 94–385, title IV, §414, Aug. 14, 1976, 90 Stat. 1154; Pub. L. 96–294, title V, §§573(c), 577(2), June 30, 1980, 94 Stat. 759, 760; Pub. L. 101–440, §7(c), (g), Oct. 18, 1990, 104 Stat. 1012, 1014; Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(38), (f)(29)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–427, 2681–434; Pub. L. 113–128, title V, §512(k), July 22, 2014, 128 Stat. 1709.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Workforce Innovation and Opportunity Act, referred to in subsec. (b)(3), is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425. Title I of the Act is classified generally to subchapter I (§3111 et seq.) of chapter 32 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

The Economic Opportunity Act of 1964, referred to in subsec. (b)(4), is Pub. L. 88–452, Aug. 20, 1964, 78 Stat. 508. Title II of the Economic Opportunity Act of 1964 was classified generally to subchapter II (§2781 et seq.) of chapter 34 of this title prior to repeal by Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2014—Subsec. (b)(3). Pub. L. 113–128 substituted "securing, to the maximum extent practicable, the services of volunteers and training participants and public service employment workers, pursuant to title I of the Workforce Innovation and Opportunity Act" for "securing, to the maximum extent practicable, the services of volunteers and training participants and public service employment workers, pursuant to title I of the Workforce Investment Act of 1998".

1998—Subsec. (b)(3). Pub. L. 105–277, §101(f) [title VIII, §405(f)(29)], struck out "the Job Training Partnership Act or" after "pursuant to".

Pub. L. 105–277, §101(f) [title VIII, §405(d)(38)], substituted "the Job Training Partnership Act or title I of the Workforce Investment Act of 1998" for "the Comprehensive Employment and Training Act of 1973".

1990—Subsec. (a)(D). Pub. L. 101–440, §7(c)(1), inserted ", such as the cost of heating and cooling," after "necessary".

Subsec. (b)(3). Pub. L. 101–440, §7(g), added cl. (B) and redesignated former cl. (B) as (C).

Subsec. (c). Pub. L. 101–440, §7(c)(2), added subsec. (c).

1980—Subsec. (a). Pub. L. 96–294, §577(2), substituted "Secretary" for "Administrator" wherever appearing.

Subsec. (b). Pub. L. 96–294, §§573(c), 577(2), substituted "Secretary" for "Administrator" and added par. (4).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 101(f) [title VIII, §405(d)(38)] of Pub. L. 105–277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, §405(f)(29)] of Pub. L. 105–277 effective July 1, 2000, see section 101(f) [title VIII, §405(g)(1), (2)(B)] of Pub. L. 105–277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

§6864a. Private sector investments

(a) In general

The Secretary shall, to the extent funds are made available for such purpose, provide financial assistance to entities receiving funding from the Federal Government or from a State through a weatherization assistance program under section 6863 or section 6864 of this title for the development and initial implementation of partnerships, agreements, or other arrangements with utilities, private sector interests, or other institutions, under which non-Federal financial assistance would be made available to support programs which install energy efficiency improvements in low-income housing.

(b) Use of funds

Financial assistance provided under this section may be used for—

(1) the negotiation of such partnerships, agreements and other arrangements;

(2) the presentation of arguments before State or local agencies;

(3) expert advice on the development of such partnerships, agreements, and other arrangements; or

(4) other activities reasonably associated with the development and initial implementation of such arrangements.

(c) Conditions

(1) Financial assistance provided under this section to entities other than States shall, to the extent practicable, coincide with the timing of financial assistance provided to such entities under section 6863 or section 6864 of this title.

(2) Not less than 80 percent of amounts provided under this section shall be provided to entities other than States.

(3) A recipient of financial assistance under this section shall have up to three years to complete projects undertaken with such assistance.

(Pub. L. 94–385, title IV, §414A, as added Pub. L. 102–486, title I, §142(a), Oct. 24, 1992, 106 Stat. 2842.)

§6864b. Technical transfer grants

(a) In general

The Secretary may, to the extent funds are made available, provide financial assistance to entities receiving funding from the Federal Government or from a State through a weatherization assistance program under section 6863 or section 6864 of this title for—

(1) evaluating technical and management measures which increase program and/or private entity performance in weatherizing low-income housing;

(2) producing technical information for use by persons involved in weatherizing low-income housing;

(3) exchanging information; and

(4) conducting training programs for persons involved in weatherizing low-income housing.

(b) Conditions

(1) Not less than 50 percent of amounts provided under this section shall be awarded to entities other than States.

(2) A recipient of financial assistance under this section may contract with nonprofit entities to carry out all or part of the activities for which such financial assistance is provided.

(Pub. L. 94–385, title IV, §414B, as added Pub. L. 102–486, title I, §142(a), Oct. 24, 1992, 106 Stat. 2842.)

§6864c. Contractor optimization

(a) In general

The Secretary may request that entities receiving funding from the Federal Government or from a State through a weatherization assistance program under section 6863 of this title or section 6864 of this title perform periodic reviews of the use of private contractors in the provision of weatherization assistance, and encourage expanded use of contractors as appropriate.

(b) Use of training funds

Entities described in subsection (a) may use funding described in such subsection to train private, non-Federal entities that are contracted to provide weatherization assistance under a weatherization program, in accordance with rules determined by the Secretary.

(Pub. L. 94–385, title IV, §414C, as added Pub. L. 116–260, div. Z, title I, §1011(d)(1), Dec. 27, 2020, 134 Stat. 2442.)

§6864d. Financial assistance for WAP enhancement and innovation

(a) Purposes

The purposes of this section are—

(1) to expand the number of dwelling units that are occupied by low-income persons that receive weatherization assistance by making such dwelling units weatherization-ready;

(2) to promote the deployment of renewable energy in dwelling units that are occupied by low-income persons;

(3) to ensure healthy indoor environments by enhancing or expanding health and safety measures and resources available to dwellings that are occupied by low-income persons;

(4) to disseminate new methods and best practices among entities providing weatherization assistance; and

(5) to encourage entities providing weatherization assistance to hire and retain employees who are individuals—

(A) from the community in which the assistance is provided; and

(B) from communities or groups that are underrepresented in the home energy performance workforce, including religious and ethnic minorities, women, veterans, individuals with

disabilities, and individuals who are socioeconomically disadvantaged.

(b) Financial assistance

The Secretary shall, to the extent funds are made available, award financial assistance, on an annual basis, through a competitive process to entities receiving funding from the Federal Government or from a State, tribal organization, or unit of general purpose local government through a weatherization program under section 6863 of this title or section 6864 of this title, or to nonprofit entities, to be used by such an entity—

(1) with respect to dwelling units that are occupied by low-income persons, to—

(A) implement measures to make such dwelling units weatherization-ready by addressing structural, plumbing, roofing, and electrical issues, environmental hazards, or other measures that the Secretary determines to be appropriate;

(B) install energy efficiency technologies, including home energy management systems, smart devices, and other technologies the Secretary determines to be appropriate;

(C) install renewable energy systems (as defined in section 6865(c)(6)(A) of this title); and

(D) implement measures to ensure healthy indoor environments by improving indoor air quality, accessibility, and other healthy homes measures as determined by the Secretary;

(2) to improve the capability of the entity—

(A) to significantly increase the number of energy retrofits performed by such entity;

(B) to replicate best practices for work performed pursuant to this section on a larger scale;

(C) to leverage additional funds to sustain the provision of weatherization assistance and other work performed pursuant to this section after financial assistance awarded under this section is expended; and

(D) to hire and retain employees who are individuals described [1] subsection (a)(5);

(3) for innovative outreach and education regarding the benefits and availability of weatherization assistance and other assistance available pursuant to this section;

(4) for quality control of work performed pursuant to this section;

(5) for data collection, measurement, and verification with respect to such work;

(6) for program monitoring, oversight, evaluation, and reporting regarding such work;

(7) for labor, training, and technical assistance relating to such work;

(8) for planning, management, and administration (up to a maximum of 15 percent of the assistance provided); and

(9) for such other activities as the Secretary determines to be appropriate.

(c) Award factors

In awarding financial assistance under this section, the Secretary shall consider—

(1) the applicant's record of constructing, renovating, repairing, or making energy efficient single-family, multifamily, or manufactured homes that are occupied by low-income persons, either directly or through affiliates, chapters, or other partners (using the most recent year for which data are available);

(2) the number of dwelling units occupied by low-income persons that the applicant has built, renovated, repaired, weatherized, or made more energy efficient in the 5 years preceding the date of the application;

(3) the qualifications, experience, and past performance of the applicant, including experience successfully managing and administering Federal funds;

(4) the strength of an applicant's proposal to achieve one or more of the purposes under subsection (a);

(5) the extent to which such applicant will utilize partnerships and regional coordination to achieve one or more of the purposes under subsection (a);

(6) regional and climate zone diversity;

(7) urban, suburban, and rural localities; and

(8) such other factors as the Secretary determines to be appropriate.

(d) Applications

(1) Administration

To be eligible for an award of financial assistance under this section, an applicant shall submit to the Secretary an application in such manner and containing such information as the Secretary may require.

(2) Awards

Subject to the availability of appropriations, not later than 270 days after December 27, 2020, the Secretary shall make a first award of financial assistance under this section.

(e) Maximum amount and term

(1) In general

The total amount of financial assistance awarded to an entity under this section shall not exceed $2,000,000.

(2) Technical and training assistance

The total amount of financial assistance awarded to an entity under this section shall be reduced by the cost of any technical and training assistance provided by the Secretary that relates to such financial assistance.

(3) Term

The term of an award of financial assistance under this section shall not exceed 3 years.

(4) Relationship to formula grants

An entity may use financial assistance awarded to such entity under this section in conjunction with other financial assistance provided to such entity under this part.

(f) Requirements

Not later than 90 days after December 27, 2020, the Secretary shall issue requirements to implement this section, including, for entities receiving financial assistance under this section—

(1) standards for allowable expenditures;

(2) a minimum saving-to-investment ratio; and

(3) standards for—

(A) training programs;

(B) energy audits;

(C) the provision of technical assistance;

(D) monitoring activities carried out using such financial assistance;

(E) verification of energy and cost savings;

(F) liability insurance requirements; and

(G) recordkeeping and reporting requirements, which shall include reporting to the Office of Weatherization and Intergovernmental Programs of the Department of Energy applicable data on each dwelling unit retrofitted or otherwise assisted pursuant to this section.

(g) Compliance with State and local law

Nothing in this section supersedes or otherwise affects any State or local law, to the extent that the State or local law contains a requirement that is more stringent than the applicable requirement of this section.

(h) Review and evaluation

The Secretary shall review and evaluate the performance of each entity that receives an award of financial assistance under this section (which may include an audit).

(i) Annual report

The Secretary shall submit to Congress an annual report that provides a description of—

(1) actions taken under this section to achieve the purposes of this section; and

(2) accomplishments as a result of such actions, including energy and cost savings achieved.

(j) Funding

(1) Amounts

(A) In general

For each of fiscal years 2021 through 2025, of the amount made available under section 6872 of this title for such fiscal year to carry out the weatherization program under this part (not including any of such amount made available for Department of Energy headquarters training or technical assistance), not more than—

(i) 2 percent of such amount (if such amount is $225,000,000 or more but less than $260,000,000) may be used to carry out this section;

(ii) 4 percent of such amount (if such amount is $260,000,000 or more but less than $300,000,000) may be used to carry out this section; and

(iii) 6 percent of such amount (if such amount is $300,000,000 or more) may be used to carry out this section.

(B) Minimum

For each of fiscal years 2021 through 2025, if the amount made available under section 6872 of this title (not including any of such amount made available for Department of Energy headquarters training or technical assistance) for such fiscal year is less than $225,000,000, no funds shall be made available to carry out this section.

(2) Limitation

For any fiscal year, the Secretary may not use more than $25,000,000 of the amount made available under section 6872 of this title to carry out this section.

(k) Termination

The Secretary may not award financial assistance under this section after September 30, 2025.

(Pub. L. 94–385, title IV, §414D, as added Pub. L. 116–260, div. Z, title I, §1011(e)(1), Dec. 27, 2020, 134 Stat. 2443.)

[1] *So in original. Probably should be followed by "in".*

§6864e. Hiring

The Secretary may, as the Secretary determines appropriate, encourage entities receiving funding from the Federal Government or from a State through a weatherization program under section 6863 of this title or section 6864 of this title, to prioritize the hiring and retention of employees who are individuals described in section 6864d(a)(5) of this title.

(Pub. L. 94–385, title IV, §414E, as added Pub. L. 116–260, div. Z, title I, §1011(f)(1), Dec. 27, 2020, 134 Stat. 2446.)

§6865. Limitations on financial assistance

(a) Purchase of materials and administration of projects

(1) Not more than an amount equal to 15 percent of any grant made by the Secretary under this part may be used for administrative purposes in carrying out duties under this part, except that not more than one-half of such amount may be used by any State for such purposes, and a State may provide in the plan adopted pursuant to subsection (b) for recipients of grants of less than $350,000 to use up to an additional 5 percent of such grant for administration if the State has determined that such recipient requires such additional amount to implement effectively the administrative requirements established by the Secretary pursuant to this part.

(2) The Secretary shall establish energy audit procedures and techniques which (i) meet standards

established by the Secretary after consultation with the State Energy Advisory Board established under section 6325(g) of this title, (ii) establish priorities for selection of weatherization measures based on their cost and contribution to energy efficiency, (iii) measure the energy requirement of individual dwellings and the rate of return of the total conservation investment in a dwelling, and (iv) account for interaction among energy efficiency measures.

(b) Allocation, termination or discontinuance by Secretary

The Secretary shall insure that financial assistance provided under this part will—

(1) be allocated within the State or area in accordance with a published State or area plan, which is adopted by such State after notice and a public hearing, describing the proposed funding distributions and recipients;

(2) be allocated, pursuant to such State or area plan, to community action agencies carrying out programs under title II of the Economic Opportunity Act of 1964 [42 U.S.C. 2781 et seq.] or to other appropriate and qualified public or nonprofit entities in such State or area so that—

(A) funds will be allocated on the basis of the relative need for weatherization assistance among the low-income persons within such State or area, taking into account appropriate climatic and energy conservation factors; and

(B) due consideration will be given to the results of periodic evaluations of the projects carried out under this part in light of available information regarding the current and anticipated energy and weatherization needs of low-income persons within the State; and

(3) be terminated or discontinued during the application period only in accordance with policies and procedures consistent with the policies and procedures set forth in section 6868 of this title.

(c) Limitations on expenditures; exceptions; annual adjustments

(1) Except as provided in paragraphs (3) and (4), the expenditure of financial assistance provided under this part for labor, weatherization materials, and related matters shall not exceed an average of $6,500 per dwelling unit weatherized in that State. Labor, weatherization materials, and related matter includes, but is not limited to—

(A) the appropriate portion of the cost of tools and equipment used to install weatherization materials for a dwelling unit;

(B) the cost of transporting labor, tools, and materials to a dwelling unit;

(C) the cost of having onsite supervisory personnel;

(D) the cost of making incidental repairs to a dwelling unit if such repairs are necessary to make the installation of weatherization materials effective,[1] and

(E) the cost of making heating and cooling modifications, including replacement [2]

(2) Dwelling units weatherized (including dwelling units partially weatherized) under this part, or under other Federal programs (in this paragraph referred to as "previous weatherization"), may not receive further financial assistance for weatherization under this part until the date that is 15 years after the date such previous weatherization was completed. This paragraph does not preclude dwelling units that have received previous weatherization from receiving assistance and services (including the provision of information and education to assist with energy management and evaluation of the effectiveness of installed weatherization materials) other than weatherization under this part or under other Federal programs, or from receiving non-Federal assistance for weatherization.

(3) Beginning with fiscal year 2000, the dwelling unit averages provided in paragraphs (1) and (4) shall be adjusted annually by increasing the average amount by an amount equal to—

(A) the average amount for the previous fiscal year, multiplied by

(B) the lesser of (i) the percentage increase in the Consumer Price Index (all items, United States city average) for the most recent calendar year completed before the beginning of the fiscal year for which the determination is being made, or (ii) three percent.

(4) The expenditure of financial assistance provided under this part for labor, weatherization

materials, and related matters for a renewable energy system shall not exceed an average of $3,000 per dwelling unit.

(5)(A) The Secretary shall by regulations—

(i) establish the criteria which are to be used in prescribing performance and quality standards under paragraph (6)(A)(ii) or in specifying any form of renewable energy under paragraph (6)(A)(i)(I); and

(ii) establish a procedure under which a manufacturer of an item may request the Secretary to certify that the item will be treated, for purposes of this paragraph, as a renewable energy system.

(B) The Secretary shall make a final determination with respect to any request filed under subparagraph (A)(ii) within 1 year after the filing of the request, together with any information required to be filed with such request under subparagraph (A)(ii).

(C) Each month the Secretary shall publish a report of any request under subparagraph (A)(ii) which has been denied during the preceding month and the reasons for the denial.

(D) The Secretary shall not specify any form of renewable energy under paragraph (6)(A)(i)(I) unless the Secretary determines that—

(i) there will be a reduction in oil or natural gas consumption as a result of such specification;

(ii) such specification will not result in an increased use of any item which is known to be, or reasonably suspected to be, environmentally hazardous or a threat to public health or safety; and

(iii) available Federal subsidies do not make such specification unnecessary or inappropriate (in the light of the most advantageous allocation of economic resources).

(6) In this subsection—

(A) the term "renewable energy system" means a system which—

(i) when installed in connection with a dwelling, transmits or uses—

(I) solar energy, energy derived from the geothermal deposits, energy derived from biomass, or any other form of renewable energy which the Secretary specifies by regulations, for the purpose of heating or cooling such dwelling or providing hot water or electricity for use within such dwelling; or

(II) wind energy for nonbusiness residential purposes;

(ii) meets the performance and quality standards (if any) which have been prescribed by the Secretary by regulations;

(iii) in the case of a combustion rated system, has a thermal efficiency rating of at least 75 percent; and

(iv) in the case of a solar system, has a thermal efficiency rating of at least 15 percent; and

(B) the term "biomass" means any organic matter that is available on a renewable or recurring basis, including agricultural crops and trees, wood and wood wastes and residues, plants (including aquatic plants), grasses, residues, fibers, and animal wastes, municipal wastes, and other waste materials.

(d) Supplementary financial assistance to States

Beginning with fiscal year 1992, the Secretary may allocate funds appropriated pursuant to section 6872(b) [3] of this title to provide supplementary financial assistance to those States which the Secretary determines have achieved the best performance during the previous fiscal year in achieving the purposes of this part. In making this determination, the Secretary shall—

(1) consult with the State Energy Advisory Board established under section 6325(g) of this title; and

(2) give priority to those States which, during such previous fiscal year, obtained a significant portion of income from non-Federal sources for their weatherization programs or increased significantly the portion of low-income weatherization assistance that the State obtained from non-Federal sources.

(e) Supplementary financial assistance to grant recipients

(1)(A) Beginning with fiscal year 1992, the Secretary may allocate, from funds appropriated pursuant to section 6872(b) [3] of this title, among the States an equal amount for each State not to exceed $100,000 per State. Each State shall make available amounts received under this subsection to provide supplementary financial assistance to recipients of grants under this part that have achieved the best performance during the previous fiscal year in advancing the purposes of this part.

(B) None of the funds made available under this subsection may be used by any State for administrative purposes.

(2) The Secretary shall, after consulting with the State Energy Advisory Board referred to in subsection (d)(1), prescribe guidelines to be used by each State in making available supplementary financial assistance under this subsection, with a priority being given to subgrantees that, by law or through administrative or other executive action, provided non-Federal resources (including private resources) to supplement Federal financial assistance under this part during the previous fiscal year.

(Pub. L. 94–385, title IV, §415, Aug. 14, 1976, 90 Stat. 1155; Pub. L. 95–619, title II, §231(c), Nov. 9, 1978, 92 Stat. 3225; Pub. L. 96–294, title V, §§571, 572, 573(a), 575, 577(2), June 30, 1980, 94 Stat. 759, 760; Pub. L. 98–558, title IV, §§403, 404, Oct. 30, 1984, 98 Stat. 2887, 2888; Pub. L. 101–440, §7(d)–(f), (i), Oct. 18, 1990, 104 Stat. 1013, 1014; Pub. L. 106–469, title VI, §601(b), Nov. 9, 2000, 114 Stat. 2040; Pub. L. 109–58, title II, §206(a), Aug. 8, 2005, 119 Stat. 654; Pub. L. 111–5, div. A, title IV, §407(b), (e), Feb. 17, 2009, 123 Stat. 146; Pub. L. 116–260, div. Z, title I, §1011(g), (h), Dec. 27, 2020, 134 Stat. 2446.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Economic Opportunity Act of 1964, referred to in subsec. (b)(2), is Pub. L. 88–452, Aug. 20, 1964, 78 Stat. 508. Title II of the Economic Opportunity Act of 1964 was classified generally to subchapter II (§2781 et seq.) of chapter 34 of this title prior to repeal by Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519. For complete classification of this Act to the Code, see Tables.

Section 6872 of this title, referred to in subsecs. (d) and (e)(1)(A), was amended by Pub. L. 105–388, §3, Nov. 13, 1998, 112 Stat. 3477, and, as so amended, no longer contains a subsec. (b).

AMENDMENTS

2020—Subsec. (a)(1). Pub. L. 116–260, §1011(g), substituted "15 percent" for "10 percent".

Subsec. (c)(2). Pub. L. 116–260, §1011(h), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "Dwelling units partially weatherized under this part or under other Federal programs during the period September 30, 1975, through September 30, 1994, may receive further financial assistance for weatherization under this part."

2009—Subsec. (c)(1). Pub. L. 111–5, §407(b), substituted "$6,500" for "$2,500" in introductory provisions.

Subsec. (c)(2). Pub. L. 111–5, §407(e), substituted "September 30, 1994" for "September 30, 1979".

2005—Subsec. (c)(1). Pub. L. 109–58, §206(a)(1), substituted "in paragraphs (3) and (4)" for "in paragraph (3)" in introductory provisions.

Subsec. (c)(3). Pub. L. 109–58, §206(a)(2), substituted "dwelling unit averages provided in paragraphs (1) and (4)" for "$2,500 per dwelling unit average provided in paragraph (1)" in introductory provisions.

Subsec. (c)(4) to (6). Pub. L. 109–58, §206(a)(3), added pars. (4) to (6).

2000—Subsec. (a)(1). Pub. L. 106–469, §601(b)(1), struck out first sentence which read as follows: "Except as provided in paragraph (2), an average of at least forty percent of the funds provided in a State under this part for weatherization materials, labor, and related matters described in subsection (c) of this section shall be spent for weatherization materials."

Subsec. (a)(2). Pub. L. 106–469, §601(b)(2)(C), struck out subpar. (B) which read as follows: "The Secretary shall make information on energy audit procedures and techniques available to States applying for a waiver under subparagraph (A) and shall provide training for State and local agencies in the implementation of such procedures and techniques."

Pub. L. 106–469, §601(b)(2)(B), which directed amendment of par. (2) by substituting "establish" for "approve a State's application to waive the 40 percent requirement established in paragraph (1) if the State includes in its plan", was executed by making the substitution for "approve a State's application to waive the

40-percent requirement established in paragraph (1) if the State includes in its plan", to reflect the probable intent of Congress.

Pub. L. 106–469, §601(b)(2)(A), struck out "(A)" before "The Secretary shall approve".

Subsec. (c)(1). Pub. L. 106–469, §601(b)(3)(A), (B), in introductory provisions, substituted "paragraph (3)" for "paragraphs (3) and (4)" and "$2,500" for "$1,600".

Subsec. (c)(1)(E). Pub. L. 106–469, §601(b)(3)(C)–(E), added subpar. (E).

Subsec. (c)(3). Pub. L. 106–469, §601(b)(4), in introductory provisions, substituted "2000, the $2,500 per dwelling unit average" for "1991, the $1,600 per dwelling unit limitation" and "average amount" for "limitation amount", in subpar. (A), substituted "average" for "limitation", and, in subpar. (B), inserted "the" after "beginning of".

Subsec. (c)(4). Pub. L. 106–469, §601(b)(5), struck out par. (4), which required the Secretary, upon State application, to establish a separate average per dwelling unit limitation for dwelling units in the State.

1990—Subsec. (a). Pub. L. 101–440, §7(d), substituted "(1) Except as provided in paragraph (2), an average" for "An average", inserted before period at end ", and a State may provide in the plan adopted pursuant to subsection (b) for recipients of grants of less than $350,000 to use up to an additional 5 percent of such grant for administration if the State has determined that such recipient requires such additional amount to implement effectively the administrative requirements established by the Secretary pursuant to this part", and added par. (2).

Subsec. (c)(1). Pub. L. 101–440, §7(e)(1), substituted "Except as provided in paragraphs (3) and (4), the expenditure" for "The expenditure".

Subsec. (c)(3), (4). Pub. L. 101–440, §7(e)(2), added pars. (3) and (4).

Subsec. (d). Pub. L. 101–440, §7(i), added subsec. (d).

Pub. L. 101–440, §7(f), struck out subsec. (d) which established a performance fund to provide financial assistance to those States the Secretary determined to have demonstrated the best performance during the previous fiscal year in providing weatherization assistance.

Subsec. (e). Pub. L. 101–440, §7(i), added subsec. (e).

1984—Subsec. (a). Pub. L. 98–558, §403(1), substituted provisions that an average of at least forty percent of the funds provided shall be spent for weatherization for former provisions which directed the Secretary to use funds to the maximum extent practicable.

Subsec. (c). Pub. L. 98–558, §403(2), in amending subsec. (c) generally, substituted provisions that expenditures shall not exceed an average of $1,600 per dwelling unit for former provisions which provided for an $800 per dwelling unit limit in par. (1), struck out "(not to exceed $150)" after "the cost" in par. (1)(D), substituted provisions that dwelling units partially weatherized between certain dates could receive further financial assistance under this part for former provisions that $800 limit would not apply if the State policy advisory council requested greater amounts from the Secretary and the Secretary gave approval in par. (2), and deleted former par. (3) which provided that in areas where the Secretary, after consultation with the Secretary of Labor, determined that there was an insufficient number of volunteers and training participants and public service employment workers, assisted pursuant to the Comprehensive Employment and Training Act of 1973, available to work on weatherization projects under the supervision of qualified supervisors and foremen, the Secretary could increase the limitation of $800 to not more than $1,600 to cover the costs of paying persons who would install the weatherization materials and, to the maximum extent practicable, who would otherwise be able to participate as training participants and public service employment workers pursuant to the Comprehensive Employment and Training Act of 1973.

Subsec. (d). Pub. L. 98–558, §404, added subsec. (d).

1980—Subsec. (a). Pub. L. 96–294, §§571, 577(2), substituted "Secretary" for "Administrator" and provisions limiting amounts used for administrative purposes in any grant made by the Secretary under this part for provisions limiting amounts used for administrative purposes in any grant made pursuant to section 6863(a) of this title and any allocations under this section.

Subsec. (b). Pub. L. 96–294, §§573(a), 577(2), substituted in provision preceding par. (1) "Secretary" for "Administrator", redesignated former par. (2)(C) as (B), and struck out former par. (2)(B), which related to funds allocated for carrying out weatherization projects under this part in the geographical area served by the emergency program.

Subsec. (c)(1). Pub. L. 96–294, §§572(1), 575, inserted in provision preceding subpar. (A) reference to par. (3) and in subpar. (D) substituted "$150" for "$100".

Subsec. (c)(2). Pub. L. 96–294, §577(2), substituted "Secretary" for "Administrator" wherever appearing.

Subsec. (c)(3). Pub. L. 96–294, §572(2), added par. (3).

1978—Subsec. (a). Pub. L. 95–619, §231(c)(1), authorized expenditure of allocations under this part for costs related to weatherization of a dwelling unit as provided in subsec. (c) of this section and substituted an

administrative expenses limitation of five percent of any allocation under this section for a similar limitation of ten percent of any such allocation.

Subsec. (c). Pub. L. 95–619, §231(c)(2), included expenditure of financial assistance provided under this section for costs related to procurement and installation of weatherization materials in dwelling units in the maximum amount available per dwelling unit and increased such maximum amount to $800 per unit.

STATUTORY NOTES AND RELATED SUBSIDIARIES

PERFORMANCE FUND; RESTRICTION ON USE

Pub. L. 99–190, §101(d) [title II, §201], Dec. 19, 1985, 99 Stat. 1224, 1253, provided: "That section 404 of Public Law 98–558 [enacting subsec. (d) of this section] shall not be effective in any fiscal year in which the amount made available for low income weatherization assistance from appropriations under this head is less than 5 per centum above the amount made available in fiscal year 1985."

[1] So in original. The comma probably should be a semicolon.

[2] So in original. Probably should be followed by a period.

[3] See References in Text note below.

§6866. Monitoring and evaluation of funded projects; technical assistance; limitation on assistance

The Secretary, in coordination with the Director, shall monitor and evaluate the operation of projects receiving financial assistance under this part through methods provided for in section 6867(a) of this title, through onsite inspections, or through other means, in order to assure the effective provision of weatherization assistance for the dwelling units of low-income persons. The Secretary shall also carry out periodic evaluations of the program authorized by this part and projects receiving financial assistance under this part. The Secretary may provide technical assistance to any such project, directly and through persons and entities with a demonstrated capacity in developing and implementing appropriate technology for enhancing the effectiveness of the provision of weatherization assistance to the dwelling units of low-income persons, utilizing in any fiscal year not to exceed up to 20 percent of the sums appropriated for such year under this part.

(Pub. L. 94–385, title IV, §416, Aug. 14, 1976, 90 Stat. 1156; Pub. L. 96–294, title V, §577(2), June 30, 1980, 94 Stat. 760; Pub. L. 111–5, div. A, title IV, §407(d), Feb. 17, 2009, 123 Stat. 146.)

EDITORIAL NOTES

AMENDMENTS

2009—Pub. L. 111–5 substituted "up to 20 percent" for "10 percent".
1980—Pub. L. 96–294 substituted "Secretary" for "Administrator" wherever appearing.

§6867. Administration of projects receiving financial assistance

(a) Reporting requirements

The Secretary, in consultation with the Director, by general or special orders, may require any recipient of financial assistance under this part to provide, in such form as he may prescribe, such reports or answers in writing to specific questions, surveys, or questionnaires as may be necessary to enable the Secretary and the Director to carry out their functions under this part.

(b) Maintenance of records

Each person responsible for the administration of a weatherization assistance project receiving

financial assistance under this part shall keep such records as the Secretary may prescribe in order to assure an effective financial audit and performance evaluation of such project.

(c) Audit and examination of books, etc.

The Secretary, the Director (with respect to community action agencies), and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, information, and records of any project receiving financial assistance under this part that are pertinent to the financial assistance received under this part.

(d) Method of payments

Payments under this part may be made in installments and in advance, or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

(Pub. L. 94–385, title IV, §417, Aug. 14, 1976, 90 Stat. 1156; Pub. L. 96–294, title V, §577(2), June 30, 1980, 94 Stat. 760.)

EDITORIAL NOTES

AMENDMENTS

1980—Subsecs. (a) to (c). Pub. L. 96–294 substituted "Secretary" for "Administrator" wherever appearing.

§6868. Approval of application or amendment for financial assistance; administrative procedures applicable

(a) The Secretary shall not finally disapprove any application submitted under this part, or any amendment thereto, without first affording the State (or unit of general purpose local government or community action agency under section 6863(c) of this title, as appropriate) in question, as well as other interested parties, reasonable notice and an opportunity for a public hearing. 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.)

EDITORIAL NOTES

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.)

EDITORIAL NOTES

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.)

EDITORIAL NOTES

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. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§2000d et seq.) of chapter 21 of this chapter. 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 individual dwelling units, the average size of the dwellings being weatherized, the number of multifamily buildings in which individual dwelling units were weatherized during the previous year, the number of individual dwelling units in multifamily buildings weatherized during the previous year, 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; Pub. L. 116–260, div. Z, title I, §1011(i), Dec. 27, 2020, 134 Stat. 2447.)

EDITORIAL NOTES

AMENDMENTS

2020—Pub. L. 116–260 inserted "the number of multifamily buildings in which individual dwelling units were weatherized during the previous year, the number of individual dwelling units in multifamily buildings weatherized during the previous year," after "the average size of the dwellings being weatherized,".

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) $330,000,000 for fiscal year 2021; and

(2) $350,000,000 for each of fiscal years 2022 through 2025.

(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; Pub. L. 116–260, div. Z, title I, §1011(a), Dec. 27, 2020, 134 Stat. 2442.)

EDITORIAL NOTES

AMENDMENTS

2020—Pars. (1) to (5). Pub. L. 116–260 added pars. (1) and (2) and struck out former pars. (1) to (5) which authorized appropriations for fiscal years 2008 to 2012.

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.

STATUTORY NOTES AND RELATED SUBSIDIARIES

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 Weatherization Assistance Program for Low-Income Persons established under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.) is less than $275,000,000."

§6873. Availability of labor

The following actions shall be taken in order to assure that there is a sufficient number of volunteers and training participants and public service employment workers, assisted pursuant to title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3111 et seq.] and the Community Service Senior Opportunities Act [42 U.S.C. 3056 et seq.], available to work in support of weatherization programs conducted under part A of the Energy Conservation in Existing Buildings Act of 1976 [42 U.S.C. 6861 et seq.], section 222(a)(12) [1] of the Economic Opportunity Act of 1964 [42 U.S.C. 2809(a)(12)], and section 504 of the Housing Act of 1949 [42 U.S.C. 1474]:

(1) First, the Secretary of Energy (in consultation with the Director of the Community Services Administration, the Secretary of Agriculture, and the Secretary of Labor) shall determine the number of individuals needed to supply sufficient labor to carry out such weatherization programs in the various areas of the country.

(2) After the determination in paragraph (1) is made, the Secretary of Labor shall identify the areas of the country in which there is an insufficient number of such volunteers and training participants and public service employment workers.

(3) After such areas are identified, the Secretary of Labor shall take steps to assure that such weatherization programs are supported to the maximum extent practicable in such areas by such volunteers and training participants and public service employment workers.

(Pub. L. 95–619, title II, §233, Nov. 9, 1978, 92 Stat. 3227; Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(39), (f)(30)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–427, 2681–434; Pub. L. 113–128, title V, §512(v), July 22, 2014, 128 Stat. 1713.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Workforce Innovation and Opportunity Act, referred to in text, is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425. Title I of the Act is classified generally to subchapter I (§3111 et seq.) of chapter 32 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

The Community Service Senior Opportunities Act, referred to in text, is title V of Pub. L. 89–73, as added Pub. L. 109–365, title V, §501, Oct. 17, 2006, 120 Stat. 2563, which is classified generally to subchapter IX (§3056 et seq.) of chapter 35 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables.

The Energy Conservation in Existing Buildings Act of 1976, referred to in text, is title IV of Pub. L. 94–385, Aug. 14, 1976, 90 Stat. 1150. Part A of the Energy Conservation in Existing Buildings Act of 1976 is classified generally to part A (§6861 et seq.) of subchapter III of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6801 of this title and Tables.

Section 222(a)(12) of the Economic Opportunity Act of 1964 [42 U.S.C. 2809(a)(12)], referred to in text, which was redesignated as section 222(a)(5) [42 U.S.C. 2809(a)(5)] by Pub. L. 95–568, §5(a)(2)(E), Nov. 2, 1978, 92 Stat. 2426, was subsequently repealed by Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519.

CODIFICATION

Section was enacted as a part of the National Energy Conservation Policy Act, and not as a part of the Energy Conservation and Production Act which comprises this chapter.

AMENDMENTS

2014—Pub. L. 113–128 substituted "a sufficient number of volunteers and training participants and public service employment workers, assisted pursuant to title I of the Workforce Innovation and Opportunity Act and the Community Service Senior Opportunities Act" for "a sufficient number of volunteers and training participants and public service employment workers, assisted pursuant to title I of the Workforce Investment Act of 1998 and the Older American Community Service Employment Act".

1998—Pub. L. 105–277, §101(f) [title VIII, §405(f)(30)], struck out "the Job Training Partnership Act or" after "assisted pursuant to".

Pub. L. 105–277, §101(f) [title VIII, §405(d)(39)], which directed the substitution of "the Job Training Partnership Act or title I of the Workforce Investment Act of 1998" for "the Comprehensive Employment and Training Act of 1973" in introductory provisions, was executed by making the substitution for "the Comprehensive Employment Training Act of 1973" to reflect the probable intent of Congress.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 101(f) [title VIII, §405(d)(39)] of Pub. L. 105–277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, §405(f)(30)] of Pub. L. 105–277 effective July 1, 2000, see section 101(f) [title VIII, §405(g)(1), (2)(B)] of Pub. L. 105–277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

COMMUNITY SERVICES ADMINISTRATION

Community Services Administration, which was established by section 601 of Economic Opportunity Act of 1964, as amended (42 U.S.C. 2941), terminated when Economic Opportunity Act of 1964, Pub. L. 88–452, Aug. 20, 1964, 78 Stat. 508, as amended, was repealed, except for titles VIII and X, effective Oct. 1, 1981, by section 683(a) of Pub. L. 97–35, title VI, Aug. 13, 1981, 95 Stat. 519, which is classified to 42 U.S.C. 9912(a). An Office of Community Services, headed by a Director, was established in Department of Health and Human Services by section 676 of Pub. L. 97–35, which is classified to 42 U.S.C. 9905.

[1] *See References in Text note below.*

PART B—ENERGY CONSERVATION AND RENEWABLE-RESOURCE OBLIGATION GUARANTEES

EDITORIAL NOTES

CODIFICATION

This part was, in the original, designated part D and has been redesignated part B for purposes of codification.

§6881. Energy resource and renewable-resource obligation guarantee program

(a) Authorization; requirements for guarantees and commitments to guarantee; procedures

(1) The Secretary may, in accordance with this section and such rules as he shall prescribe after consultation with the Secretary of the Treasury, guarantee and issue commitments to guarantee the payment of the outstanding principal amount of any loan, note, bond, or other obligation evidencing indebtedness, if—

(A) such obligation is entered into or issued by any person or by any State, political subdivision

of a State, or agency and instrumentality of either a State or political subdivision thereof; and

(B) the purpose of entering into or issuing such obligation is the financing of any energy conservation measure or renewable-resource energy measure which is to be installed or otherwise implemented in any building or industrial plant owned or operated by the person or State, political subdivision of a State, or agency or instrumentality of either a State or political subdivision thereof, (i) which enters into or issues such obligation, or (ii) to which such measure is leased.

(2) No guarantee or commitment to guarantee may be issued under this subsection with respect to any obligation—

(A) which is a general obligation of a State; or

(B) which is entered into or issued for the purpose of financing any energy conservation measure or renewable-resource energy measure which is to be installed or otherwise implemented in a residential building containing 2 or fewer dwelling units.

(3) Before prescribing rules pursuant to this subsection, the Secretary shall consult with the Administrator of the Small Business Administration in order to formulate procedures which would assist small business concerns in obtaining guarantees and commitments to guarantee under this section.

(b) Preconditions for issuance of guarantees and commitments to guarantee

No obligation may be guaranteed, and no commitment to guarantee an obligation may be issued, under subsection (a), unless the Secretary finds that the measure which is to be financed by such obligation—

(1) has been identified by an energy audit to be an energy conservation measure or a renewable-resource energy measure; or

(2) is included on a list of energy conservation measures and renewable-resource energy measures which the Secretary publishes under section 6325(e)(1) of this title.

Before issuing a guarantee under subsection (a), the Secretary may require that an energy audit be conducted with respect to an energy conservation measure or a renewable-resource energy measure which is on a list described in paragraph (2) and which is to be financed by the obligation to be guaranteed under this section. The amount of any obligation which may be guaranteed under subsection (a) may include the cost of an energy audit.

(c) Limitations on availability of guarantees; term of guarantees; aggregate outstanding principal amount of obligations of one borrower

(1) The Secretary shall limit the availability of a guarantee otherwise authorized by subsection (a) to obligations entered into by or issued by borrowers who can demonstrate that financing is not otherwise available on reasonable terms and conditions to allow the measure to be financed.

(2) No obligation may be guaranteed by the Secretary under subsection (a) unless the Secretary finds—

(A) there is a reasonable prospect for the repayment of such obligation; and

(B) in the case of an obligation issued by a person, such obligation constitutes a general obligation of such person for such guarantee.

(3) The term of any guarantee issued under subsection (a) may not exceed 25 years.

(4) The aggregate outstanding principal amount which may be guaranteed under subsection (a) at any one time with respect to obligations entered into or issued by any borrower may not exceed $5,000,000.

(d) Limitations on original principal amount guaranteed; revocation of guarantees and commitments to guarantee; conclusiveness of guarantee

The original principal amount guaranteed under subsection (a) may not exceed 90 percent of the cost of the energy conservation measure or the renewable-resource energy measure financed by the

obligation guaranteed under such subsection; except that such amount may not exceed 25 percent of the fair market value of the building or industrial plant being modified by such energy conservation measure or renewable-resource energy measure. No guarantee issued, and no commitment to guarantee, which is issued under subsection (a) shall be terminated, canceled, or otherwise revoked except in accordance with reasonable terms and conditions prescribed by the Secretary, after consultation with the Secretary of the Treasury, and contained in the written guarantee or commitment to guarantee. The full faith and credit of the United States is pledged to the payment of all guarantees made under subsection (a). Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligation involved for such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligation except for fraud or material misrepresentation on the part of such holder.

(e) Information and assurances required prior to guarantees and commitments to guarantee; maintenance and availability of records; fees to borrowers; exceptions

(1) No guarantee and no commitment to guarantee may be issued under subsection (a) unless the Secretary obtains any information reasonably requested and such assurances as are in his judgment (after consultation with the Secretary of the Treasury) reasonable to protect the interests of the United States and to assure that such guarantee or commitment to guarantee is consistent with and will further the purpose of this subchapter. The Secretary shall require that records be kept and made available to the Secretary or the Comptroller General, or any of their duly authorized representatives, in such detail and form as are determined necessary to facilitate (A) an effective financial audit of the energy conservation measure or renewable-resource energy measure investment involved, and (B) an adequate evaluation of the effectiveness of this section. The Secretary and the Comptroller General, or any of their duly authorized representatives, shall have access to pertinent books, documents, papers, and records of any recipient of Federal assistance under this section.

(2) The Secretary may collect a fee from any borrower with respect to whose obligation a guarantee or commitment to guarantee is issued under subsection (a); except that the Secretary may waive any such fee with respect to any such borrower or class of borrowers. Fees shall be designed to recover the estimated administrative expenses incurred under this part; except that the total of the fees charged any such borrower may not exceed (A) one percent of the amount of the guarantee, or (B) one-half percent of the amount of the commitment to guarantee, whichever is greater. Any amount collected under this paragraph shall be deposited in the miscellaneous receipts of the Treasury.

(f) Default in payment of principal due under guaranteed obligation; procedures applicable

(1) If there is a default by the obligor in any payment of principal due under an obligation guaranteed under subsection (a), and if such default continues for 30 days, the holder of such obligation or his agent has the right to demand payment by the Secretary of the unpaid principal of such obligation, consistent with the terms of the guarantee of such obligation. Such payment may be demanded within such period as may be specified in the guarantee or related agreements, which period shall expire not later than 90 days from the date of such default. If demand occurs within such specified period, then not later than 60 days from the date of such demand, the Secretary shall pay to such holder the unpaid principal of such obligation, consistent with the terms of the guarantee of such obligation; except that (A) the Secretary shall not be required to make any such payment if he finds, prior to the expiration of the 60-day period beginning on the date on which the demand is made, that there was no default by the obligor in the payment of principal or that such default has been remedied, and (B) no such holder shall receive payment or be entitled to retain payment in a total amount which together with any other recovery (including any recovery based upon any security interest) exceeds the actual loss of principal by such holder.

(2) If the Secretary makes payment to a holder under paragraph (1), the Secretary shall thereupon—

(A) have all of the rights granted to him by law or agreement with the obligor; and

(B) be subrogated to all of the rights which were granted such holder, by law, assignment, or security agreement applicable to the guaranteed obligation.

(3) The Secretary may, in his discretion, take possession of, complete, recondition, reconstruct, renovate, repair, maintain, operate, remove, charter, rent, sell, or otherwise dispose of any property or other interests obtained by him pursuant to this subsection. The terms of any such sale or other disposition shall be as approved by the Secretary.

(4) If there is a default by the obligor in any payment due under an obligation guaranteed under subsection (a), the Secretary shall take such action against such obligor or any other person as is, in his discretion, necessary or appropriate to protect the interests of the United States. Such an action may be brought in the name of the United States or in the name of the holder of such obligation. Such holder shall make available to the Secretary all records and evidence necessary to prosecute any such suit. The Secretary may, in his discretion, accept a conveyance of property in full or partial satisfaction of any sums owed to him. If the Secretary receives, through the sale of property, an amount greater than his cost and the amount paid to the holder under paragraph (1), he shall pay such excess to the obligor.

(g) Limitation on aggregate outstanding principal amount of obligations guaranteed; time limitation on guarantees and commitments to guarantee; authorization of appropriations

(1) The aggregate outstanding principal amount of obligations which may be guaranteed under this section may not at any one time exceed $2,000,000,000. No guarantee or commitment to guarantee may be issued under subsection (a) after September 30, 1979.

(2) There is authorized to be appropriated for the payment of amounts to be paid under subsection (f), not to exceed $60,000,000. Any amount appropriated pursuant to this paragraph shall remain available until expended.

(3) There is authorized to be appropriated to carry out the provisions of this part, including administrative costs, but not for the payment of amounts to be paid under subsection (f)—

(A) for the fiscal year ending September 30, 1977, not to exceed $1,836,000; and

(B) for the fiscal year ending September 30, 1978, not to exceed $4,950,000.

(h) Wages paid laborers and mechanics; labor standards

All laborers and mechanics employed in construction, alteration, or repair which is financed by an obligation guaranteed under subsection (a) shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40. The Secretary shall not guarantee any obligations under subsection (a) without first obtaining adequate assurance that these labor standards will be maintained during such construction, alteration, or repair. The Secretary of Labor shall, with respect to the labor standards in this subsection, have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 3145 of title 40.

(i) Definitions

As used in this part:

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "Comptroller General" means the Comptroller General of the United States.

(3) The terms "energy audit", "energy conservation measure", "renewable-resource energy measure", "building", and "industrial plant" have the meanings given the terms in section 6321(c) of this title.

(Pub. L. 94–385, title IV, §451, Aug. 14, 1976, 90 Stat. 1165; Pub. L. 95–70, §5, July 21, 1977, 91 Stat. 277; Pub. L. 95–91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607; Pub. L. 104–316, title I, §122(q), Oct. 19, 1996, 110 Stat. 3838; Pub. L. 117–58, div. D, title I, §40108(c)(3), Nov. 15, 2021, 135 Stat. 944.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in subsec. (e)(1), was in the original "this title", meaning title IV of Pub. L.

94–385, known as the Energy Conservation in Existing Buildings Act of 1976, which enacted this subchapter, section 6327 of this title, and section 1701z–8 of Title 12, Banks and Banking, amended sections 6323, 6325, and 6326 of this title, and enacted provisions set out as a note under section 6801 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6801 of this title and Tables.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (h), is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

In subsec. (h), "sections 3141–3144, 3146, and 3147 of title 40" substituted for "the Davis-Bacon Act" and "section 3145 of title 40" substituted for "section 276c of title 40, United States Code", on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

In subsec. (i)(1), "The term 'Secretary' means the Secretary of Energy" substituted for "The term 'Administrator' means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this part" in view of termination of Federal Energy Administration and transfer of its functions and functions of Administrator thereof (with certain exceptions) to Secretary of Energy pursuant to sections 301(a), 703, and 707 of Pub. L. 95–91, which are classified to sections 7151(a), 7293, and 7297 of this title.

AMENDMENTS

2021—Subsec. (i)(3). Pub. L. 117–58 substituted "given the terms in section 6321(c) of this title" for "prescribed for such terms in section 6326 of this title".

1996—Subsecs. (d), (e)(1). Pub. L. 104–316 struck out "and the Comptroller General" after "Secretary of the Treasury".

1977—Subsec. (g)(3). Pub. L. 95–70 added par. (3).

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Secretary", meaning Secretary of Energy, substituted for "Administrator", meaning Administrator of Federal Energy Administration, in subsecs. (a) to (f) and (h) pursuant to sections 301(a), 703, and 707 of Pub. L. 95–91, which are classified to sections 7151(a), 7293, and 7297 of this title and which terminated Federal Energy Administration and transferred its functions and functions of Administrator thereof (with certain exceptions) to Secretary of Energy.

WAGE RATE REQUIREMENTS

For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction, alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117–58, including authority of Secretary of Labor, see section 18851 of this title.

PART C—MISCELLANEOUS PROVISIONS

EDITORIAL NOTES

CODIFICATION

This part was, in the original, designated Part E and has been redesignated Part C for purposes of codification.

§6891. Exchange of energy information among the States

The Secretary of Energy shall (through conferences, publications, and other appropriate means) encourage and facilitate the exchange of information among the States with respect to energy conservation and increased use of nondepletable energy sources.

(Pub. L. 94–385, title IV, §461, Aug. 14, 1976, 90 Stat. 1168; Pub. L. 95–91, title III, §301(a), title VII, §703, Aug. 4, 1977, 91 Stat. 577, 606.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Secretary of Energy" substituted in text for "Administrator", meaning Administrator of Federal Energy Administration, pursuant to sections 301(a), 703, and 707 of Pub. L. 95–91, which are classified to sections 7151(a), 7293, and 7297 of this title and which terminated Federal Energy Administration and transferred its functions and functions of Administrator thereof (with certain exceptions) to Secretary of Energy.

§6892. Annual report to Congress by Comptroller General

(a) Requirements; access to information

For each fiscal year ending before October 1, 1979, the Comptroller General shall report to the Congress on the activities of the Secretary of Energy and the Secretary under this subchapter and any amendments to other statutes made by this subchapter. The provisions of section 771 of title 15 (relating to access by the Comptroller General to books, documents, papers, statistics, data, records, and information in the possession of the Secretary of Energy or of recipients of Federal funds) shall apply to data which relate to such activities.

(b) Contents of report

Each report submitted by the Comptroller General under subsection (a) shall include—

(1) an accounting, by State, of expenditures of Federal funds under each program authorized by this subchapter or by amendments made by this subchapter;

(2) an estimate of the energy savings which have resulted thereby;

(3) a thorough evaluation of the effectiveness of the programs authorized by this subchapter or by amendments made by this subchapter in achieving the energy conservation or renewable resource potential available in the sectors and regions affected by such programs;

(4) a review of the extent and effectiveness of compliance monitoring of programs established by this subchapter or by amendments made by this subchapter and any evidence as to the occurrence of fraud with respect to such programs; and

(5) the recommendations of the Comptroller General with respect to (A) improvements in the administration of programs authorized by this subchapter or by amendments made by this subchapter, and (B) additional legislation, if any, which is needed to achieve the purposes of this subchapter.

(c) Definitions

As used in this part:

(1) Omitted

(2) The term "Comptroller General" means the Comptroller General of the United States.

(3) The term "Secretary" means the Secretary of Housing and Urban Development.

(Pub. L. 94–385, title IV, §462, Aug. 14, 1976, 90 Stat. 1168; Pub. L. 95–91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a) and (b)(1), (3), (4), (5), was in the original "this title", meaning title IV of Pub. L. 94–385 which enacted this subchapter, section 6327 of this title, and section 1701z–8 of Title 12, Banks and Banking, amended sections 6323, 6325, and 6326 of this title, and enacted provisions set out as a note under section 6801 of this title.

CODIFICATION

Subsec. (c)(1) of this section which read "The term 'Administrator' means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this part" has been omitted in view of termination of Federal Energy Administration and transfer of its functions and functions of Administrator thereof (with certain exceptions) to Secretary of Energy pursuant to sections 301(a), 703, and 707 of Pub. L. 95–91, which are classified to sections 7151(a), 7293, and 7297 of this title and the fact that the term "Secretary" is defined for the purposes of this subchapter by par. (3) of this section. In this part, "Secretary of Energy" has been substituted for "Administrator" wherever it appears.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Secretary of Energy" substituted for "Administrator", meaning Administrator of Federal Energy Administration, in subsec. (a) pursuant to sections 301(a), 703, and 707 of Pub. L. 95–91, which are classified to sections 7151(a), 7293, and 7297 of this title and which terminated Federal Energy Administration and transferred its functions and functions of Administrator thereof (with certain exceptions) to Secretary of Energy.